

SENATE BILL 934

E2

7lr2798
CF HB 1526

By: **Senator Smith**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: April 2, 2017

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Postsentencing – Victim Notification**

3 FOR the purpose of expanding the types of crimes for which a victim may receive certain
4 notification regarding a certain offender's mandatory supervision, parole,
5 commutation of sentence, pardon, or remission of sentence; expanding the types of
6 crimes for which a victim may submit a certain impact statement to the Parole
7 Commission or the Division of Parole and Probation; making stylistic changes;
8 defining certain terms; and generally relating to victim notification.

9 BY repealing and reenacting, with amendments,
10 Article – Correctional Services
11 Section 7–505(b), 7–801, 7–803, 7–804, and 7–805
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Criminal Procedure
16 Section 11–104(a)(4) and (5)
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2016 Supplement)

19 BY repealing
20 Article – Criminal Procedure
21 Section 11–502
22 Annotated Code of Maryland

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.



(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–505
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

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

Article – Correctional Services

7–505.

(b) If an inmate [who was convicted of a violent crime] is released on mandatory supervision and the victim made a written request for notification under § 7–801(b)(1)(ii) of this title or if the victim or the victim’s representative filed a notification request form under § 11–104 of the Criminal Procedure Article, the Department shall notify the victim or victim’s representative:

(1) if a warrant or subpoena is issued by the Commission for an alleged violation of a condition of mandatory supervision;

(2) if the individual has been found [guilty or not guilty of violating] **IN VIOLATION OR NOT IN VIOLATION OF** a condition of mandatory supervision; and

(3) of any punishment imposed for the individual’s violation of a condition of mandatory supervision.

7–801.

[(a) In this section, “victim” means:

(1) an individual who suffers personal physical injury or death as a direct result of a crime;

(2) a victim of child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

(3) a victim of a violent crime; or

(4) if the victim is deceased, disabled, or a minor, a designated family member or other representative of the victim.]

1 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) “VICTIM” HAS THE MEANING STATED IN § 11-104 OF THE
4 CRIMINAL PROCEDURE ARTICLE.

5 (3) “VICTIM’S REPRESENTATIVE” HAS THE MEANING STATED IN §
6 11-104 OF THE CRIMINAL PROCEDURE ARTICLE.

7 (b) (1) At least 90 days before an inmate’s parole release hearing, the
8 Department shall notify the victim or the victim’s [designated] representative in writing,
9 directed to the most current address on file, that the parole release hearing has been
10 scheduled if:

11 (i) the victim or the victim’s representative filed a notification
12 request form under § 11-104 of the Criminal Procedure Article; or

13 (ii) the victim makes a written request to the Department for
14 notification and maintains a current address on file with the Department.

15 (2) The victim may designate in writing to the Department the name and
16 address of a representative who is a resident of the State to receive notice for the victim.

17 (c) (1) Not later than 30 days after the date of the Department’s notice under
18 subsection (b) of this section, the victim of a [violent] crime may submit to the Department
19 a written request that the Division of Parole and Probation be required to complete an
20 updated victim impact statement.

21 (2) If the victim submits a request as authorized by paragraph (1) of this
22 subsection, the Department shall direct the Division of Parole and Probation to:

23 (i) complete the updated statement at least 30 days before the
24 parole release hearing; and

25 (ii) send promptly the updated victim impact statement to the
26 Commission.

27 (d) A victim may:

28 (1) at least 30 days before the parole release hearing:

29 (i) make a written recommendation to the Commission on the
30 advisability of releasing the inmate on parole; and

(ii) request that the inmate be prohibited from having any contact with the victim as a condition of parole, mandatory supervision, work release, or other administrative release; and

(2) request a meeting with a commissioner.

(e) The Commission shall make an updated victim impact statement and a victim's written recommendation available for review by the inmate or the inmate's representative under § 7-303(b) of this title.

(f) The Commission shall consider an updated victim impact statement or victim's written recommendation at the parole release hearing.

(g) If a victim requested an open hearing under § 7-304 of this title, the victim may present oral testimony at the inmate's parole release hearing in a manner established in regulations adopted by the Commission.

(h) The Department shall notify promptly the victim or the victim's [designated] representative of the decision of the Commission regarding parole for the inmate.

7-803.

(a) If a victim **MADE A WRITTEN REQUEST FOR NOTIFICATION UNDER § 7-801(B)(1)(II) OF THIS SUBTITLE OR IF A VICTIM** or a victim's representative has filed a notification request form under § 11-104 of the Criminal Procedure Article, the Commission, if practicable, shall notify the victim in writing at least 90 days before entering into or signing a predetermined parole release agreement with an inmate.

(b) The Commission may not enter into a predetermined parole release agreement unless the Commission has notified the victim under subsection (a) of this section.

7-804.

If an individual was convicted of a [violent] crime and the victim made a written request for notification under § 7-801(b)(1)(ii) of this subtitle or if the victim or the victim's representative filed a notification request form under § 11-104 of the Criminal Procedure Article, the Department shall notify the victim or the victim's representative:

(1) that a warrant or subpoena was issued by the Commission for the individual's alleged violation of a condition of parole;

(2) that the individual has been found [guilty or not guilty of violating] **IN VIOLATION OR NOT IN VIOLATION OF** a condition of parole; and

(3) of the punishment imposed on the individual for violating a condition of parole.

7–805.

(a) [In this section, “victim” means an individual who suffers personal physical injury or death as a direct result of a crime or, if the victim is deceased, a designated family member of the victim.

(b)] If the victim made a written request to the Department for notification and maintains a current address on file with the Department or the victim or the victim’s representative filed a notification request form under § 11–104 of the Criminal Procedure Article, the Department shall notify the victim or the victim’s [designated] representative in writing that an inmate sentenced to the Division of Correction is being considered for a:

(1) commutation of sentence;

(2) pardon; or

(3) remission of sentence.

[(c)] (B) (1) [If the inmate was convicted of a violent crime, the] **THE** victim may submit to the Commission a victim impact statement and recommendation.

(2) The Commission shall make the victim impact statement and recommendation available for review by the inmate or the inmate’s representative subject to § 7–303(b) of this title.

[(d)] (C) If a victim impact statement or recommendation is submitted under this section, the Commission shall consider the victim impact statement or recommendation.

[(e)] (D) A victim may request a meeting with a commissioner.

[(f)] (E) The Department shall notify promptly the victim or the victim’s designated representative of the Commission’s decision.

[(g)] (F) The victim may designate in writing to the Department the name and address of a representative to receive notice for the victim.

Article – Criminal Procedure

11–104.

(a) (4) “Victim” means a person who suffers actual or threatened physical, emotional, or financial harm as a direct result of a crime or delinquent act.

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

(i) a minor;

(ii) deceased; or

(iii) disabled.

[11–502.

This subtitle applies only to a defendant who is charged with a felony or to a child respondent who is alleged to have committed a delinquent act that would be a felony if committed by an adult.]

11–505.

(a) This section applies to a victim or victim’s representative who:

(1) has made a written request to the Department for notification **UNDER § 7–801(B)(1)(II) OF THE CORRECTIONAL SERVICES ARTICLE**; or

(2) has filed a notification request form under § 11–104 of this title.

(b) (1) If a parole release hearing is scheduled for an inmate who has been convicted of and sentenced for a crime, the victim or victim’s representative has the rights provided under § 7–801 of the Correctional Services Article.

(2) At a parole release hearing, a victim or victim’s representative has the rights provided under § 7–304 of the Correctional Services Article.

(c) (1) Whenever a person who was convicted of a [violent] crime [as defined in § 7–101 of the Correctional Services Article] is found [guilty of violating] **IN VIOLATION OF** a condition of parole, the Department shall notify the victim or victim’s representative as provided under § 7–804 of the Correctional Services Article.

(2) Whenever a warrant or subpoena is issued for a person who was convicted of a [violent] crime [as defined in § 7–101 of the Correctional Services Article] for an alleged violation of a condition of parole, the Department shall notify the victim or victim’s representative as provided under § 7–804 of the Correctional Services Article.

(d) [(1)] Whenever a person who is sentenced is considered for a commutation, pardon, or remission of [sentence, the Department shall notify the victim or victim’s representative as provided under § 7–805(b) and (f) of the Correctional Services Article.

(2) If the person described in paragraph (1) of this subsection was convicted of a violent crime as defined in § 7–101 of the Correctional Services Article, a victim or victim’s representative has the additional rights regarding submission and consideration of a victim impact statement provided under § 7–805(c) and (d) of the Correctional Services Article] **SENTENCE:**

(1) THE DEPARTMENT SHALL NOTIFY THE VICTIM OR VICTIM’S REPRESENTATIVE AS PROVIDED UNDER § 7–805(A) AND (E) OF THE CORRECTIONAL SERVICES ARTICLE; AND

(2) A VICTIM OR VICTIM’S REPRESENTATIVE HAS THE ADDITIONAL RIGHTS REGARDING SUBMISSION AND CONSIDERATION OF A VICTIM IMPACT STATEMENT PROVIDED UNDER § 7–805(B) AND (C) OF THE CORRECTIONAL SERVICES ARTICLE.

(e) (1) Whenever a person convicted of a crime [of violence] is found [guilty of violating] **IN VIOLATION OF** a condition of mandatory supervision, the Department shall notify the victim or victim’s representative as provided under § 7–505(b) of the Correctional Services Article.

(2) Whenever a warrant or subpoena is issued for a person convicted of a [violent] crime [as defined in § 7–101 of the Correctional Services Article] for an alleged violation of a condition of mandatory supervision, the Department shall notify the victim or victim’s representative as provided under § 7–804 of the Correctional Services Article.

(f) Before entering into a predetermined parole release agreement with an inmate, the Maryland Parole Commission shall notify the victim or victim’s representative as provided under § 7–803 of the Correctional Services Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.