

No. 1995-8 (SS1)

AN ACT

HB 14

Creating the Office of Victim Advocate.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Victim Advocate Law.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Board.” The Pennsylvania Board of Probation and Parole.

“Department.” The Department of Corrections of the Commonwealth.

“Family.” The term shall have the meaning given to it in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

“Office.” The Office of Victim Advocate within the Pennsylvania Board of Probation and Parole.

“Victim.” The term shall have the meaning given to it in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

“Victim advocate.” The victim advocate in the Office of Victim Advocate within the Pennsylvania Board of Probation and Parole.

Section 3. Office of Victim Advocate.

(a) Establishment.—There is hereby established within the board the Office of Victim Advocate to represent the interests of crime victims before the board or department. The office shall operate under the direction of the victim advocate as provided in this section.

(b) Appointment.—The victim advocate shall be an individual who, by reason of training and experience, is qualified to represent the interests of individual crime victims before the board. The victim advocate shall be appointed by the Governor, by and with the consent of a majority of all of the members of the Senate, and shall hold office for a term of six years and until a successor shall have been duly appointed and qualified but in no event more than 90 days beyond the expiration of the appointed term. A vacancy occurring by expiration of term, death, resignation, removal or for any other reasons shall be filled in the manner provided by section 8 of Article IV of the Constitution of Pennsylvania for the remainder of the term. Whenever the victim advocate’s term expires, that position shall be immediately deemed a vacancy, and the Governor shall nominate a person to fill that position within

90 days of the date of expiration, even if the victim advocate continues in office. To be eligible to be appointed by the Governor as victim advocate, an individual shall have at least six years of professional experience in victim advocacy, social work or related areas, including one year in a supervisory or administrative capacity, and a bachelor's degree. Any equivalent combination of experience and training shall be acceptable. Compensation shall be set by the Executive Board of the Commonwealth as defined by the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(c) Service and employees.—The victim advocate shall operate from the central office of the board with such clerical, technical and professional staff as may be available within the budget of the board. The compensation of employees of the office shall be set by the Executive Board.

Section 4. Powers and duties of victim advocate.

In addition to any other authority conferred by this act or any other law, the victim advocate is authorized and it shall be the victim advocate's duty to represent the interests of individual crime victims before the board, department or hearing examiner. The victim advocate shall supervise the victim notification duties presently conducted by the board. In addition, the victim advocate shall assist in and coordinate the preparation of oral testimony by the crime victims or the submission of written comments by crime victims prior to a release decision and shall represent the interests of a crime victim under section 6. The victim advocate shall act as a liaison with the victim notification program director in the department to coordinate victim notification and services for the department and the board. The victim advocate is authorized to address the interests of all victims before the board, department or hearing examiner concerning any issues determined appropriate by the victim advocate.

Section 5. Parole notification to victim.

(a) Persons to be notified.—No later than 90 days prior to the parole date of an offender, the victim advocate shall notify the enrolled victim of the offense for which the offender was sentenced, the parent or legal guardian of a victim who is a minor or a member of the family where the victim is incapable of communicating or has died, and provide the appropriate person with an opportunity to submit a statement expressing concerns or recommendations regarding the parole or parole supervision of the offender.

(b) Enrollment in program.—Each victim or member of the family shall be responsible for notifying the victim advocate of the victim's or family member's intent to submit a statement regarding the parole or parole supervision of the offender. The notice shall include a mailing address or change of address notification.

(c) Procedure.—The victim advocate shall notify the person at the person's last known mailing address. The person shall submit the statement to the victim advocate within 30 days of the date of notice. The statement shall be considered by the board during preparation of the parole plan.

Section 6. Petitions to deny parole upon expiration of minimum sentence.

Upon the request of the victim of a crime who has notified the board in writing of the victim's desire to have input and make comment prior to a parole release decision, the victim advocate shall either petition the board as to the special conditions of release which may be imposed or that the offender not be paroled based upon the statement that the victim submitted under section 5. The victim or the victim's representative shall be permitted to appear in person before the board or hearing examiner. The testimony of a victim before the board shall be confidential, all records maintained by the department and the board pertaining to victims shall be kept separate, and current address, telephone number and any other personal information of the victim and family members shall be deemed confidential. The board may, in its discretion, upon petition and after an interview, order that special conditions of parole be placed upon the offender or the offender not be paroled based upon the continuing effect of the crime on the victim or may order that the offender not be paroled if the board finds that the offender would pose a risk or danger to the victim or the family of the victim if the offender were released on parole or if the interests of the Commonwealth would otherwise be injured. The board shall notify the victim of its decision prior to a release of the offender. Notwithstanding the provisions of this or any other act of the General Assembly, the Office of the District Attorney of the sentencing county may notify crime victims of any pending release decision and act on such victim's behalf or on its own initiative to submit comments and represent the interests of a crime victim before the board prior to a release decision.

Section 7. Effective date.

This act shall take effect in 60 days.

APPROVED—The 21st day of March, A.D. 1995.

THOMAS J. RIDGE