

No. 2000-86

AN ACT

SB 1224

Amending the act of November 24, 1998 (P.L.882, No.111), entitled "An act providing for victims' rights; imposing penalties; establishing remedies; establishing the Office of Victim Advocate, the Bureau of Victims' Services, the Victims' Services Advisory Committee, the State Offender Supervision Fund and other funds; and making repeals," further providing for definitions, for victims' rights, for law enforcement functions and for prosecutorial functions; providing for juvenile probation office functions; and further providing for the Victims' Services Advisory Committee, for powers and duties of the committee and for costs.

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

Section 1. The definitions of "crime," "personal injury crime" and "victim" in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, are amended and the section is amended by adding definitions to read:

Section 103. 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:

"Adult." Any of the following:

(1) *An individual charged with a crime who is 18 years of age or older.*

(2) *An individual who is subject to criminal court jurisdiction following the transfer of a case to criminal proceedings.*

(3) *An individual who is subject to criminal court jurisdiction after having been charged with a crime excluded from the definition of "delinquent act" pursuant to 42 Pa.C.S. § 6302 "delinquent act" (2)(i), (ii), (iii) or (v) (relating to definitions).*

* * *

"Crime." An act, including an act resulting in injury intentionally inflicted through the use of a motor vehicle, which was committed:

(1) In this Commonwealth by a person, *including a juvenile*, without regard to legal exemption or defense which would constitute a crime under:

(i) the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act;

(ii) 18 Pa.C.S. (relating to crimes and offenses), 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance) or 5502.1 (relating to homicide by watercraft while operating under influence) and 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance), 3732

(*relating to homicide by vehicle*), 3735 (relating to homicide by vehicle while driving under influence) [or], 3735.1 (relating to aggravated assault by vehicle while driving under the influence) *or 3742 (relating to accidents involving death or personal injury)*; or (iii) the laws of the United States.

(2) Against a resident of this Commonwealth which would be a crime under paragraph (1) but for its occurrence in a state other than this Commonwealth.

(3) Against a resident of this Commonwealth which is an act of international terrorism.

“Juvenile.” An individual who is alleged or has been determined to be a “delinquent child” as defined in 42 Pa.C.S. § 6302 (relating to definitions).

“Personal injury crime.” An act, attempt or threat to commit an act which would constitute a misdemeanor or felony under the following:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. Ch. 27 (relating to assault).

18 Pa.C.S. Ch. 29 (relating to kidnapping).

18 Pa.C.S. Ch. 31 (relating to sexual offenses).

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. Ch. 37 (relating to robbery).

18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation).

30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).

75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) in cases involving bodily injury.

75 Pa.C.S. § 3732 (relating to homicide by vehicle).

75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

The term includes violations of any protective order issued as a result of an act related to domestic violence.

“Preadjudication disposition.” Any of the following:

(1) Disposition of an adult without a trial. This paragraph includes accelerated rehabilitative disposition.

(2) Disposition of a juvenile prior to an adjudication of delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including informal adjustment as set forth in 42 Pa.C.S. § 6323 (relating to

informal adjustment), and consent decree as set forth in 42 Pa.C.S. § 6340 (relating to consent decree).

* * *

“Victim.” The term means the following:

- (1) A direct victim.
- (2) A parent or legal guardian of a child who is a direct victim, except when the parent or legal guardian of the child is the alleged offender.

(3) *A minor child who is a material witness to any of the following crimes and offenses under 18 Pa.C.S. (relating to crimes and offenses) committed or attempted against a member of the child’s family:*

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 3121 (relating to rape).

[[3]] (4) A family member of a homicide victim, including stepbrothers or stepsisters, stepchildren, stepparents or a fiance, one of whom is to be identified to receive communication as provided for in this act, except where the family member is the alleged offender.

* * *

Section 2. Section 201 of the act is amended to read:

Section 201. Rights.

Victims of crime have the following rights:

(1) To receive basic information concerning the services available for victims of crime.

(2) To be notified of certain significant actions and proceedings within the criminal *and juvenile* justice [system] *systems* pertaining to their case. *This paragraph includes all of the following:*

(i) *Access to information regarding whether the juvenile was detained or released following arrest and whether a petition alleging delinquency has been filed.*

(ii) *Immediate notification of a juvenile’s preadjudication escape from a detention center or shelter facility and of the juvenile’s subsequent apprehension.*

(iii) *Access to information regarding the grant or denial of bail to an adult.*

(iv) *Immediate notification of an adult offender’s pretrial escape from a local correctional facility and of the offender’s subsequent apprehension.*

(3) To be accompanied at all [public] criminal *and all juvenile* proceedings *in accordance with 42 Pa.C.S. § 6336 (relating to conduct of hearings)* by a family member, a victim advocate or [another] *other* person *providing assistance or support.*

[(4)] **In cases involving personal injury crimes, burglary or violations of 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) which involve bodily injury, to**

submit prior comment to the prosecutor's office on the potential reduction or dropping of any charge or changing of a plea.]

(4) In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or changing of a plea in a criminal or delinquency proceeding or diversion of any case, including an informal adjustment or consent decree.

(5) To have opportunity to offer prior comment on the sentencing of a defendant *or the disposition of a delinquent child*, to include the submission of a written *and oral* victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family [and to have such comment considered by the judge when determining the defendant's sentence]. *The written statement shall be included in any predisposition or presentence report submitted to the court. Victim impact statements shall be considered by a court when determining the disposition of a juvenile or sentence of an adult.*

(5.1) Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment or present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.

(6) To be restored, to the extent possible, to the precrime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

(7) In personal injury crimes where the [offender] *adult* is sentenced to a State correctional facility, to be:

(i) given the opportunity to provide prior comment on and to receive State postsentencing release decisions, including work release, furlough, parole, pardon or community treatment center placement; and

(ii) provided immediate notice of an escape of the [offender] *adult and of subsequent apprehension.*

(8) In personal injury crimes where the [offender] *adult* is sentenced to a local correctional facility, to:

(i) receive notice of the date of the release of the [offender] *adult*, including work release, furlough, parole or community treatment center placement; and

(ii) be provided with immediate notice of an escape of the [offender.] *adult and of subsequent apprehension.*

(8.1) If, upon the request of the victim of a personal injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility or a detention center, to:

(i) *Receive prior notice of the date of the release of the juvenile, including temporary leave or home pass.*

(ii) *Be provided with:*

(A) *immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and*

(B) *immediate notice of reappréhension of the juvenile.*

(iii) *Be provided with notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility that is contrary to a previous court order or placement plan approved at a disposition review hearing and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.*

(9) If the [offender] *adult* is subject to an order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and is committed to a local correctional facility for a violation of the order or for a personal injury crime against a victim protected by the order, to receive immediate notice of the release of the [offender] *adult* on bail.

(10) To receive notice if an [offender] *adult* is committed to a mental health facility from a State correctional institution and notice of the discharge, transfer or escape of the [offender] *adult* from the mental health facility.

(11) To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the bureau.

(12) *To be notified of the details of the final disposition of the case of a juvenile consistent with 42 Pa.C.S. § 6336(f) (relating to conduct of hearings).*

(13) *Upon the request of the victim of a personal injury crime, to be notified of the termination of the courts' jurisdiction.*

Section 3. Section 212(f) of the act is amended and the section is amended by adding a subsection to read:

Section 212. Responsibilities of State and local law enforcement agencies.

* * *

(f) Notice.—

(1) In personal injury crimes, the law enforcement agency shall make reasonable efforts to notify the victim of the arrest of the suspect *and of the filing or forwarding of a complaint relating to the crime* as soon as possible. Unless the victim cannot be located, notice of the arrest shall be provided not more than 24 hours after the preliminary arraignment. *In cases alleging delinquency, notice of the filing or forwarding of a complaint shall be provided not more than 24 hours after the complaint has been filed or forwarded to the juvenile probation office or district attorney.*

(2) In personal injury crimes, a law enforcement agency, sheriff, deputy sheriff or constable shall notify the victim of an inmate's escape from the custody of the law enforcement agency, sheriff, deputy sheriff or constable.

(g) Return of property.—*The appropriate law enforcement agency shall return to the victim property seized as evidence if the prosecutor's office determines that the evidence is no longer needed for prosecution.*

Section 4. Section 213 of the act is amended to read:

Section 213. Responsibilities of prosecutor's office.

(a) Forms.—The prosecutor's office shall provide the victim of a personal injury crime with all forms developed pursuant to sections 214 and 215.

(b) Pleading.—In a personal injury crime[,], *or burglary [or violation of 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance)], the prosecutor's office shall provide notice of and offer the opportunity to submit prior comment on the potential reduction or dropping of any charge or changing of a plea [if the victim so requests.], a diversion of any case, including informal adjustment and consent decree, unless such notice is provided by the juvenile probation office.*

(c) Sentencing.—The prosecutor's office shall provide notice of the opportunity to offer prior comment on the sentencing [of a defendant] *of an adult and disposition of a juvenile.* This prior comment includes the submission of [a] *oral and written victim[-]impact [statement] statements.* The prosecutor's office shall assist a victim who requests assistance to prepare this comment.

(d) Release.—In a personal injury crime, the prosecutor's office shall provide notice of the opportunity to submit input into State correctional release decisions, to receive notice of any release of an [offender] *adult* from a State or local correctional facility and to receive notice of the commitment to a mental health institution from a State or local correctional institution.

(e) Disposition.—In a personal injury crime, if the prosecutor's office has advance notice of dispositional proceeding, the prosecutor shall make reasonable efforts to notify a victim [who has requested notice] of the time and place of the proceeding.

(f) Notice.—*[If the victim has so requested, the prosecutor's office shall provide notice of the disposition and sentence of the defendant, including any sentence modifications. In a personal injury crime, if the victim has so requested, the prosecutor's office shall make reasonable efforts to notify the victim as soon as possible when the defendant is released from incarceration at sentencing.] The prosecutor's office shall provide all of the following to the victim:*

(1) Upon request of the victim, notice of the disposition and sentence of an adult, including sentence modifications.

(2) Upon request in a personal injury crime, reasonable attempts to notify the victim as soon as possible when the adult is released from incarceration at sentencing.

(3) If the prosecutor's office is prosecuting a personal injury crime, notice prior to the entry of a consent decree.

(4) Prior notice of delinquency adjudication hearings unless such hearings are scheduled by the juvenile probation office.

(5) Notification of hearings related to the transfer of a juvenile to and from criminal proceedings.

(6) Upon request in a personal injury crime, notice of the filing, hearing or disposition of appeals.

(7) Notice of the details of the final disposition of their case consistent with 42 Pa.C.S. § 6336(f) (relating to conduct of hearings) unless provided by the juvenile probation office.

(g) Assistance.—The prosecutor's office shall provide assistance to the victim in *all of the* [preparation] following:

(1) Preparation of statements under section 201(5).

(2) Preparation of, submission of and follow-up on financial assistance claims filed with the bureau.

(h) Return of property.—The prosecutor's office shall return to the victim any property seized as evidence if the prosecutor's office determines that the evidence is no longer needed for prosecution.

Section 5. The act is amended by adding a section to read:

Section 216. Responsibilities of juvenile probation office.

(a) Notice.—The juvenile probation office shall provide the following to victims:

(1) Prior notice of delinquency adjudication hearings unless such hearings have been scheduled by the prosecutor's office.

(2) Notification of disposition hearings.

(3) Notice of a juvenile's preadjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension.

(4) Upon request, notice of whether the juvenile probation office has detained or released the juvenile following arrest and whether a delinquency petition has been filed.

(5) Notice of the details of the final disposition of the case consistent with 42 Pa.C.S. § 6336(f) (relating to conduct of hearings) unless provided by the prosecutor's office.

(b) Additional notice in cases involving a personal injury crime or burglary.—In cases involving a personal injury crime or burglary, the juvenile probation office shall provide notice and the opportunity to provide prior comment on the potential reduction or dropping of a charge or diversion of any case, including informal adjustment and consent decree, unless such notice and opportunity is provided by the prosecutor's office. Upon request, the victim shall also receive notification of a review of disposition hearing.

(c) Dispositions.—The juvenile probation office shall:

(1) Offer the victim the opportunity to provide a written victim impact statement to be considered in the disposition of any case and included as part of any predisposition report submitted to the court.

(2) Notify the victim of the right to provide an oral victim impact statement at the time of disposition in cases of juveniles who have been adjudicated delinquent.

(d) Postdisposition notice.—Upon the request of the victim of a personal injury crime, the juvenile probation office shall:

(1) Provide prior notice to the victim when an adjudicated delinquent ordered into residential placement or official detention will be granted temporary leave or home pass or release.

(2) Notify the victim of a proposed release or transfer of an adjudicated delinquent from placement that is contrary to a previous court order or placement plan approved at a disposition review hearing and shall extend the victim the opportunity to provide a written objection prior to the release or transfer of the juvenile from placement.

(3) Notify the victim immediately of a juvenile's escape from official detention or failure to return from temporary leave or home pass and of the juvenile's subsequent apprehension.

(4) Notify the victim of the termination of the juvenile court jurisdiction.

(5) Provide the opportunity to submit written comment and of their right to provide oral testimony at a disposition review hearing.

Section 6. Sections 321(b)(7), 322 and 1101 of the act are amended to read:

Section 321. Committee.

* * *

(b) Membership.—The committee shall consist of 15 members:

* * *

(7) Nine individuals appointed by the Governor.

Members under this paragraph must represent direct victims, Statewide victims' coalitions, prosecution-based victim/witness programs and other victim service or victim advocacy organizations, the courts, members of local government and other victims' organizations or organizations involved in the coordination or delivery of services to direct victims. **At least one of the Governor's appointees must be a representative of a victims' services agency working directly with children.**

* * *

Section 322. Powers and duties of committee.

The committee has the following powers and duties:

(1) To serve in an advisory capacity to the commission, including the bureau, through the committee's participation in the development of that part of the commission's plan relating to direct victims' services and compensation.

(2) To advise the commission on the development of direct services for minor children who are material witnesses to any of the following

crimes and offenses under 18 Pa.C.S. (relating to crimes and offenses) committed or attempted against a member of the child's family:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 3121 (relating to rape).

[(2)] (3) To perform those functions related to the direct approval and disbursement of financial assistance in an advisory capacity only. The committee shall have the opportunity to review and comment on applications other than applications for claims for compensation pursuant to sections 702 and 706 within 30 days after receipt of the application from the commission.

[(3)] (4) To advise the commission on the definition, development and correlation of programs and projects and the establishment of priorities for direct victims' services and compensation.

[(4)] (5) To develop standards, methods and procedures for evaluating and monitoring direct victims' services.

[(5)] (6) Upon request, to provide assistance and advice to the commission on any other matters relating to direct victims' services and compensation.

[(6)] (7) To receive staff support from the commission and the bureau in order to adequately perform the duties provided for in this section.

Section 1101. Costs.

(a) Imposition.—

(1) A person who pleads guilty or nolo contendere or who is convicted of a crime shall, in addition to costs imposed under 42 Pa.C.S. § 3571(c) (relating to Commonwealth portion of fines, etc.), pay costs of at least ~~[\$30]~~ \$40 and may be sentenced to pay additional costs in an amount up to the statutory maximum monetary penalty for the offense committed.

(2) A person placed in a diversionary program shall pay costs of at least ~~[\$30]~~ \$40 in addition to costs imposed pursuant to 42 Pa.C.S. § 3571(c).

(3) *A juvenile shall pay costs of at least \$15 if any of the following apply to the case:*

(i) There is a consent decree.

(ii) There is an adjudication of delinquency.

(b) Disposition.—

(1) There is established a special nonlapsing fund, known as the Crime Victim's Compensation Fund. This fund shall be used by the bureau for payment to direct victims and technical assistance. Fifteen dollars of the costs imposed under subsection (a)(1) and (2) plus 30% of the costs imposed under subsection (a)(1) which exceed ~~[\$30]~~ \$40 shall be paid into this fund. *All costs imposed under subsection (a)(3) shall be paid into this fund.*

(2) There is established a special nonlapsing fund, known as the Victim Witness Services Fund. This fund shall be used by the commission for victim-witness services and technical assistance in nonvictim compensation-related areas in accordance with this section. **[Fifteen] Twenty-five** dollars of the costs imposed under subsection (a)(1) **and** (2) plus 70% of the costs imposed under subsection (a)(1) **and** (2) which exceed **[\$30] \$40** shall be paid into this fund.

(c) Payment.—This cost shall be imposed notwithstanding any statutory provision to the contrary.

(d) Mandamus.—The district attorney, the bureau, the commission or any direct victim shall have standing to seek a mandamus order requiring the county to collect the costs imposed by this section.

(e) Court order.—No court order shall be necessary in order for the defendant to incur liability for costs under this section. Costs under this section must be paid in order for the defendant to be eligible for probation, parole or accelerated rehabilitative disposition.

Section 7. This act shall take effect in 60 days.

APPROVED—The 30th day of October, A.D. 2000.

THOMAS J. RIDGE