# WEST VIRGINIA CODE: §61-11A-8

**§61-11A-8. Notification to victim of offender's release, placement, or escape from custody.**

(a) At the time a criminal prosecution is commenced by the filing of a complaint, if the complaint charges a person with committing an offense described in subsection (e) of this section, then the prosecuting attorney is required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of any release of the accused from custody pending judicial proceedings.

(b) If a person is convicted of an offense described in subsection (e) of this section, the prosecuting attorney is required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of sentencing if the convicted person will be placed on work release, home confinement or probation.

(c) If a person is convicted of an offense described in subsection (e) of this section and is imprisoned in a state correctional facility or confined in a county or regional jail, the commissioner of corrections, the regional jail supervisor or the sheriff, as the case may be, is required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of:

(1) Releasing the convicted person from imprisonment in any correctional facility;

(2) Releasing the convicted person from confinement in any jail;

(3) Placing the convicted person in a halfway house or other nonsecure facility to complete his or her sentence; or

(4) Any escape by the convicted person from a state correctional facility or a jail.

(d) The notice shall include instructions for the victim or the victim’s family member on how to request the notification.

(e) Offenses which are subject to the provisions of this section are as follows:

(1) Murder;

(2) Aggravated robbery;

(3) Sexual assault in the first degree;

(4) Kidnapping;

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(5) Arson;

(6) Any sexual offense against a minor; or

(7) Any violent crime against a person.

(f) The Commissioner of Corrections, a regional jail supervisor, a sheriff or a prosecuting attorney who receives a written request for notification shall provide notice, in writing or by telephone, to the last known address or addresses or telephone number or numbers provided by the victim or a member of the victim's family, or in the case of a minor child, to the custodial parent, guardian or custodian of the child, in accordance with the provisions of this section. In case of escape, notification shall be by telephone, if possible.

(g) If one or more family members of a victim request notification and if the victim is an adult and is alive and competent, notification shall be sent to the victim, if possible, notwithstanding that he or she did not request the notification. If the victim is deceased or an adult who is alive but not competent, the notice shall be sent to the first family member requesting notice in conformity with this section.

(h) If notification by telephone to a victim is attempted, notification is not complete unless it is given directly to the person requesting notification and after that person's identity has been verified. An attempted notification made to a voice mail or another recording device or to another member of the household is insufficient.

(i) For the purposes of this section, the following words or phrases defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context.

(1) "Filing of a complaint" means the filing of a complaint in accordance with the West Virginia Rules of Criminal Procedure promulgated by the Supreme Court of Appeals or the provisions of this code.

(2) "Victim" means a victim of a crime listed in subsection (e) of this section who is alive and competent.

(3) "Victim's family member" means a member of the family of a victim of a crime listed in subsection (e) of this section who is not alive and competent.

(j) In addition to those persons required to be notified under this section, a victim may designate an additional adult individual to receive notice provided for by this section: Provided, That the obligation to notify the additional individuals under this section only arises if the additional adult individual's contact information is provided in writing by the victim to the appropriate notifying entity.

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