

SB 406

FILED

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

SENATE BILL NO. 406

(By Senator Love, et al)

PASSED March 13, 2004

In Effect 90 days from Passage

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Senate Bill No. 406

(BY SENATORS LOVE, DEMPSEY, WHITE, ROSS, MCKENZIE,
SHARPE, HUNTER, JENKINS AND ROWE)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §61-11A-8 of the code of West Virginia, 1931, as amended, relating to allowing victims of crime to be notified by telephone when a specified defendant is released from custody.

Be it enacted by the Legislature of West Virginia:

That §61-11A-8 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

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

- 1 (a) At the time a criminal prosecution is commenced by
- 2 the filing of a complaint, if the complaint charges a person
- 3 with committing an offense described in subsection (e) of
- 4 this section, then in such case the prosecuting attorney is
- 5 required to provide notice, in writing or by telephone, to

6 the victim or a family member that he or she may request
7 that they be notified prior to or at the time of any release
8 of the accused from custody pending judicial proceedings.

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

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

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

26 (2) Releasing the convicted person from confinement in
27 any county or regional jail;

28 (3) Placing the convicted person in a halfway house or
29 other non-secure facility to complete his or her sentence;
30 or

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

33 (d) The notice shall include instructions for the victim or
34 the victim's family member on how to request the notifica-
35 tion.

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

38 (1) Murder;

- 39 (2) Aggravated robbery;
40 (3) Sexual assault in the first degree;
41 (4) Kidnapping;
42 (5) Arson;
43 (6) Any sexual offense against a minor; or
44 (7) Any violent crime against a person.

45 (f) The commissioner of corrections, a regional jail
46 supervisor, a sheriff or a prosecuting attorney who receives
47 a written request for notification shall provide notice, in
48 writing or by telephone, to the last known address or
49 addresses or telephone number or numbers provided by the
50 victim or a member of the victim's family, or in the case of
51 a minor child, to the custodial parent of the child, in
52 accordance with the provisions of this section. In case of
53 escape, notification shall be by telephone, if possible.

54 (g) If one or more family members request notification
55 and if the victim is an adult and is alive and competent,
56 notification shall be sent to the victim, if possible, not-
57 withstanding that the victim did not request the notifica-
58 tion.

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

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

69 (1) "Filing of a complaint" means the filing of a com-
70 plaint in accordance with the requirements of rules

71 promulgated by the supreme court of appeals or the
72 provisions of this code.

73 (2) "Victim" means a victim of a crime listed in subsec-
74 tion (e) of this section who is alive and competent.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *5th*
Day of *April*, 2004.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/26/04

Time 3:25 pm