WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2451

(By Delegate Smith)

Passed March 12, 2011

In Effect Ninety Days From Passage
AN ACT to amend and reenact §61-11A-2 of the Code of West Virginia, 1931, as amended, relating to victim impact statements; including in the definition of "victim" the immediate family members or estate representative of a person killed during the commission of a misdemeanor; and providing that a prosecuting attorney make reasonable efforts to contact certain persons who are known to the prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

That §61-11A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:


(a) For the purposes of this section, “victim” means a person who is a victim of a felony, or, where a death occurs during the commission of a felony or a misdemeanor, the fiduciary of a deceased victim’s estate or a member of a deceased victim’s immediate family, if known to the prosecutor.

(b) Prior to the imposition of sentence upon any defendant who has been found guilty of a felony, or of a misdemeanor if death occurs during the commission of a crime, or has pleaded guilty or nolo contendere to any felony, or to a misdemeanor if death occurs during the commission of a crime, the court shall permit the victim of the crime to appear before the court to make an oral statement for the record if the victim notifies the court of his or her desire to make such a statement after receiving notification provided in subsection (c) of this section. If the victim fails to notify the court, the failure is a waiver of the right to make an oral statement. In lieu of the appearance and oral statement, the victim may submit a written statement to the court or to the probation officer in charge of the case. The probation officer shall forthwith file the statement delivered to his or her office with the sentencing court and the statement must be made a part of the record at the sentencing hearing. The statement, whether oral or written, must relate solely to the facts of the case and the extent of injuries, financial losses and loss of earnings directly resulting from the crime for which the defendant is being sentenced.

(c) Within a reasonable time prior to the imposition of sentence upon the defendant, the prosecuting attorney or assistant prosecuting attorney in charge of the case shall make reasonable efforts, in writing, to advise the person who was the victim of the crime, the parent or guardian of a minor who was the victim of a crime, the fiduciary of the victim’s estate if the victim is deceased and the immediate family members of the victim if the victim is deceased and if their
whereabouts are known to the prosecutor or assistant prosecutor. The writing will provide the date, time and place of the original sentencing hearing and of the victim’s right to submit a written or oral statement to the sentencing court.

(d) The oral or written statement given or submitted by a victim in accordance with the provisions of this section is in addition to and not in lieu of the victim impact statement required by the provisions of section three of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within approve this the 4th day of April, 2011.

Governor
PRESENTED TO THE GOVERNOR

APR 04 2011

Time 11:10am