

FILED

2011 APR -4 PM 4: 50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

HB 2451

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SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

H. B. 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:

ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

§61-11A-2. Testimony of crime victim at sentencing hearing.

1 (a) For the purposes of this section, "victim" means a
2 person who is a victim of a felony, or, where a death occurs
3 during the commission of a felony or a misdemeanor, the
4 fiduciary of a deceased victim's estate or a member of a
5 deceased victim's immediate family, if known to the
6 prosecutor.

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

28 (c) Within a reasonable time prior to the imposition of
29 sentence upon the defendant, the prosecuting attorney or
30 assistant prosecuting attorney in charge of the case shall
31 make reasonable efforts, in writing, to advise the person who
32 was the victim of the crime, the parent or guardian of a minor
33 who was the victim of a crime, the fiduciary of the victim's
34 estate if the victim is deceased and the immediate family
35 members of the victim if the victim is deceased and if their

36 whereabouts are known to the prosecutor or assistant
37 prosecutor. The writing will provide the date, time and place
38 of the original sentencing hearing and of the victim's right to
39 submit a written or oral statement to the sentencing court.

40 (d) The oral or written statement given or submitted by a
41 victim in accordance with the provisions of this section is in
42 addition to and not in lieu of the victim impact statement
43 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

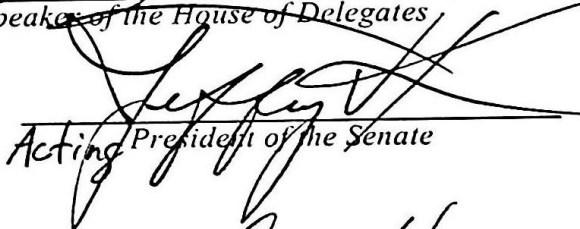
Originating in the House.

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 is approved this the 4th
day of April, 2011.


Governor

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OFFICE OF THE CLERK OF THE SENATE
STATE OF OHIO

PRESENTED TO THE GOVERNOR

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