

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1154

Short Title: Crime Victims' Rights Act Amendments.

(Public)

Sponsors: Representatives Holliman; and McLawhorn.

Referred to: Judiciary I.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CRIME VICTIMS' RIGHTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-830(a)(3) reads as rewritten:

"(3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, facilities designated under G.S. 122C-252 for the custody and treatment of involuntary clients, or the Department of Correction."

SECTION 2. G.S. 15A-831 reads as rewritten:

"§ 15A-831. Responsibilities of law enforcement agency.

(a) As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with the following information:

- (1) The availability of medical services, if needed.
- (2) The availability of crime victims' compensation funds under Chapter 15B of the General Statutes and the address and telephone number of the agency responsible for dispensing the funds.
- (3) The address and telephone number of the district attorney's office that will be responsible for prosecuting the victim's case.
- (4) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency.
- (5) Information about an accused's opportunity for pretrial release.

1 (6) The name and telephone number of an investigating law enforcement
2 agency employee whom the victim may contact to find out whether the
3 accused has been released from custody.

4 (b) As soon as practicable but within 72 hours after the arrest of a person
5 believed to have committed a crime covered by this Article, the arresting law
6 enforcement agency shall inform the investigating law enforcement agency of the arrest.
7 As soon as practicable but within 72 hours of being notified of the arrest, the
8 investigating law enforcement agency shall notify the victim of the arrest.

9 (c) As soon as practicable but within 72 hours after receiving notification from
10 the arresting law enforcement agency that the accused has been arrested, the
11 investigating law enforcement agency shall forward to the district attorney's office that
12 will be responsible for prosecuting the case the victim's name, address, date of birth,
13 social security number, race, sex, ~~and~~ telephone number, and any other identifying
14 information associated with the case, unless the victim refuses to disclose any or all of
15 the information, in which case, the investigating law enforcement agency shall so
16 inform the district attorney's office.

17 (d) Upon receiving the information in subsection (a) of this section, the victim
18 shall, on a form provided by the investigating law enforcement agency, indicate whether
19 the victim wishes to receive any further notices from the investigating law enforcement
20 ~~agency.~~ agency on the status of the accused during the pretrial process. If the victim
21 elects to receive further notices, the victim shall be responsible for notifying the
22 investigating law enforcement agency of any changes in the victim's name, address, and
23 telephone number."

24 **SECTION 3.** G.S. 15A-832 reads as rewritten:

25 "**§ 15A-832. Responsibilities of the district attorney's office.**

26 (a) Within 21 days after the arrest of the accused, but not less than 24 hours
27 before the accused's first scheduled probable-cause hearing, the district attorney's office
28 shall provide to the victim a pamphlet or other written material that explains in a clear
29 and concise manner the following:

- 30 (1) The victim's rights under this Article, including the right to confer with
31 the attorney prosecuting the case about the disposition of the case and
32 the right to provide a victim impact statement.
- 33 (2) The responsibilities of the district attorney's office under this Article.
- 34 (3) The victim's eligibility for compensation under the Crime Victims
35 Compensation Act and the deadlines by which the victim must file a
36 claim for compensation.
- 37 (4) The steps generally taken by the district attorney's office when
38 prosecuting a felony case.
- 39 (5) Suggestions on what the victim should do if threatened or intimidated
40 by the accused or someone acting on the accused's behalf.

1 (6) The name and telephone number of a victim and witness assistant in
2 the district attorney's office whom the victim may contact for further
3 information.

4 (b) Upon receiving the information in subsection (a) of this section, the victim
5 shall, on a form provided by the district attorney's office, indicate whether the victim
6 wishes to receive notices of some, all, or none of the trial and posttrial proceedings
7 involving the accused. If the victim elects to receive notices, the victim shall be
8 responsible for notifying the district attorney's office or any other department or agency
9 that has a responsibility under this Article of any changes in the victim's address and
10 telephone number. The victim may alter the request for notification at any time by
11 notifying the district attorney's office and completing the form provided by the district
12 attorney's office.

13 (c) The district attorney's office shall notify a victim of the date, time, and place
14 of all trial court proceedings of the type ~~which~~that the victim has elected to receive
15 notice. All notices required to be given by the district attorney's office shall be given in
16 a manner that is reasonably calculated to be received by the victim prior to the date of
17 the court proceeding.

18 (d) Whenever practical, the district attorney's office shall provide a secure
19 waiting area during court proceedings that does not place the victim in close proximity
20 to the defendant or the defendant's family.

21 (e) When the victim is to be called as a witness in a court proceeding, the court
22 shall make every effort to permit the fullest attendance possible by the victim in the
23 proceedings. This subsection shall not be construed to interfere with the defendant's
24 right to a fair trial.

25 (f) Prior to the disposition of the case, the district attorney's office shall offer the
26 victim the opportunity to consult with the prosecuting attorney to obtain the views of the
27 victim about the disposition of the case, including the victim's views about dismissal,
28 plea or negotiations, sentencing, and any pretrial diversion programs.

29 (g) At the sentencing hearing, the prosecuting attorney shall submit to the court a
30 copy of a form containing the identifying information set forth in G.S. 15A-831(c)
31 about any victim's electing to receive further notices under this Article. The form shall
32 be included with the final judgment and ~~commitment~~commitment, or judgment
33 suspending sentence, transmitted to the Department of Correction or other agency
34 receiving custody of the defendant and shall be maintained by the custodial agency as a
35 confidential file. In the event that the form required by this subsection is not complete at
36 the time of sentencing, the district attorney's office shall be responsible for submitting a
37 copy of that form to the clerk of superior court and to the custodial agency within 10
38 business days or as soon as practicable."

39 **SECTION 4.** Article 46 of Chapter 15A of the General Statutes is amended
40 by adding two new sections to read:

41 **"§ 15A-832.1. Responsibilities of judicial officials issuing arrest warrants.**

1 In issuing a warrant for the arrest of an offender for any of the misdemeanor
2 offenses set forth in G.S. 15A-830(7)g., a judicial official shall record the victim's
3 name, address, date of birth, social security number, race, sex, telephone number, and
4 any other identifying information associated with the case on a form separate from the
5 warrant and developed for the purpose of recording that information.

6 **"§ 15A-832.2. Responsibilities of the clerk of superior court.**

7 (a) When the identification form required by G.S. 15A-832(g) is included with
8 the final judgment and commitment, or judgment suspending sentence, the clerk of
9 superior court shall submit the form along with the final judgment and commitment to
10 the custodial agency.

11 (b) In the event that restitution is ordered pursuant to Article 81C of this Chapter,
12 upon the first payment of restitution to the victim from the clerk of superior court, the
13 clerk shall provide the victim with written notice containing the following:

14 (1) The order of restitution.

15 (2) A reminder that the victim is responsible for notifying the district
16 attorney's office and any other department or agency that has a
17 responsibility under this Article of any changes in the victim's address
18 and telephone number.

19 (3) The name and phone number of persons with the Division of Adult
20 Probation and Parole and the Division of Prisons to contact in the
21 event of nonpayment of restitution by the defendant."

22 **SECTION 5.** G.S. 15A-833 reads as rewritten:

23 **"§ 15A-833. Evidence of victim impact.**

24 (a) A victim has the right to offer admissible evidence of the impact of the crime,
25 which shall be considered by the court or jury in sentencing the defendant. The evidence
26 may include the following:

27 (1) A description of the nature and extent of any physical, psychological,
28 or emotional injury suffered by the victim as a result of the offense
29 committed by the defendant.

30 (2) An explanation of any economic or property loss suffered by the
31 victim as a result of the offense committed by the defendant.

32 (3) A request for restitution and an indication of whether the victim has
33 applied for or received compensation under the Crime Victims
34 Compensation Act.

35 (b) No victim shall be required to offer evidence of the impact of the crime. No
36 inference or conclusion shall be drawn from a victim's decision not to offer evidence of
37 the impact of the crime. A representative of the district attorney's office or a law
38 enforcement officer may proffer evidence of the impact of the crime to the court at the
39 victim's request."

40 **SECTION 6.** G.S. 15A-835 reads as rewritten:

41 **"§ 15A-835. Posttrial responsibilities.**

1 (a) Within 30 days after the final trial court proceeding in the case, the district
2 attorney's office shall notify the victim, in writing, of:

- 3 (1) The final disposition of the case.
- 4 (2) The crimes of which the defendant was convicted.
- 5 (3) The defendant's right to appeal, if any.

6 (b) Upon a defendant's giving notice of appeal to the Court of Appeals or the
7 Supreme Court, the district attorney's office shall forward to the Attorney General's
8 office the victim's name, address, ~~and telephone number~~ number, and any other
9 identifying information associated with the case. Upon receipt of this information, and
10 thereafter as the circumstances require, the Attorney General's office shall provide the
11 victim with the following:

- 12 (1) A clear and concise explanation of how the appellate process works,
13 including information about possible actions that may be taken by the
14 appellate court.
- 15 (2) Notice of the date, time, and place of any appellate proceedings
16 involving the defendant. Notice shall be given in a manner that is
17 reasonably calculated to be received by the victim prior to the date of
18 the proceedings.
- 19 (3) The final disposition of an appeal.

20 (c) If the defendant has been released on bail pending the outcome of the appeal,
21 the agency that has custody of the defendant shall notify the investigating law
22 enforcement agency as soon as practicable, and within 72 hours of receipt of the
23 notification the investigating law enforcement agency shall notify the victim that the
24 defendant has been released.

25 (d) If the defendant's conviction is overturned, and the district attorney's office
26 decides to retry the case or the case is remanded to superior court for a new trial, the
27 victim shall be entitled to the same rights under this Article as if the first trial did not
28 take place.

29 ~~(e) The Conference of District Attorneys shall maintain a repository relating to~~
30 ~~victims' identities, addresses, and other appropriate information for use by agencies~~
31 ~~charged with responsibilities under this Article."~~

32 **SECTION 7.** G.S. 15A-836 reads as rewritten:

33 **"§ 15A-836. Responsibilities of agency with custody of defendant.**

34 (a) When a form is included with the final judgment and commitment pursuant to
35 G.S. 15A-832(g), or when the victim has otherwise filed a written request for
36 notification with the custodial agency, the custodial agency shall notify the victim of:

- 37 (1) The projected date by which the defendant can be released from
38 custody. The calculation of the release date shall be as exact as
39 possible, including earned time and disciplinary credits if the sentence
40 of imprisonment exceeds 90 days.
- 41 (2) An inmate's assignment to a minimum custody unit and the address of
42 the unit. This notification shall include notice that the inmate's

1 minimum custody status may lead to the inmate's participation in one
2 or more community-based programs such as work release or
3 supervised leaves in the community.

4 (3) The victim's right to submit any concerns to the agency with custody
5 and the procedure for submitting such concerns.

6 (4) The defendant's escape from custody, within ~~72 hours~~ hours, except
7 that if a victim has notified the agency that the defendant has issued a
8 specific threat against the victim, the agency shall notify the victim as
9 soon as possible and within 24 hours at the latest.

10 (5) The defendant's capture, within ~~72-24~~ hours.

11 (6) The date the defendant is scheduled to be released from the facility.
12 Whenever practical, notice shall be given 60 days before release. In no
13 event shall notice be given less than seven days before release.

14 (7) The defendant's death.

15 (b) Notifications required in this section shall be provided within ~~30-60~~ days of
16 the date the custodial agency takes custody of the defendant or within ~~30-60~~ days of the
17 event requiring notification, or as otherwise specified in subsection (a) of this section."

18 **SECTION 8.** G.S. 15A-837 reads as rewritten:

19 "**§ 15A-837. Responsibilities of Division of Adult Probation and Parole.**

20 (a) The Division of Adult Probation and Parole shall notify the victim of:

21 (1) The defendant's regular conditions of probation or post-release
22 supervision, special or added conditions, supervision requirements,
23 and any subsequent changes.

24 (2) The ~~date~~ date, time, and location of a ~~any~~ hearing to determine
25 whether the defendant's supervision should be revoked, continued,
26 modified, or terminated.

27 (3) The final disposition of any hearing referred to in subdivision (2) of
28 this section.

29 (4) Any restitution modification.

30 (4a) The defendant's election to serve an active sentence rather than accept
31 the terms of probation.

32 (5) The defendant's movement into or out of any intermediate sanction as
33 defined in G.S. 15A-1340.11(6).

34 (6) The defendant's absconding supervision, within 72 hours.

35 (7) The capture of a defendant described in subdivision (6) of this section,
36 within 72 hours.

37 (8) The date when the defendant is terminated or discharged.

38 (9) The defendant's death.

39 (b) Notifications required in this section shall be provided within 30 days of the
40 event requiring notification, or as otherwise specified in subsection (a) of this section."

41 **SECTION 9.** This act becomes effective October 1, 2001.