

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 90

Session of  
1991

INTRODUCED BY RITTER, KOSINSKI, BLAUM, DeWEESE, CALTAGIRONE, JOSEPHS, HAGARTY, ADOLPH, ANGSTADT, ARGALL, BATTISTO, BILLOW, BISHOP, BUNT, CAPPABIANCA, COHEN, FOX, FREEMAN, GAMBLE, GEIST, GODSHALL, GRUITZA, HARLEY, HARPER, HAYDEN, HECKLER, ITKIN, JAMES, KASUNIC, KUKOVICH, LAUGHLIN, LINTON, MAIALE, MARKOSEK, MELIO, MIHALICH, MRKONIC, OLASZ, PISTELLA, RICHARDSON, RUDY, SAURMAN, D. W. SNYDER, G. SNYDER, STETLER, STURLA, TANGRETTI, E. Z. TAYLOR, TELEK, TIGUE, TRELLO, VAN HORNE, VEON, WAMBACH, WOGAN, WOZNIAK, LEVDANSKY, ROBINSON, MAYERNIK, TRICH, STEELMAN, PESCI, ARNOLD, MUNDY, SEMMEL, JAROLIN AND STURLA, FEBRUARY 6, 1991

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MARCH 11, 1991

## AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; and prescribing the manner in which the  
18 number and compensation of the deputies and all other  
19 assistants and employes of certain departments, boards and  
20 commissions shall be determined," further providing for the  
21 rights of crime victims.

22 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Sections 479.1 and 479.3 of the act of April 9,  
3 1929 (P.L.177, No.175), known as The Administrative Code of  
4 1929, added June 30, 1984 (P.L.458, No.96), are amended to read:

5 Section 479.1. Definitions.--The following words and phrases  
6 when used in sections 479 through 479.5 shall have the meanings  
7 given to them in this section unless the context clearly  
8 indicates otherwise:

9 "Commission" means the Pennsylvania Commission on Crime and  
10 Delinquency.

11 "Crime" means an act [committed in this Commonwealth which,  
12 if committed by a mentally competent, criminally responsible  
13 adult who had no legal exemption or defense, would constitute a  
14 crime as defined in and proscribed by Title 18 of the  
15 Pennsylvania Consolidated Statutes (relating to crimes and  
16 offenses) or enumerated in the act of April 14, 1972 (P.L.233,  
17 No.64), known as "The Controlled Substance, Drug, Device and  
18 Cosmetic Act." No act involving the operation of a motor vehicle  
19 which results in injury shall constitute a crime for the purpose  
20 of this act unless the injury was intentionally inflicted  
21 through the use of a motor vehicle.], committed in this  
22 Commonwealth by a person without regard to legal exemption or  
23 defense, which would constitute a crime under Title 18 of the  
24 Pennsylvania Consolidated Statutes (relating to crimes and  
25 offenses), Title 30 of the Pennsylvania Consolidated Statutes,  
26 section 5502 (relating to operating watercraft under influence  
27 of alcohol or controlled substance) or 5502.1 (relating to  
28 homicide by watercraft while operating under influence), Title  
29 75 of the Pennsylvania Consolidated Statutes, section 3731  
30 (relating to driving under influence of alcohol or controlled

1 substance) or 3735 (relating to homicide by vehicle while  
2 driving under influence).

3 "Family" means when used in reference to a person:

4 (1) anyone related to that person within the third degree of  
5 consanguinity or affinity;

6 (2) anyone maintaining a common-law relationship OR INTIMATE <—  
7 PARTNERSHIP with that person; or

8 (3) anyone residing in the same household with that person.

9 ["Feloniously assaultive crime" means an act committed in  
10 this Commonwealth which, if it had been committed by a mentally  
11 competent, criminally responsible adult who had no legal  
12 exemption or defense, would constitute a felony as defined in  
13 and proscribed by Chapter 25, 27, 29, 31 or 37 of Title 18 of  
14 the Pennsylvania Consolidated Statutes (relating to crimes and  
15 offenses). No act involving the operation of a motor vehicle  
16 which results in injury shall constitute a feloniously  
17 assaultive crime for the purpose of this act unless the injury  
18 was intentionally inflicted through the use of a motor vehicle.]

19 "Personal injury crime" means an act, attempt or threat to  
20 commit an act, which would constitute a misdemeanor or felony as  
21 defined in and proscribed by the following provisions of Title  
22 18 of the Pennsylvania Consolidated Statutes (relating to crimes  
23 and offenses:

24 Chapter 25 (relating to criminal homicide).

25 Chapter 27 (relating to assault).

26 Chapter 29 (relating to kidnapping).

27 Chapter 31 (relating to sexual offenses).

28 Chapter 37 (relating to robbery).

29 Chapter 49 Subchapter B (relating to victim and witness  
30 intimidation).

"Victim" means [a person against whom a crime is being or has been perpetrated or attempted.]:

(1) a person against whom a crime is being or has been perpetrated or attempted;

(2) a parent or legal guardian of a child so victimized; or

(3) a family member of a homicide victim, including step brothers or sisters, STEPCHILDREN, step parents or a fiancé.

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Section 479.3. Basic Bill of Rights for Victims.--Victims of crime have the following rights:

[(1) To have included in any presentence report information concerning the effect that the crime committed by the defendant has had upon the victim, including any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources.

(2) To have restitution ordered as a condition of probation whenever feasible.

(3) Upon request of the victim of a feloniously assaultive crime, to be promptly informed by the district attorney whenever the assailant is to be released on parole, furlough or any other form of supervised or unsupervised release from full incarceration.]

(1) To receive basic information concerning the services available for victims of crime, including, but not limited to, information concerning social services, such as COMMUNITY-BASED VICTIM SERVICES, GRIEF COUNSELING, rape crisis or domestic violence services.

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(2) To be protected from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, including a secure waiting area for crime victims

1 during court proceedings.

2 (3) To be notified of significant actions within the  
3 criminal justice system pertaining to their case, including, BUT <—  
4 NOT LIMITED TO, the arrest of a suspect; the charges filed; the  
5 disposition of a defendant, including trial or the entry of a  
6 plea; and the sentencing of a defendant; AND SUBSEQUENT RELEASE <—  
7 DECISIONS.

8 (4) To be present and heard when relevant at all public  
9 criminal proceedings, and to be accompanied at said proceedings  
10 by a family member, victim advocate, or other person for  
11 purposes of emotional support.

12 (5) To provide ~~input into~~ PRIOR COMMENT ON the disposition, <—  
13 including the entry of a plea, and sentencing of a defendant,  
14 and also including the submission of a written or oral victim  
15 impact statement detailing the physical, psychological and  
16 economic effects of the crime on the victim and the victim's  
17 family.

18 (6) To be restored, to the extent possible, to the precrime  
19 economic status through the provision of restitution,  
20 compensation as provided under the crime victims' compensation  
21 program pursuant to sections 477 through 477.19 of this act, and  
22 the expeditious return of property which is seized as evidence  
23 in the case.

24 (7) In personal injury crimes, to be notified of the  
25 pretrial and presentence release of the defendant. In other  
26 crimes, to be notified of the manner in which this information  
27 may be obtained by the victim.

28 (8) To be notified of and given an opportunity to provide  
29 ~~input to~~ PRIOR COMMENT ON county and State release decisions and <—  
30 to be notified of such decisions, including the release of the

1 offender from incarceration through ~~probation~~, parole, pardon, <—  
2 work release, furlough, community placement, alternative  
3 punishment or similar procedures, and to be notified of the  
4 escape of the offender.

5 (9) In crimes involving child victims, to be advised of the  
6 rights and protections provided to child victims pursuant to the  
7 provisions of Title 42 of the Pennsylvania Consolidated  
8 Statutes, Chapter 59 Subchapter D (relating to child victims and  
9 witnesses).

10 Section 2. The act is amended by adding sections to read:

11 Section 479.6. Responsibilities of Law Enforcement Agencies  
12 under the Basic Bill of Rights.--(a) All law enforcement  
13 agencies are responsible for providing basic information on  
14 services available for crime victims. The information shall be  
15 IN WRITING AND SHALL BE provided to the victim within twenty- <—  
16 four (24) hours of the agency's first contact with the victim  
17 and shall include:

18 (1) an explanation of the victim's rights pursuant to the  
19 provisions of section 479.3 and responsibilities pursuant to the  
20 provisions of section 479.9;

21 (2) the telephone numbers of agencies which provide  
22 appropriate services, including community-based victim service  
23 agencies, GRIEF COUNSELORS, rape crisis centers and domestic <—  
24 violence programs;

25 (3) the procedures for dealing with victim or witness  
26 intimidation and harassment pursuant to Title 18 of the  
27 Pennsylvania Consolidated Statutes, Chapter 49 Subchapter B,  
28 (relating to victim and witness intimidation) and domestic  
29 violence pursuant to Title 23 of the Pennsylvania Consolidated  
30 Statutes, Chapter 61 (relating to protection from abuse); and <—

1     (4) notice of the availability of victim's compensation  
2     pursuant to ~~section~~ SECTIONS 477 THROUGH 477.19 and the agency <—  
3     which can provide claims assistance; AND <—

4     (5) AN ORIENTATION TO THE PRETRIAL JUDICIAL PROCESS.

5     (b) Within one year of the effective date of this section,  
6     all law enforcement agencies shall PREPARE AN ATTACHMENT TO OR <—  
7     revise the police report to provide for a THE victim's <—  
8     signature, signifying that the information required in  
9     subsection (a) has been provided to the crime victim IN A TIMELY <—  
10    MANNER.

11    (c) All law enforcement agencies are responsible for  
12    notifying victims of the arrest of a suspect and of the charges  
13    filed no more than eight (8) hours after said actions occur.

14    (d) In personal injury crimes, all law enforcement agencies  
15    are responsible for notifying the victim of the defendant's  
16    pretrial release, including any conditions imposed. The agency  
17    shall notify the victim no more than eight (8) hours after the  
18    agency receives notice of the release. IN OTHER CRIMES, ALL LAW <—  
19    ENFORCEMENT AGENCIES ARE RESPONSIBLE FOR PROVIDING THE VICTIM  
20    WITH THE NAME AND PHONE NUMBER TO CALL IN ORDER TO OBTAIN  
21    INFORMATION ABOUT ANY PRETRIAL RELEASE OF THE DEFENDANT.

22    (e) In personal injury crimes, all law enforcement agencies  
23    are responsible for immediately notifying the victim of an  
24    inmate's escape from the custody of the law enforcement agency.

25    Section 479.7. Responsibilities of the Office of District  
26    Attorney under the Basic Bill of Rights.--(a) The office of the  
27    district attorney shall coordinate the information provided to  
28    victims under sections 479.1 through 479.9.

29    (b) The office of the district attorney shall provide  
30    information to law enforcement agencies concerning services

1 available to victims in the county, INCLUDING, BUT NOT LIMITED <—  
2 TO, COMMUNITY-BASED VICTIM SERVICES, GRIEF COUNSELING, RAPE  
3 CRISIS OR DOMESTIC VIOLENCE SERVICES.

4 (c) The office of the district attorney shall coordinate the  
5 following services for victims and witnesses of crime:

6 (1) An orientation to the court system including an  
7 explanation of the process, and the role of the victim.

8 (2) Advance notice of at least forty-eight (48) hours of any  
9 dispositional proceedings scheduled and immediate notice of  
10 continuances.

11 (3) Assistance with ~~input to~~ PRIOR COMMENT ON the key <—  
12 decisions regarding disposition, including, BUT NOT LIMITED TO, <—  
13 the entry of a plea, sentence and release, and also including  
14 the submission of written or oral victim impact statements.

15 (4) A secure waiting area during judicial proceedings  
16 separate from the defendants and families and friends of  
17 defendants.

18 (5) Notice of the disposition and sentence of the defendant,  
19 including any sentence modifications.

20 (6) Assistance with victim compensation claims and  
21 expeditious return of property.

22 (7) Notice of the opportunity to provide ~~input to~~ PRIOR <—  
23 COMMENT ON, and to be notified of, county or State release  
24 decisions, including the release of the offender from  
25 incarceration through ~~probation~~, parole, pardon, work release, <—  
26 furlough, community placement, alternative punishment or similar  
27 procedures.

28 (8) Services associated with the victim's or witness's  
29 ability to participate in the criminal justice process,  
30 including, to the extent of available resources, transportation,



1 child care and employer or creditor intercession.

2 (9) NOTICE OF THE OPPORTUNITY TO RECEIVE NOTICE WHEN AN <—  
3 OFFENDER IS COMMITTED TO A MENTAL HEALTH INSTITUTION FROM A  
4 COUNTY PRISON OR STATE CORRECTIONAL INSTITUTION AND THE  
5 SUBSEQUENT RELEASE AND PLACEMENT OR ESCAPE OF THE OFFENDER.

6 (d) When the victim requests an opportunity to provide input <—  
7 to PRIOR COMMENT ON county or State release decisions, the <—  
8 office of the district attorney shall inform the victim of the  
9 appropriate procedures to be followed and of the victim's  
10 responsibilities as provided in section 479.9, and provide the  
11 appropriate forms as provided for in section 479.8(a). For  
12 county sentences, victims shall provide, in the established <—  
13 format ON THE ESTABLISHED FORMS, written notice of interest to <—  
14 the chief adult probation officer and warden of the county  
15 correctional institution. For State sentences, written notice in <—  
16 the established format ON THE ESTABLISHED FORMS shall be <—  
17 provided to the Department of Corrections and to the  
18 Pennsylvania Board of Probation and Parole.

19 Section 479.8. Responsibilities of State and Local  
20 Correctional Agencies under the Basic Bill of Rights.--(a)  
21 Within one (1) year of the effective date of this section, the  
22 Department of Corrections, the Pennsylvania Board of Probation  
23 and Parole, all chief adult probation officers and the wardens  
24 of all county correctional institutions shall develop  
25 standardized formats FORMS, WHICH SHALL INCLUDE THE ADDRESS <—  
26 WHERE THE COMPLETED FORM IS TO BE SENT, for the receipt of  
27 notice from the victim concerning the victim's interest in  
28 release decisions AND NOTIFICATION OF ESCAPE. Sufficient copies <—  
29 of the format FORM so developed shall be provided to the office <—  
30 of the district attorney for distribution to victims.

1     (b) Upon the pretrial release from a correctional  
2 institution of a defendant charged with a personal injury crime,  
3 the warden shall provide immediate notice of the release to the  
4 police department of the jurisdiction in which the offense was  
5 committed.

6     (c) When the victim has properly notified the appropriate  
7 State and county authorities as provided in section 479.7(d),  
8 the appropriate authority shall notify the victim sufficiently  
9 in advance of a pending release decision, INCLUDING RELEASE OF <—  
10 THE OFFENDER FROM INCARCERATION THROUGH PAROLE, PARDON, WORK  
11 RELEASE, FURLOUGH, COMMUNITY PLACEMENT, ALTERNATIVE PUNISHMENT  
12 OR SIMILAR PROCEDURE, to extend an opportunity for input. This <—  
13 input PRIOR COMMENT. THESE COMMENTS MAY BE ORAL OR WRITTEN AND <—  
14 shall be provided to the court for its consideration as to the  
15 advisability of release and any conditions of release which may  
16 be warranted. THE WRITTEN OR ORAL VICTIM IMPACT STATEMENT, IN <—  
17 FULL OR IN PART OR A SYNOPSIS THEREOF, SHALL NOT BE DISCLOSED TO  
18 ANY PERSON OTHER THAN A LAW ENFORCEMENT AGENCY, CORRECTIONS  
19 AGENCY, MENTAL HEALTH INSTITUTION OR DISTRICT ATTORNEY'S OFFICE  
20 WITHOUT THE PRIOR WRITTEN CONSENT OF THE VICTIM. The appropriate  
21 authority shall IMMEDIATELY notify the victim of the release <—  
22 decision and of any conditions imposed immediately when so <—  
23 requested by the victim and in any case within twenty-four (24)  
24 hours of the inmate's release.

25     (d) When the victim has properly notified the appropriate  
26 State and county authorities as provided by section 479.7(d),  
27 the warden of the county institution or superintendent of the  
28 State institution shall immediately notify the victim of the  
29 escape of the inmate.

30     (E) WHEN THE VICTIM HAS PROPERLY NOTIFIED THE APPROPRIATE <—

1 STATE AND COUNTY AUTHORITIES AS PROVIDED BY SECTION 479.7(C)(9),  
2 THE WARDEN OF THE COUNTY CORRECTIONAL INSTITUTION OR  
3 SUPERINTENDENT OF THE STATE CORRECTIONAL INSTITUTION SHALL  
4 NOTIFY THE VICTIM OF THE COMMITMENT OF THE OFFENDER TO A MENTAL  
5 HEALTH INSTITUTION AND THE LOCATION OF THE INSTITUTION WITHIN  
6 TWENTY-FOUR (24) HOURS OF THE COMMITMENT. THE DEPARTMENT OF  
7 PUBLIC WELFARE SHALL HAVE THE DUTY OF NOTIFYING THE VICTIM OF  
8 THE DISCHARGE OF THE OFFENDER FROM THE MENTAL HEALTH INSTITUTION  
9 AND THE FACILITY TO WHICH THE OFFENDER WAS DISCHARGED WITHIN  
10 TWENTY-FOUR (24) HOURS OF THE DISCHARGE. THE DEPARTMENT OF  
11 PUBLIC WELFARE SHALL IMMEDIATELY NOTIFY THE VICTIM OF THE ESCAPE  
12 OF AN OFFENDER FROM A MENTAL HEALTH INSTITUTION.

13 SECTION 479.9. RESPONSIBILITIES OF DEPARTMENT OF PUBLIC  
14 WELFARE AND MENTAL HEALTH INSTITUTIONS UNDER THE BASIC BILL OF  
15 RIGHTS.--WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE OF THIS  
16 SECTION, THE DEPARTMENT OF PUBLIC WELFARE SHALL DEVELOP  
17 STANDARDIZED FORMS, WHICH SHALL INCLUDE THE ADDRESS WHERE THE  
18 COMPLETED FORM IS TO BE SENT, FOR THE RECEIPT OF NOTICE FROM THE  
19 VICTIM CONCERNING THE VICTIM'S INTEREST IN DISCHARGE DECISIONS  
20 AND NOTIFICATION OF AN ESCAPE. SUFFICIENT COPIES OF THE FORMS  
21 SHALL BE PROVIDED TO THE OFFICE OF THE DISTRICT ATTORNEY FOR  
22 DISTRIBUTION TO VICTIMS UPON COURT-ORDERED COMMITMENT OF THE  
23 OFFENDER TO A MENTAL HEALTH INSTITUTION IN THE STATE SYSTEM.

24 Section ~~479.9~~ 479.10.--Responsibilities of Victims of Crime <—  
25 under the Basic Bill of Rights.--A victim shall provide a valid  
26 address and telephone number and any other information which  
27 facilitates contact to all agencies responsible for providing  
28 information and notice to the victim. The victim shall be  
29 responsible for providing timely notice of any changes in the  
30 status of such information. The information provided shall not

1 be disclosed to any person other than a law enforcement agency,  
2 corrections agency, or district attorney office without the  
3 PRIOR written consent of the victim.

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4       Section 3. This act shall take effect in 60 days.