

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 523 Session of 2017

INTRODUCED BY GREENLEAF, ARGALL, RESCHENTHALER, MENSCH, YUDICHAK, FOLMER AND BROWNE, MARCH 16, 2017

AS AMENDED ON THIRD CONSIDERATION, MAY 22, 2017

AN ACT

1 Amending the act of November 24, 1998 (P.L.882, No.111),
2 entitled "An act providing for victims' rights; imposing
3 penalties; establishing remedies; establishing the Office of
4 Victim Advocate, the Bureau of Victims' Services, the
5 Victims' Services Advisory Committee, the State Offender
6 Supervision Fund and other funds; and making repeals," in
7 preliminary provisions, further providing for definitions; in
8 crime victims, further providing for responsibilities of
9 department, local correctional facilities and board; in
10 administration, further providing for office and for powers
11 and duties of victim advocate and providing for
12 confidentiality of records; and, in financial matters,
13 further providing for costs for offender supervision
14 programs.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definitions of "board," "department" "BOARD" <--
18 and "victim advocate" in section 103 of the act of November 24,
19 1998 (P.L.882, No.111), known as the Crime Victims Act, are
20 amended to read:

21 Section 103. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

1 * * *

2 "Board." The Pennsylvania [Board of Probation and] Parole
3 Board.

4 * * *

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5 ~~"Department." The Department of [Corrections] Criminal~~
6 ~~Justice of the Commonwealth.~~

7 * * *

8 "Victim advocate." The victim advocate in the Office of
9 Victim Advocate within the [Pennsylvania Board of Probation and
10 Parole] department.

11 Section 2. Sections 214(a), (b) and (f), 301 and 302 of the
12 act are amended to read:

13 Section 214. Responsibilities of department, local correctional
14 facilities and board.

15 (a) Forms.--The [department and the] board shall develop
16 standardized forms regarding victim notification. The form shall
17 include the address where the form is to be sent. The department
18 shall develop a [standardized] standard form which may be used
19 by local correctional facilities. In the case of counties with
20 victim-witness coordinators, the local correctional facility
21 shall perform its responsibilities under this section in
22 cooperation with the county's victim-witness coordinator.

23 (b) Notice.--If the [department and board have] Office of
24 Victim Advocate has received notice of a victim's desire to have
25 input under section 201(7), the appropriate agency shall notify
26 the victim sufficiently in advance of a pending release decision
27 to extend an opportunity for prior comment. The local
28 correctional facility's notice to the victim under section
29 201(9) shall occur immediately.

30 * * *

1 (f) Records.--Records maintained by the department, the
2 local correctional facility [and], the board and the office
3 pertaining to victims shall be kept separate. Current address,
4 telephone number and any other personal information of the
5 victim and family members shall be deemed confidential.

6 * * *

7 Section 301. Office.

8 (a) Establishment.--There is established within the [board]
9 department the Office of Victim Advocate, a criminal justice
10 agency to represent the interests of crime victims before the
11 board or department. The office shall operate under the
12 direction of the victim advocate as provided in this section.
13 The office shall function independently of the department
14 regarding all of the office's decision-making functions, as well
15 as any other powers and duties specified in law.

16 (b) Appointment.--The victim advocate must be an individual
17 who by reason of training and experience is qualified to
18 represent the interests of individual crime victims before the
19 board. The victim advocate shall be appointed by the Governor,
20 by and with the consent of a majority of all of the members of
21 the Senate. The victim advocate shall hold office for a term of
22 six years and until a successor shall have been duly appointed
23 and qualified but in no event more than 90 days beyond the
24 expiration of the appointed term. A vacancy occurring for any
25 reason shall be filled in the manner provided by section 8 of
26 Article IV of the Constitution of Pennsylvania for the remainder
27 of the term. Whenever the victim advocate's term expires, that
28 position shall be immediately deemed a vacancy, and the Governor
29 shall nominate a person to fill that position within 90 days of
30 the date of expiration even if the victim advocate continues in

1 office. To be eligible to be appointed by the Governor as victim
2 advocate, an individual must have at least six years of
3 professional experience in victim advocacy, social work or
4 related areas, including one year in a supervisory or
5 administrative capacity, and a bachelor's degree. Any equivalent
6 combination of experience and training shall be acceptable.
7 Compensation shall be set by the Executive Board as defined by
8 the act of April 9, 1929 (P.L.177, No.175), known as The
9 Administrative Code of 1929.

10 (c) Service and employees.--The victim advocate shall
11 operate from [the central office of the board] office space
12 provided by the department with such clerical, technical and
13 professional staff as may be [available within the budget of the
14 board] furnished by the department. [The compensation of
15 employees of the office shall be set by the Executive Board.]
16 Legal counsel for the office shall be appointed in accordance
17 with the act of October 15, 1980 (P.L.950, No.164), known as the
18 Commonwealth Attorneys Act.

19 (d) Procedure for removal.--

20 (1) The victim advocate may be removed for cause by the
21 Governor, by and with the advice and consent of a majority of
22 the members of the Senate.

23 (2) During a recess of the Senate, the Governor may
24 suspend the victim advocate for cause, and before suspension,
25 the Governor shall furnish to the victim advocate a statement
26 in writing of the reasons for the proposed suspension. The
27 suspension shall operate and be effective only until the
28 adjournment of the next session of the Senate following the
29 suspension.

30 Section 302. Powers and duties of victim advocate.

1 The victim advocate has the following powers and duties:

2 (1) To represent the interests of individual crime
3 victims before the board, department or hearing examiner.

4 (2) To supervise the victim notification duties
5 presently conducted by the board.

6 (3) To assist in and coordinate the preparation of
7 testimony by the crime victims as set forth in sections
8 501(c) and 502 or the submission of oral, written or
9 videotaped comments by crime victims prior to a release
10 decision.

11 (4) To represent the interests of a crime victim under
12 section 502.

13 [(5) To act as a liaison with the victim notification
14 program director in the department to coordinate victim
15 notification and services for the department and the board.
16 The victim advocate is authorized to address the interests of
17 all victims before the board, department or hearing examiner
18 concerning any issues determined appropriate by the victim
19 advocate.]

20 Section 3. The act is amended by adding a section to read:

21 Section 303. Confidentiality of records.

22 (a) General rule.--Each EXCEPT AS PROVIDED UNDER THIS <--
23 SECTION, EACH report, record or other information in the
24 possession of or maintained by the office, including the home
25 addresses of employees of the office, shall:

26 (1) Be confidential and privileged.

27 (2) Not be subject to subpoena or discovery.

28 (3) Not be subject to the provisions of the act of
29 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
30 Law.

1 (4) Be used for no purpose other than to advocate for
2 the interests of crime victims.

3 (5) Except as provided by law or under this section, not
4 be introduced into evidence in a judicial or administrative
5 proceeding.

6 (b) Disclosure restricted.--Except as provided by law, a
7 person who has had access to a report, record or any other
8 information PROTECTED under this section may not disclose the <--
9 content of the report, record or other information or testify in
10 a judicial or administrative proceeding without the written
11 consent of the direct victim or intervenor or, if the direct
12 victim or intervenor is deceased, the victim advocate.

13 (c) Construction.--This section shall not be construed to
14 preclude or limit introduction of the contents of a report,
15 record or other information in an investigation, prosecution or
16 judicial proceeding enforcing section 1303 or in communicating
17 with the prosecutor's office regarding restitution.

18 (D) FINANCIAL RECORDS.--A FINANCIAL RECORD, AS DEFINED IN <--
19 THE RIGHT-TO-KNOW LAW, WHICH IS FROM OR RELATES TO THE OFFICE
20 SHALL BE SUBJECT TO THE RIGHT-TO-KNOW LAW.

21 Section 4. Section 1102 of the act is amended to read:
22 Section 1102. Costs for offender supervision programs.

23 (a) County fund.--The county treasurer of each county shall
24 establish and administer a county offender supervision fund
25 consisting of the fees collected under this section. The county
26 treasurer shall disperse money from this fund only at the
27 discretion of the president judge of the court of common pleas.
28 The money in this fund shall be used to pay the salaries and
29 employee benefits of all probation and parole personnel employed
30 by the county probation and parole department and the

1 operational expenses of that department. Money from this fund
2 shall be used to supplement Federal, State or county
3 appropriations for the county adult probation and parole
4 department. The president judge shall by August 31 provide the
5 [board] department with an annual statement which fully reflects
6 all collections deposited into and expenditures from the
7 offender supervision fund for the preceding fiscal year. The
8 [board] department shall promulgate regulations to provide for
9 the permanent administration of this program.

10 (b) State fund.--There is established a State Offender
11 Supervision Fund to be administered by the [board] department
12 and comprised of the supervision fees collected by the [board]
13 department under this section. The money in this fund shall be
14 used to supplement the Federal or State funds appropriated for
15 the improvement of adult probation services.

16 (c) Court.--The court shall impose as a condition of
17 supervision a monthly supervision fee of at least \$25 on any
18 offender placed on probation, parole, accelerated rehabilitative
19 disposition, probation without verdict or intermediate
20 punishment unless the court finds that the fee should be
21 reduced, waived or deferred based on the offender's present
22 inability to pay. Of the fee collected, 50% shall be deposited
23 into the County Offender Supervision Fund established in each
24 county pursuant to this section, and the remaining 50% shall be
25 deposited into the State Offender Supervision Fund established
26 pursuant to this section.

27 (d) Board.--The board or the department shall impose as a
28 condition of supervision a monthly supervision fee of at least
29 \$25 on any offender under the [board's] department's supervision
30 unless the board finds that such fee should be reduced, waived

1 or deferred based on the offender's present inability to pay.
2 All fees collected shall be deposited into the State Offender
3 Supervision Fund established under subsection (b).

4 (e) Continuation.--

5 (1) For offenders under supervision of a county
6 probation department or the board as of [August 14, 1991] the
7 day prior to the effective date of this section or under the
8 supervision of the department, the fee shall automatically
9 become a part of the supervision conditions as if the court
10 or board had imposed it unless the court or board makes a
11 finding that the offender is presently unable to pay.

12 (2) The court or board may make a finding that the
13 offender is unable to pay based on any of the following
14 factors:

15 (i) The offender has diligently attempted but has
16 been unable to obtain employment that provides the
17 offender sufficient income to make such payments.

18 (ii) The offender is a student in a school, a
19 college, a university or a course of vocational or
20 technical training designed to fit the student for
21 gainful employment.

22 (iii) The offender has an employment handicap as
23 determined by an examination acceptable to or ordered by
24 the court or board.

25 (iv) The offender's age prevents employment.

26 (v) The offender is responsible for the support of
27 dependents, and the payment of the assessment constitutes
28 an undue hardship on the offender.

29 (vi) Other extenuating circumstances as determined
30 by the court or board.

1 Section 5. This act shall take effect in one year.