
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 969 Session of
2020

INTRODUCED BY BROWNE, MARTIN, YAW, KILLION, MENSCH AND YUDICHAK,
JANUARY 24, 2020

REFERRED TO JUDICIARY, JANUARY 24, 2020

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" and "victim advocate"
18 in section 103 of the act of November 24, 1998 (P.L.882,
19 No.111), known as the Crime Victims Act, are amended to read:
20 Section 103. Definitions.

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

24 * * *

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

3 * * *

4 "Victim advocate." The victim advocate in the Office of
5 Victim Advocate within the [Pennsylvania Board of Probation and
6 Parole] department.

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

9 Section 214. Responsibilities of department, local correctional
10 facilities and board.

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

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

26 * * *

27 (f) Records.--Records maintained by the department, the
28 local correctional facility [and], the board and the office
29 pertaining to victims shall be kept separate. Current address,
30 telephone number and any other personal information of the

1 victim and family members shall be deemed confidential.

2 * * *

3 Section 301. Office.

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

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

1 administrative capacity, and a bachelor's degree. Any equivalent
2 combination of experience and training shall be acceptable.
3 Compensation shall be set by the Executive Board as defined by
4 the act of April 9, 1929 (P.L.177, No.175), known as The
5 Administrative Code of 1929.

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

15 Section 302. Powers and duties of victim advocate.

16 The victim advocate has the following powers and duties:

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

19 (2) To supervise the victim notification duties
20 presently conducted by the board.

21 (3) To assist in and coordinate the preparation of
22 testimony by the crime victims as set forth in sections
23 501(c) and 502 or the submission of oral, written or
24 videotaped comments by crime victims prior to a release
25 decision.

26 (4) To represent the interests of a crime victim under
27 section 502.

28 (5) [To act as a liaison with the victim notification
29 program director in the department to] To coordinate victim
30 notification and services for the department and the board.

1 The victim advocate is authorized to address the interests of
2 all victims before the board, department or hearing examiner
3 concerning any issues determined appropriate by the victim
4 advocate.

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

6 Section 303. Confidentiality of records.

7 (a) General rule.--Except as provided under this section,
8 each report, record or other information in the possession of or
9 maintained by the office, including the home addresses of
10 employees of the office, shall:

11 (1) Be confidential and privileged.

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

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

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

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

21 (b) Disclosure restricted.--Except as otherwise provided by
22 law, a person who has had access to a report, record or any
23 other information protected under this section may not disclose
24 the content of the report, record or other information or
25 testify in a judicial or administrative proceeding without the
26 written consent of the direct victim or intervenor or, if the
27 direct victim or intervenor is deceased, the victim advocate.

28 (c) Construction.--This section shall not be construed to
29 preclude or limit introduction of the contents of a report,
30 record or other information in an investigation, prosecution or

1 judicial proceeding enforcing section 1303 or in communicating
2 with the prosecutor's office regarding restitution.

3 (d) Financial records.--A financial record, as defined in
4 the Right-to-Know Law, which is from or relates to the office
5 shall be subject to the Right-to-Know Law.

6 Section 4. Section 1102 of the act is amended to read:

7 Section 1102. Costs for offender supervision programs.

8 (a) County fund.--The county treasurer of each county shall
9 establish and administer a county offender supervision fund
10 consisting of the fees collected under this section. The county
11 treasurer shall disperse money from this fund only at the
12 discretion of the president judge of the court of common pleas.
13 The money in this fund shall be used to pay the salaries and
14 employee benefits of all probation and parole personnel employed
15 by the county probation and parole department and the
16 operational expenses of that department. Money from this fund
17 shall be used to supplement Federal, State or county
18 appropriations for the county adult probation and parole
19 department. The president judge shall by August 31 provide the
20 [board] department with an annual statement which fully reflects
21 all collections deposited into and expenditures from the
22 offender supervision fund for the preceding fiscal year. The
23 [board] department shall promulgate regulations to provide for
24 the permanent administration of this program.

25 (b) State fund.--There is established a State Offender
26 Supervision Fund to be administered by the [board] department
27 and comprised of the supervision fees collected by the [board]
28 department under this section. The money in this fund shall be
29 used to supplement the Federal or State funds appropriated for
30 the improvement of adult probation services.

1 (c) Court.--The court shall impose as a condition of
2 supervision a monthly supervision fee of at least \$25 on any
3 offender placed on probation, parole, accelerated rehabilitative
4 disposition, probation without verdict or intermediate
5 punishment unless the court finds that the fee should be
6 reduced, waived or deferred based on the offender's present
7 inability to pay. Of the fee collected, 50% shall be deposited
8 into the County Offender Supervision Fund established in each
9 county pursuant to this section, and the remaining 50% shall be
10 deposited into the State Offender Supervision Fund established
11 pursuant to this section.

12 (d) Board.--The board or the department shall impose as a
13 condition of supervision a monthly supervision fee of at least
14 \$25 on any offender under the [board's] department's supervision
15 unless the board finds that such fee should be reduced, waived
16 or deferred based on the offender's present inability to pay.
17 All fees collected shall be deposited into the State Offender
18 Supervision Fund established under subsection (b).

19 (e) Continuation.--

20 (1) For offenders under supervision of a county
21 probation department or the board as of [August 14, 1991] the
22 day prior to the effective date of this section or under the
23 supervision of the department, the fee shall automatically
24 become a part of the supervision conditions as if the court
25 or board had imposed it unless the court or board makes a
26 finding that the offender is presently unable to pay.

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

30 (i) The offender has diligently attempted but has

1 been unable to obtain employment that provides the
2 offender sufficient income to make such payments.

3 (ii) The offender is a student in a school, a
4 college, a university or a course of vocational or
5 technical training designed to fit the student for
6 gainful employment.

7 (iii) The offender has an employment handicap as
8 determined by an examination acceptable to or ordered by
9 the court or board.

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

11 (v) The offender is responsible for the support of
12 dependents, and the payment of the assessment constitutes
13 an undue hardship on the offender.

14 (vi) Other extenuating circumstances as determined
15 by the court or board.

16 Section 5. This act shall take effect immediately.