



Senate

General Assembly

February Session, 2004

File No. 471

Senate Bill No. 512

Senate, April 6, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING NOTIFICATION TO VICTIMS OF CRIME.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-32 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) At any time during the period of probation or conditional
4 discharge, the court or any judge thereof may issue a warrant for the
5 arrest of a defendant for violation of any of the conditions of probation
6 or conditional discharge, or may issue a notice to appear to answer to a
7 charge of such violation, which notice shall be personally served upon
8 the defendant. Any such warrant shall authorize all officers named
9 therein to return the defendant to the custody of the court or to any
10 suitable detention facility designated by the court. Whenever a
11 defendant has, in the judgment of such defendant's probation officer,
12 violated the conditions of such defendant's probation, the probation
13 officer may, in lieu of having such defendant returned to court for
14 proceedings in accordance with this section, place such defendant in

15 the zero-tolerance drug supervision program established pursuant to
16 section 53a-39d. Whenever a sexual offender, as defined in section 54-
17 260, as amended, has violated the conditions of such person's
18 probation by failing to notify such person's probation officer of any
19 change of such person's residence address, as required by said section,
20 such probation officer may notify any police officer that such person
21 has, in such officer's judgment, violated the conditions of such person's
22 probation and such notice shall be sufficient warrant for the police
23 officer to arrest such person and return such person to the custody of
24 the court or to any suitable detention facility designated by the court.
25 Any probation officer may arrest any defendant on probation without
26 a warrant or may deputize any other officer with power to arrest to do
27 so by giving such other officer a written statement setting forth that the
28 defendant has, in the judgment of the probation officer, violated the
29 conditions of the defendant's probation. Such written statement,
30 delivered with the defendant by the arresting officer to the official in
31 charge of any correctional center or other place of detention, shall be
32 sufficient warrant for the detention of the defendant. After making
33 such an arrest, such probation officer shall present to the detaining
34 authorities a similar statement of the circumstances of violation.
35 Provisions regarding release on bail of persons charged with a crime
36 shall be applicable to any defendant arrested under the provisions of
37 this [section] subsection. Upon such arrest and detention, the
38 probation officer shall immediately so notify the court or any judge
39 thereof. Thereupon, or upon an arrest by warrant as [herein] provided
40 in this subsection, the court shall cause the defendant to be brought
41 before it without unnecessary delay for a hearing on the violation
42 charges. At such hearing, the defendant shall be informed of the
43 manner in which such defendant is alleged to have violated the
44 conditions of such defendant's probation or conditional discharge,
45 shall be advised by the court that such defendant has the right to retain
46 counsel and, if indigent, shall be entitled to the services of the public
47 defender, and shall have the right to cross-examine witnesses and to
48 present evidence in such defendant's own behalf.

49 (b) Whenever a defendant has, in the judgment of such defendant's

50 probation officer, violated the conditions of such defendant's probation
51 or conditional discharge, upon taking any action authorized pursuant
52 to subsection (a) of this section, the probation officer shall notify any
53 victim of the crime for which the defendant was convicted, who has
54 requested such notification and has provided the probation officer
55 with a current address, of the alleged violation of the conditions of
56 probation or conditional discharge by the defendant and the place,
57 date and time of any hearing on the violation charges. Such notice shall
58 be given in writing by certified mail, return receipt requested.

59 [(b) If such violation] (c) If a violation of the conditions of the
60 defendant's probation or conditional discharge is established, the court
61 shall permit any victim of the crime for which the defendant was
62 convicted to appear before the court for the purpose of making a
63 statement for the record regarding disposition of the case under this
64 subsection. In lieu of such appearance, the crime victim may submit a
65 written statement to the court and the statement shall be made part of
66 the record at the hearing. After considering the crime victim's
67 statement, the court may: (1) Continue the sentence of probation or
68 conditional discharge; (2) modify or enlarge the conditions of
69 probation or conditional discharge; (3) extend the period of probation
70 or conditional discharge, provided the original period with any
71 extensions shall not exceed the periods authorized by section 53a-29; or
72 (4) revoke the sentence of probation or conditional discharge. If such
73 sentence is revoked, the court shall require the defendant to serve the
74 sentence imposed or impose any lesser sentence. Any such lesser
75 sentence may include a term of imprisonment, all or a portion of which
76 may be suspended entirely or after a period set by the court, followed
77 by a period of probation with such conditions as the court may
78 establish. No such revocation shall be ordered, except upon
79 consideration of the whole record and unless such violation is
80 established by the introduction of reliable and probative evidence and
81 by a preponderance of the evidence.

82 Sec. 2. Section 53a-39 of the general statutes is repealed and the
83 following is substituted in lieu thereof (*Effective October 1, 2004*):

84 (a) At any time during the period of a definite sentence of three
85 years or less, the sentencing court or judge may, after hearing and for
86 good cause shown, reduce the sentence, order the defendant
87 discharged, or order the defendant discharged on probation or
88 conditional discharge for a period not to exceed that to which the
89 defendant could have been originally sentenced.

90 (b) At any time during the period of a definite sentence of more than
91 three years, upon agreement of the defendant and the state's attorney
92 to seek review of the sentence, the sentencing court or judge may, after
93 hearing and for good cause shown, reduce the sentence, order the
94 defendant discharged, or order the defendant discharged on probation
95 or conditional discharge for a period not to exceed that to which the
96 defendant could have been originally sentenced.

97 (c) The provisions of this section shall not apply to any portion of a
98 sentence imposed that is a mandatory minimum sentence for an
99 offense which may not be suspended or reduced by the court.

100 (d) At a hearing held by the sentencing court or judge under this
101 section, [such] the court or judge shall permit any victim of the crime
102 for which the defendant was convicted to appear before the court or
103 judge for the purpose of making a statement for the record concerning
104 whether or not the sentence of the defendant should be reduced, the
105 defendant should be discharged or the defendant should be
106 discharged on probation or conditional discharge pursuant to
107 subsection (a) or (b) of this section. In lieu of such appearance, the
108 crime victim may submit a written statement to the court or judge and
109 the court or judge shall make such statement a part of the record at the
110 hearing. [For the purposes of this subsection, "victim" means the
111 victim, the legal representative of the victim or a member of the
112 deceased victim's immediate family.]

113 (e) If no hearing is held by the sentencing court or judge under this
114 section, the court or judge shall allow a reasonable period of time, but
115 not less than fifteen days from the date of the defendant's application
116 under this section, for any victim of the crime for which the defendant

117 was convicted to submit a written statement for the record. Any such
118 statement shall be considered by the court or judge prior to making a
119 determination as to whether or not the sentence of the defendant
120 should be reduced, the defendant should be discharged or the
121 defendant should be discharged on probation or conditional discharge
122 pursuant to subsection (a) or (b) of this section. If a hearing under this
123 section is scheduled after receipt of such statement, the court or judge
124 shall provide notice to the crime victim of the date, time and place of
125 the hearing.

126 (f) The sentencing court or judge shall notify the victim of the crime
127 for which the defendant was convicted as to the decision of the court
128 or judge under this section, provided the crime victim has requested
129 such notification and has provided a current address to the court or
130 judge. Such notice shall be given in writing by certified mail, return
131 receipt requested.

132 Sec. 3. Subsection (b) of section 54-56e of the general statutes is
133 repealed and the following is substituted in lieu thereof (*Effective*
134 *October 1, 2004*):

135 (b) The court may, in its discretion, invoke such program on motion
136 of the defendant or on motion of a state's attorney or prosecuting
137 attorney with respect to a defendant (1) who, the court believes, will
138 probably not offend in the future, (2) who has no previous record of
139 conviction of a crime or of a violation of section 14-196, subsection (c)
140 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
141 section 14-227a, as amended, (3) who has not been adjudged a youthful
142 offender within the preceding five years under the provisions of
143 sections 54-76b to 54-76n, inclusive, as amended, and (4) who states
144 under oath, in open court or before any person designated by the clerk
145 and duly authorized to administer oaths, under the penalties of
146 perjury that the defendant has never had such program invoked in the
147 defendant's behalf, provided (A) the defendant shall agree thereto, and
148 [provided] (B) notice has been given by the [defendant] court, on a
149 form approved by rule of court, to [the] any victim [or victims] of such

150 crime or motor vehicle violation, [if any,] by registered or certified
151 mail, and such crime victim or [victims have] victim of such motor
152 vehicle violation has an opportunity to be heard thereon. In
153 determining whether to grant an application under this section with
154 respect to a person who has been adjudged a youthful offender under
155 the provisions of sections 54-76b to 54-76n, inclusive, as amended,
156 more than five years prior to the date of such application, and
157 notwithstanding the provisions of section 54-76l, the court shall have
158 access to the youthful offender records of such person and may
159 consider the nature and circumstances of the crime with which such
160 person was charged as a youth. Any defendant who makes application
161 for participation in such program shall pay to the court an application
162 fee of thirty-five dollars.

163 Sec. 4. Section 54-230 of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2004*):

165 (a) Upon receipt of notice from an inmate pursuant to section 54-
166 227, the Office of Victim Services shall notify by certified mail, return
167 receipt requested, all persons who have requested to be notified
168 pursuant to subsection (a) of section 54-228 and section 54-229
169 whenever such inmate makes application for release or sentence
170 reduction or review. Such notice shall be in writing and notify each
171 person of (1) the nature of the release or sentence reduction or review
172 being applied for, (2) the address and telephone number of the board,
173 [or] agency or court to which the application by the inmate was made,
174 [and] (3) the date and place of the hearing or session, if any, scheduled
175 on the application, and (4) in the case of an application to the
176 sentencing court or judge for a reduction in sentence pursuant to
177 section 53a-39, as amended by this act, the person's right to attend any
178 scheduled hearing or to submit a written statement concerning
179 whether or not the sentence of the inmate should be reduced, the
180 inmate should be discharged or the inmate should be discharged on
181 probation or conditional discharge.

182 (b) In addition to the notice provided pursuant to subsection (a) of

183 this section, in the case of an application to the sentencing court or
184 judge for a reduction in sentence pursuant to section 53a-39, as
185 amended by this act, the Office of Victim Services shall provide each
186 person who has requested to be notified pursuant to subsection (a) of
187 section 54-228 and section 54-229 with a statement form to be used by
188 such person for making and submitting a statement to the court or
189 judge as provided in subdivision (4) of subsection (a) of this section.
190 Such form shall be prescribed by the Office of the Chief Court
191 Administrator and shall indicate that, if no hearing has been
192 scheduled, the person has fifteen days from the date of the inmate's
193 application under section 54-227 to submit the form to the court or
194 judge in order for the person's statement to be considered by the court
195 or judge.

196 [(b)] (c) Upon receipt of notice from a person pursuant to subsection
197 (b) of section 54-227, the Office of Victim Services shall notify by
198 certified mail, return receipt requested, all persons who have requested
199 to be notified pursuant to subsection (b) of section 54-228 whenever
200 such person files an application with the court to be exempted from
201 the registration requirements of section 54-251 pursuant to subsections
202 (b) or (c) of said section or files a petition with the court pursuant to
203 section 54-255 for an order restricting the dissemination of the
204 registration information, or removing such restriction. Such notice
205 shall be in writing and notify each person of (1) the nature of the
206 exemption or of the restriction or removal of the restriction being
207 applied for, (2) the address and telephone number of the court to
208 which the application or petition by the person was made, and (3) the
209 date and place of the hearing or session, if any, scheduled on the
210 application or petition.

211 [(c)] (d) Upon compliance with the notification requirements of this
212 section, the Office of Victim Services shall notify, on a form prescribed
213 by the Office of the Chief Court Administrator, the board, agency or
214 court to which the application or petition was made of such
215 compliance.

216 [(d)] (e) Upon receipt of notice from the Department of Correction
217 pursuant to section 54-231, the Office of Victim Services shall notify by
218 certified mail, return receipt requested, all victims who have requested
219 to be notified pursuant to section 54-228 whenever such inmate is
220 scheduled to be released from a correctional institution. Such notice
221 shall be in writing and notify each victim of the date of such inmate's
222 release. The victim shall notify the Office of Victim Services of his or
223 her current mailing address, which shall be kept confidential and shall
224 not be disclosed by the Office of Victim Services.

225 Sec. 5. Section 54-230a of the general statutes is repealed and the
226 following is substituted in lieu thereof (*Effective October 1, 2004*):

227 (a) Upon receipt of notice from an inmate pursuant to section 54-
228 227, the Department of Correction shall notify by certified mail, return
229 receipt requested, all persons who have requested to be notified
230 pursuant to subsection (a) of section 54-228 and section 54-229
231 whenever such inmate makes application for release or sentence
232 reduction or review. Such notice shall be in writing and notify each
233 person of (1) the nature of the release or sentence reduction or review
234 being applied for, (2) the address and telephone number of the board,
235 [or] agency or court to which the application by the inmate was made,
236 [and] (3) the date and place of the hearing or session, if any, scheduled
237 on the application, and (4) in the case of an application to the
238 sentencing court or judge for a reduction in sentence pursuant to
239 section 53a-39, as amended by this act, the person's right to attend any
240 scheduled hearing or to submit a written statement concerning
241 whether or not the sentence of the inmate should be reduced, the
242 inmate should be discharged or the inmate should be discharged on
243 probation or conditional discharge.

244 (b) In addition to the notice provided pursuant to subsection (a) of
245 this section, in the case of an application to the sentencing court or
246 judge for a reduction in sentence pursuant to section 53a-39, as
247 amended by this act, the Department of Correction shall provide each
248 person who has requested to be notified pursuant to subsection (a) of

249 section 54-228 and section 54-229 with a statement form to be used by
250 such person for making and submitting a statement to the court or
251 judge as provided in subdivision (4) of subsection (a) of this section.
252 Such form shall be prescribed by the Office of the Chief Court
253 Administrator and shall indicate that, if no hearing has been
254 scheduled, the person has fifteen days from the date of the inmate's
255 application under section 54-227 to submit the form to the court or
256 judge in order for the person's statement to be considered by the court
257 or judge.

258 [(b)] (c) Upon receipt of notice from a person pursuant to subsection
259 (b) of section 54-227, the Department of Correction shall notify by
260 certified mail, return receipt requested, all persons who have requested
261 to be notified pursuant to subsection (b) of section 54-228 whenever
262 such person files an application with the court to be exempted from
263 the registration requirements of section 54-251 pursuant to subsections
264 (b) or (c) of said section or files a petition with the court pursuant to
265 section 54-255 for an order restricting the dissemination of the
266 registration information, or removing such restriction. Such notice
267 shall be in writing and notify each person of (1) the nature of the
268 exemption or of the restriction or the removal of the restriction being
269 applied for, (2) the address and telephone number of the court to
270 which the application or petition by the person was made, and (3) the
271 date and place of the hearing or session, if any, scheduled on the
272 application or petition.

273 [(c)] (d) Upon compliance with the notification requirements of this
274 section, the Department of Correction shall notify, on a form
275 prescribed by the Office of the Chief Court Administrator, the board,
276 agency or court to which the application or petition was made of such
277 compliance.

278 Sec. 6. (NEW) (*Effective October 1, 2004*) The prosecuting authority,
279 upon receiving notice of the filing of an appeal or other postconviction
280 remedy arising from a criminal matter by a defendant convicted of any
281 crime, shall promptly inform any victim of such crime in writing, by

282 certified mail, return receipt requested, of such appeal or
 283 postconviction remedy, provided the crime victim has requested
 284 notification and has provided a current address to the prosecuting
 285 authority. The prosecuting authority shall also provide such crime
 286 victim with the following information: (1) A brief explanation of the
 287 appellate or postconviction process, including the possible disposition
 288 of the case; (2) whether the defendant has been released on bail or
 289 other recognizance pending the disposition of the appeal or
 290 postconviction proceeding; (3) the date, time and place of any hearing,
 291 any subsequent change in the date, time and place of the hearing and
 292 the crime victim's right to attend such hearing; and (4) the result of the
 293 appeal or postconviction proceeding.

294 Sec. 7. (NEW) (*Effective October 1, 2004*) The prosecuting authority,
 295 upon receiving notice of the filing of an appeal or other postconviction
 296 remedy arising from a delinquency matter by a juvenile convicted as
 297 delinquent, shall promptly inform any victim of the juvenile's
 298 delinquent act in writing, by certified mail, return receipt requested, of
 299 such appeal or postconviction remedy, provided the victim has
 300 requested notification and has provided a current address to the
 301 prosecuting authority. The prosecuting authority shall also provide
 302 such victim with the following information: (1) A brief explanation of
 303 the appellate or postconviction process, including the possible
 304 disposition of the case; (2) whether the juvenile has been released on
 305 bail or other recognizance pending the disposition of the appeal or
 306 postconviction proceeding; (3) the date, time and place of any hearing,
 307 any subsequent change in the date, time and place of the hearing and
 308 the victim's right to attend such hearing; and (4) the result of the
 309 appeal or postconviction proceeding.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Dept.	GF - Cost	23,693	27,591
Criminal Justice, Div.	GF - Cost	11,909	11,878
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	4,716	14,241
Correction, Dept.	GF - Cost	Minimal	Minimal
Total State Cost	GF - Cost	Appx. 41,000	Appx. 54,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands victim notification by various criminal justice agencies. It requires probation officers to notify certain victims by certified mail, return receipt requested, whenever an individual has violated the conditions of probation, which occurs about 8,000 times annually. It is anticipated that eight per cent of victims will request to be notified when a violation of probation has occurred.¹ The resulting annual postage cost is \$2,829 (640 notices * \$4.42). The Judicial Department’s Court Support Services Division, which supervises about 50,000 individuals on probation, would require a part-time Secretary to centrally coordinate victim notifications under the bill, at an annual cost of \$31,250, including salary, other expenses and fringe benefits.²

¹ This is the current percentage of victims that has requested to be notified upon the release of prisoners from the Department of Correction’s custody.

² The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state’s pension contribution is based

The bill also requires the court to notify a crime victim who has requested such notification of a defendant's application for accelerated rehabilitation. About 8,500 individuals are placed on such a program each year. The associated postage cost is \$3,006 (680 * \$4.42).

The bill requires state prosecutors to notify victims of any appeal or postconviction remedy arising from a criminal or delinquency matter. Associated postage is estimated to be less than \$1,000 annually. The Division would also require a part-time Secretary to centrally coordinate victim notifications under the bill, at an annual cost of \$15,625, including salary, other expenses and fringe benefits.

Finally, the bill requires that the Judicial Department and Department of Correction (DOC) seek return receipt when sending certain notices to victims, as well as requiring the DOC to provide appropriate and necessary forms. These changes would result in a minimal cost to both agencies.

upon the prior year's certification by the actuary for the State Employees Retirement System.

OLR Bill Analysis

SB 512

AN ACT CONCERNING NOTIFICATION TO VICTIMS OF CRIME**SUMMARY:**

This bill gives crime victims greater access to the criminal justice system by expanding notice requirements and giving them more opportunity to comment on a defendant's request for a sentence reduction.

EFFECTIVE DATE: October 1, 2004

APPEALS OR OTHER POST-CONVICTION REMEDY

The bill requires prosecutors who receive notice that a criminal defendant or juvenile delinquent has filed an appeal or availed himself of some other post-conviction remedy to tell the victim:

1. promptly of the action by certified mail, return receipt requested;
2. how the appellate or post-conviction process works, including the possible disposition of the case;
3. whether the defendant or delinquent has been released on bail or other recognizance pending the disposition of the appeal or post-conviction proceeding;
4. the date, time, and place of any hearing, any subsequent changes, and his right to attend the hearing; and
5. the outcome the appeal or proceeding.

The victim must have requested the notice and provided the prosecutor with their current address.

ACCELERATED REHABILITATION

The bill requires the court, rather than the defendant, to notify the victim of crime when the court grants accelerated rehabilitation, which is an alternative sentencing program that is available to first offenders.

PROBATION OR CONDITIONAL DISCHARGE VIOLATIONS

The bill requires probation officers to give crime victims written notice, by certified mail, return receipt requested, whenever steps are taken to arrest the perpetrator or place him in a zero-tolerance drug supervision program because he violated the terms of his probation or conditional discharge. The victims must have requested the notice and provided the officer with their current address. The notice must inform victims of the alleged violation and of the date, time, and place of any hearing.

If a court finds that the perpetrator violated the terms of his probation or conditional discharge, the bill requires the court to allow the crime victim to make a written or oral statement on the record regarding the case's disposition.

SENTENCE REDUCTIONS

Court's Duty to Notify Crime Victims

By law, a defendant may ask his sentencing judge to reduce his prison sentence of three years or more. At any review hearing, the judge must allow the crime victim to make a statement on whether the sentence should be altered. If no hearing is held, the bill requires the judge to (1) allow victims at least 15 days from the date of the defendant's request to submit a written statement for the record and (2) consider the statement when determining whether to reduce the sentence. If the judge schedules a hearing after he receives the statement, the bill requires him to send the victim notice of its date, time, and place.

The bill also requires the judge to send notice of his decision to any victim who requests it and gives him a current address. The notice must be written and sent by certified mail, return receipt requested.

The bill changes the people who may make the statement from the victim or his legal representatives or a deceased victim's immediate family to the victim; the immediate family of a minor, incompetent, or deceased victim; or a deceased victim's designated decision maker.

Office of Victim Services' (OVS) and Department of Correction's (DOC) Duty to Notify Crime Victims

The bill requires OVS and DOC to seek a return receipt when it sends victims, prosecutors, and the defendant's immediate family members

written certified notice that a defendant has requested a sentence reduction, release from custody, or exemption from sexual offender registration requirements. In addition to the nature of the defendant's request, the address and telephone number of the recipient of the defendant's request, and the date and place of any schedule hearing on the request, the bill requires OVS and DOC to include, in the case of a request for sentence reduction, the person's right to make an oral or written statement on the record regarding the defendant's request (see COMMENT).

When a request is made for a sentence reduction, the bill also requires OVS and DOC to give victims, prosecutors, and the defendant's immediate family members who ask a form that they can use to make their statement. The form, which the chief court administrator must prescribe, must also indicate that they have 15 days after the defendant's request to file their statement for court consideration.

COMMENT

Right to Make Statements at Sentence Revocation or Reduction

The bill requires OVS to give the immediate family members of a defendant who requests a sentence reduction notice that they can submit a statement to the court on whether to grant the request. It also implies that the court will consider the statement before making a decision. However, the law appears to allow only crime victims to submit a statement that the court must consider.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 42 Nay 0