



Senate

General Assembly

File No. 578

February Session, 2018

Senate Bill No. 522

Senate, April 18, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE CONSTITUTIONAL RIGHTS OF VICTIMS.

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

1 Section 1. Section 54-91c of the 2018 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2018*):

4 (a) For the purposes of this section, "victim" means a person who is
5 a victim of a crime, the legal representative of such person, a member
6 of a deceased victim's immediate family or a person designated by a
7 deceased victim in accordance with section 1-56r.

8 (b) Prior to the imposition of sentence upon any defendant who has
9 been found guilty of any crime or has pleaded guilty or nolo
10 contendere to any crime, and prior to the acceptance by the court of a
11 plea of guilty or nolo contendere made pursuant to a plea agreement
12 with the state wherein the defendant pleads to a lesser offense than the
13 offense with which such defendant was originally charged, the court

14 shall permit any victim of the crime to appear before the court for the
15 purpose of making a statement for the record, which statement may
16 include the victim's opinion of any plea agreement. In lieu of such
17 appearance, the victim may submit a written statement or, if the victim
18 of the crime is deceased, the legal representative or a member of the
19 immediate family of such deceased victim may submit a statement of
20 such deceased victim to the state's attorney, assistant state's attorney or
21 deputy assistant state's attorney in charge of the case. Such state's
22 attorney, assistant state's attorney or deputy assistant state's attorney
23 shall file the statement with the sentencing court and the statement
24 shall be made a part of the record at the sentencing hearing. Any such
25 statement, whether oral or written, shall relate to the facts of the case,
26 the appropriateness of any penalty and the extent of any injuries,
27 financial losses and loss of earnings directly resulting from the crime
28 for which the defendant is being sentenced. The court shall inquire on
29 the record whether any victim is present for the purpose of making an
30 oral statement or has submitted a written statement. If no victim is
31 present and no such written statement has been submitted, the court
32 (1) shall inquire on the record whether an attempt has been made to
33 notify any such victim as provided in subdivision (1) of subsection (c)
34 of this section or, if the defendant was originally charged with a
35 violation of section 53a-167c for assaulting a peace officer, whether the
36 peace officer has been personally notified as provided in subdivision
37 (2) of subsection (c) of this section, and (2) may postpone the
38 acceptance of a negotiated plea or sentence in order to enable a victim
39 to be present or to give the state's attorney, assistant state's attorney or
40 deputy assistant state's attorney more opportunity to notify any
41 possible victim. After consideration of [any] each such [statements]
42 oral or written statement, the court may refuse to accept, where
43 appropriate, a negotiated plea or sentence, and the court shall give the
44 defendant an opportunity to enter a new plea and to elect trial by jury
45 or by the court.

46 (c) (1) Except as provided in subdivision (2) of this subsection, prior
47 to the imposition of sentence upon such defendant and prior to the
48 acceptance of a plea pursuant to a plea agreement, the state's attorney,

49 assistant state's attorney or deputy assistant state's attorney in charge
50 of the case shall notify [the] each victim of such crime (A) of the date,
51 time and place of the original sentencing hearing or any judicial
52 proceeding concerning the acceptance of a plea pursuant to a plea
53 agreement, provided the victim has informed such state's attorney,
54 assistant state's attorney or deputy assistant state's attorney that such
55 victim wishes to make or submit a statement as provided in subsection
56 (b) of this section and has complied with a request from such state's
57 attorney, assistant state's attorney or deputy assistant state's attorney
58 to submit a stamped, self-addressed postcard for the purpose of such
59 notification, and (B) that such victim may request to be provided the
60 terms of such proposed plea agreement in writing pursuant to
61 subsection (d) of this section.

62 (2) Prior to the imposition of sentence upon a defendant originally
63 charged with a violation of section 53a-167c for assaulting a peace
64 officer, and prior to the acceptance of a plea pursuant to a plea
65 agreement, the state's attorney, assistant state's attorney or deputy
66 assistant state's attorney in charge of the case shall personally notify
67 the peace officer who was the victim of such crime of the date, time
68 and place of the original sentencing hearing or any judicial proceeding
69 concerning the acceptance of a plea pursuant to a plea agreement.

70 (3) If the state's attorney, assistant state's attorney or deputy
71 assistant state's attorney is unable to notify [the] any victim, such
72 state's attorney, assistant state's attorney or deputy state's attorney
73 shall sign a statement as to such notification.

74 (d) Upon the request of a victim, prior to the acceptance by the court
75 of a plea of a defendant pursuant to a proposed plea agreement, the
76 state's attorney, assistant state's attorney or deputy assistant state's
77 attorney in charge of the case shall provide such victim with the terms
78 of such proposed plea agreement in writing. If the terms of the
79 proposed plea agreement provide for a term of imprisonment which is
80 more than two years or a total effective sentence of more than a two-
81 year term of imprisonment, the state's attorney, assistant state's

82 attorney or deputy assistant state's attorney in charge of the case shall
83 indicate: (1) The maximum period of imprisonment that may apply to
84 the defendant; (2) whether the defendant may be eligible to earn risk
85 reduction credits pursuant to section 18-98e; and (3) whether the
86 defendant may be eligible to apply for release on parole pursuant to
87 section 54-125a.

88 (e) The provisions of this section shall not apply to any proceedings
89 held in accordance with section 46b-121 or section 54-76h.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	54-91c

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes a change to victim statements in criminal sentencing and does not result in a fiscal impact to the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 522*****AN ACT CONCERNING THE CONSTITUTIONAL RIGHTS OF VICTIMS.*****SUMMARY**

By law, before a criminal defendant is sentenced or the court accepts a plea agreement to a lesser charge, the court must inquire on the record whether any victim is present to make or submit a statement. If there is no victim present and no statement has been submitted, the court must inquire on the record whether the prosecutor has attempted to notify the victim. This bill permits the court, if no victim is present or statement is submitted, to postpone the acceptance of a negotiated plea or sentence to (1) enable a victim to be present or (2) give the prosecutor more opportunity to notify any possible victim.

The bill additionally requires the prosecutor to include in any sentencing notice to a victim that the victim may ask the prosecutor to provide the terms of any proposed plea agreement as allowed under existing law.

By law, after considering a victim's statement, the court may refuse to accept, where appropriate, a negotiated plea or sentence and give the defendant the opportunity to enter a new plea or elect a trial by a jury or the court.

A "victim" includes a crime victim, his or her legal representative, a member of a deceased victim's immediate family, or a person the deceased victim designated to make certain decisions on his or her behalf.

EFFECTIVE DATE: October 1, 2018

BACKGROUND

Related Case

In *State v. Skipwith* (326 Conn. 512 (2017)), the Connecticut Supreme Court ruled that the victim's rights amendment of the State Constitution (Conn. Const. art. 1, § 8) bars a victim from seeking to vacate a criminal sentence based on a violation of the victim's rights at trial. That amendment grants victims the right, among other things, to object to the defendant's plea agreement and make a statement to the court at sentencing. But it also specifies that "nothing in this subsection or in any law enacted pursuant to this subsection shall be construed as creating a basis for vacating a conviction or ground for appellate relief in any criminal case." Among other things, the court concluded that this provision prohibits "any relief that would directly affect the judgment in a criminal case or otherwise abridge the substantive rights of a defendant."

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (04/04/2018)