

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 232
Committee Substitute Favorable 5/9/95

Short Title: Victims' Rights Changes.

(Public)

Sponsors:

Referred to:

February 21, 1995

A BILL TO BE ENTITLED
AN ACT TO MAKE VICTIM IMPACT STATEMENTS AND PLEA BARGAINING
INFORMATION FOR VICTIMS MANDATORY IN ALL FELONY CASES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-825.1. Victim impact statement; plea bargaining information.

(a) For each victim of a felony crime within a district attorney's jurisdiction, the district attorney shall:

- (1) Prepare a victim impact statement for consideration by the court.
- (2) Provide information to the victim prior to trial about plea bargaining procedures and inform the victim that the district attorney may recommend a plea bargain to the court.
- (3) Make a reasonable effort to notify the victim of the terms of a plea bargain agreement between the State and the defendant before the plea is taken.

This section shall not apply if the victim requests not to receive the treatment and information listed in this section.

1 (b) Nothing in this section shall be construed to create a cause of action for failure
2 to comply with its requirements."

3 Sec. 2. G.S. 15A-825 reads as rewritten:

4 **"§ 15A-825. Treatment due victims and witnesses.**

5 To the extent reasonably possible and subject to available resources, the employees of
6 law-enforcement agencies, the prosecutorial system, the judicial system, and the
7 correctional system should make a reasonable effort to assure that each victim and
8 witness within their jurisdiction:

9 (1) Is provided information regarding immediate medical assistance when
10 needed and is not detained for an unreasonable length of time before
11 having such assistance administered.

12 (2) Is provided information about available protection from harm and
13 threats of harm arising out of cooperation with law-enforcement
14 prosecution efforts, and receives such protection.

15 (2a) Is provided information that testimony as to one's home address is not
16 relevant in every case, and that the victim or witness may request the
17 district attorney to raise an objection should he/she deem it appropriate
18 to this line of questioning in the case at hand.

19 (3) Has any stolen or other personal property expeditiously returned by law-
20 enforcement agencies when it is no longer needed as evidence, and its
21 return would not impede an investigation or prosecution of the case.
22 When feasible, all such property, except weapons, currency, contraband,
23 property subject to evidentiary analysis, and property whose ownership
24 is disputed, should be photographed and returned to the owner within a
25 reasonable period of time of being recovered by law-enforcement
26 officials.

27 (4) Is provided appropriate employer intercession services to seek the
28 employer's cooperation with the criminal justice system and minimize
29 the employee's loss of pay and other benefits resulting from such
30 cooperation whenever possible.

31 (5) Is provided, whenever practical, a secure waiting area during court
32 proceedings that does not place the victim or witness in close proximity
33 to defendants and families or friends of defendants.

34 (6) Is informed of the procedures to be followed to apply for and receive
35 any appropriate witness fees or victim compensation.

36 (6a) Is informed of the right to be present throughout the entire trial of the
37 defendant, subject to the right of the court to sequester witnesses.

38 (7) Is given the opportunity to be present during the final disposition of the
39 case or is informed of the final disposition of the case, if he has
40 requested to be present or be informed.

41 (8) Is notified, whenever possible, that a court proceeding to which he has
42 been subpoenaed will not occur as scheduled.

43 ~~(9) Has a victim impact statement prepared for consideration by the court.~~

- 1 (9a) ~~Prior to trial, is provided information about plea bargaining procedures~~
2 ~~and is told that the district attorney may recommend a plea bargain to~~
3 ~~the court.~~
4 (10) Is informed that civil remedies may be available and that statutes of
5 limitation apply in civil cases.
6 (11) Upon the victim's written request, is notified before a proceeding is held
7 at which the release of the offender from custody is considered, if the
8 crime for which the offender was placed in custody is a Class G or more
9 serious felony.
10 (12) Upon the victim's written request, is notified if the offender escapes
11 from custody or is released from custody, if the crime for which the
12 offender was placed in custody is a Class G or more serious felony.
13 (13) Has family members of a homicide victim offered all the guarantees in
14 this section, except those in subdivision (1).

15 Nothing in this section shall be construed to create a cause of action for failure to comply
16 with its requirements."

17 Sec. 3. G.S. 15-190 reads as rewritten:

18 **"§ 15-190. Person or persons to be designated by warden to execute sentence;**
19 **supervision of execution; who shall be present.**

20 Some guard or guards or other reliable person or persons to be named and designated
21 by the warden from time to time shall cause the person, convict or felon against whom
22 the death sentence has been so pronounced to be executed as provided by this Article and
23 all amendments thereto. The execution shall be under the general supervision and control
24 of the warden of the penitentiary, who shall from time to time, in writing, name and
25 designate the guard or guards or other reliable person or persons who shall cause the
26 person, convict or felon against whom the death sentence has been pronounced to be
27 executed as provided by this Article and all amendments thereto. At such execution there
28 shall be present the warden or deputy warden or some person designated by the warden in
29 his ~~stead;~~stead, the surgeon or physician of the ~~penitentiary~~penitentiary, and six
30 respectable ~~citizens,~~citizens. ~~the~~The counsel and any relatives of such person, convict or
31 felon and a minister or ministers of the gospel may be present if they so ~~desire,~~desire.
32 Two relatives of the victim or victims for whose murder the person being executed was
33 convicted may be present. If more than two relatives of the victim or victims wish to be
34 present, the warden will select the relatives that will attend. ~~and the~~The board of directors
35 of the penitentiary may provide for and pay the fee for each execution not to exceed
36 thirty-five dollars (\$35.00)."

37 Sec. 4. Sections 1 and 2 of this act become effective December 1, 1995. The
38 remainder of this act is effective upon ratification and applies to executions carried out on
39 or after the effective date.