

By Representative Roberts-Burke

1 A bill to be entitled
2 An act relating to victim's rights; amending s.
3 960.001, F.S., relating to guidelines for fair
4 treatment of victims and witnesses in the
5 criminal justice and juvenile justice systems;
6 entitling said section as the "Victim's Bill of
7 Rights"; providing for adoption of policy and
8 implementation of guidelines recognizing rights
9 of victims of crimes; specifying additional
10 rights of victims to make or submit certain
11 statements; removing a restriction on the
12 applicability of specified provisions relating
13 to information for purposes of notifying victim
14 or appropriate next of kin or other designated
15 contact of victim, to provide for applicability
16 thereof to cases other than homicide cases;
17 specifying the victim's right to be heard;
18 providing for certain inquiry by the presiding
19 judicial officer at the sentencing hearing
20 regarding appearance or statement by victim or
21 victim's representative relating to impact of
22 crime; requiring immediate notification to
23 victim or designated contact of certain
24 information concerning offender's escape;
25 revising duties of the state attorney with
26 respect to such notification; providing an
27 effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 960.001, Florida Statutes, 1996
2 Supplement, is amended to read:

3 960.001 Victim's Bill of Rights; policy and guidelines
4 for fair treatment of victims and witnesses in the criminal
5 justice and juvenile justice systems.--All victims of crime or
6 their lawful representatives shall have the rights and
7 privileges described in this section, which shall be known as
8 the "Victim's Bill of Rights."

9 (1) The Department of Legal Affairs, the state
10 attorneys, the Department of Corrections, the Department of
11 Juvenile Justice, the Parole Commission, the State Courts
12 Administrator and circuit court administrators, the Department
13 of Law Enforcement, and every sheriff's department, police
14 department, or other law enforcement agency as defined in s.
15 943.10(4) shall adopt a policy and develop and implement
16 guidelines for the use of their respective agencies, which
17 policy and guidelines recognize the rights of victims of
18 crimes and are consistent with the purposes of this act and s.
19 16(b), Art. I of the State Constitution. Such policy and
20 guidelines shall be ~~and are~~ designed to implement the
21 provisions of s. 16(b), Art. I of the State Constitution and
22 to achieve the following objectives:

23 (a) Information concerning services available to
24 victims of adult and juvenile crime.--Witness coordination
25 offices as provided in s. 43.35 shall gather information
26 regarding the following services in the geographic boundaries
27 of their respective circuits and shall provide such
28 information to each law enforcement agency with jurisdiction
29 within such geographic boundaries. Law enforcement personnel
30 shall ensure, through distribution of a victim's rights
31 information card or brochure at the crime scene, during the

1 criminal investigation, and in any other appropriate manner,
2 that victims are given, as a matter of course at the earliest
3 possible time, information about:

- 4 1. The availability of crime victim compensation, when
5 applicable;
- 6 2. Crisis intervention services, supportive or
7 bereavement counseling, social service support referrals, and
8 community-based victim treatment programs;
- 9 3. The role of the victim in the criminal or juvenile
10 justice process, including what the victim may expect from the
11 system as well as what the system expects from the victim;
- 12 4. The stages in the criminal or juvenile justice
13 process which are of significance to the victim and the manner
14 in which information about such stages can be obtained;
- 15 5. The right of a victim, who is not incarcerated,
16 including the next of kin of a homicide victim, to be
17 informed, to be present, and to be heard when relevant, at all
18 crucial stages of a criminal or juvenile proceeding, to the
19 extent that this right does not interfere with constitutional
20 rights of the accused, as provided by s. 16(b), Art. I of the
21 State Constitution; this right includes the right of victims,
22 or their lawful representative, including the next of kin of
23 homicide victims, to appear before the sentencing court to
24 make a statement under oath for the record; or to submit a
25 written statement to the state attorney, which statement shall
26 be filed with the sentencing court relating the facts of the
27 case and the extent of any harm, including social,
28 psychological, or physical harm, financial losses, and loss of
29 earnings directly or indirectly resulting from the crime for
30 which the defendant is being sentenced;
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1 6. In the case of incarcerated victims, the right to
2 be informed and to submit written statements at all crucial
3 stages of the criminal proceedings, parole proceedings, or
4 juvenile proceedings; and

5 7. The right of a victim to a prompt and timely
6 disposition of the case in order to minimize the period during
7 which the victim must endure the responsibilities and stress
8 involved to the extent that this right does not interfere with
9 the constitutional rights of the accused.

10 (b) Information for purposes of notifying victim or
11 appropriate next of kin of victim or other designated contact
12 of victim.--~~In the case of a homicide, pursuant to chapter~~
13 ~~782; or a sexual offense, pursuant to chapter 794; or an~~
14 ~~attempted murder or sexual offense, pursuant to chapter 777;~~
15 ~~or stalking, pursuant to s. 784.048; or domestic violence,~~
16 ~~pursuant to s. 25.385:~~

17 1. The arresting law enforcement officer or personnel
18 of an organization that provides assistance to a victim or to
19 the appropriate next of kin of the victim or other designated
20 contact must request that the victim or appropriate next of
21 kin of the victim or other designated contact complete a
22 victim notification card. However, the victim or appropriate
23 next of kin of the victim or other designated contact may
24 choose not to complete the victim notification card.

25 2. Unless the victim or the appropriate next of kin of
26 the victim or other designated contact waives the option to
27 complete the victim notification card, a copy of the victim
28 notification card must be filed with the incident report or
29 warrant in the sheriff's office of the jurisdiction in which
30 the incident report or warrant originated. The notification
31 card shall, at a minimum, consist of:

- 1 a. The name, address, and phone number of the victim;
2 or
3 b. The name, address, and phone number of the
4 appropriate next of kin of the victim; or
5 c. The name, address, and phone number of a designated
6 contact other than the victim or appropriate next of kin of
7 the victim; and
8 d. Any relevant identification or case numbers
9 assigned to the case.
- 10 3. The chief administrator, or a person designated by
11 the chief administrator, of a county jail, municipal jail,
12 juvenile detention facility, or residential commitment
13 facility shall make a reasonable attempt to notify the alleged
14 victim or appropriate next of kin of the alleged victim or
15 other designated contact within 4 hours following the release
16 of the defendant on bail or, in the case of a juvenile
17 offender, upon the release from residential detention or
18 commitment. If the chief administrator, or designee, is
19 unable to contact the alleged victim or appropriate next of
20 kin of the alleged victim or other designated contact by
21 telephone, the chief administrator, or designee, must send to
22 the alleged victim or appropriate next of kin of the alleged
23 victim or other designated contact a written notification of
24 the defendant's release.
- 25 4. Unless otherwise requested by the victim or the
26 appropriate next of kin of the victim or other designated
27 contact, the information contained on the victim notification
28 card must be sent by the chief administrator, or designee, of
29 the appropriate facility to the subsequent correctional or
30 residential commitment facility following the sentencing and
31 incarceration of the defendant, and unless otherwise requested

1 by the victim or the appropriate next of kin of the victim or
2 other designated contact, he or she must be notified of the
3 release of the defendant from incarceration as provided by
4 law.

5 5. If the defendant was arrested pursuant to a warrant
6 issued or taken into custody pursuant to s. 39.037 in a
7 jurisdiction other than the jurisdiction in which the
8 defendant is being released, and the alleged victim or
9 appropriate next of kin of the alleged victim or other
10 designated contact does not waive the option for notification
11 of release, the chief correctional officer or chief
12 administrator of the facility releasing the defendant shall
13 make a reasonable attempt to immediately notify the chief
14 correctional officer of the jurisdiction in which the warrant
15 was issued or the juvenile was taken into custody pursuant to
16 s. 39.037, and the chief correctional officer of that
17 jurisdiction shall make a reasonable attempt to notify the
18 alleged victim or appropriate next of kin of the alleged
19 victim or other designated contact, as provided in this
20 paragraph, that the defendant has been or will be released.

21 (c) Information concerning protection available to
22 victim or witness.--A victim or witness shall be furnished, as
23 a matter of course, with information on steps that are
24 available to law enforcement officers and state attorneys to
25 protect victims and witnesses from intimidation.

26 (d) Notification of scheduling changes.--Each victim
27 or witness who has been scheduled to attend a criminal or
28 juvenile justice proceeding shall be notified as soon as
29 possible by the agency scheduling his appearance of any change
30 in scheduling which will affect his appearance.

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1 (e) Advance notification to victim or relative of
2 victim concerning judicial proceedings; right to be present;
3 right to be heard.--Any victim, relative of a minor who is a
4 victim, or relative of a homicide victim shall receive from
5 the appropriate agency, at the address found in the police
6 report or the victim notification card if such has been
7 provided to the agency, prompt advance notification, unless
8 the agency itself does not have advance notification, of
9 judicial and postjudicial proceedings relating to his case,
10 including all proceedings or hearings relating to:
11 1. The arrest of an accused;
12 2. The release of the accused pending judicial
13 proceedings or any modification of release conditions; and
14 3. Proceedings in the prosecution or petition for
15 delinquency of the accused, including the filing of the
16 accusatory instrument, the arraignment, disposition of the
17 accusatory instrument, trial or adjudicatory hearing,
18 sentencing or disposition hearing, appellate review,
19 subsequent modification of sentence, collateral attack of a
20 judgment, and, when a term of imprisonment, detention, or
21 residential commitment is imposed, the release of the
22 defendant or juvenile offender from such imprisonment,
23 detention, or residential commitment by expiration of sentence
24 or parole and any meeting held to consider such release.
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26 A victim or a victim's next of kin may not be excluded from
27 any portion of any hearing, trial, or proceeding pertaining to
28 the offense based solely on the fact that such person is
29 subpoenaed to testify, unless, upon motion, the court
30 determines such person's presence to be prejudicial. At the
31 sentencing hearing, the presiding judicial officer shall

1 inquire of the state attorney whether the victim or the
2 victim's lawful representative, including the victim's next of
3 kin, wishes to make an appearance or submit a written
4 statement relating to the impact of the crime pursuant to s.
5 921.143.The appropriate agency with respect to notification
6 under subparagraph 1. is the arresting law enforcement agency,
7 and the appropriate agency with respect to notification under
8 subparagraphs 2. and 3. is the Attorney General or state
9 attorney, unless the notification relates to a hearing
10 concerning parole, in which case the appropriate agency is the
11 Parole Commission. The Department of Corrections, the
12 Department of Juvenile Justice, or the sheriff is the
13 appropriate agency with respect to release by expiration of
14 sentence or any other release program provided by law. Any
15 victim may waive notification at any time, and such waiver
16 shall be noted in the agency's files.

17 (f) Information concerning release from incarceration
18 from a county jail, municipal jail, juvenile detention
19 facility, or residential commitment facility.--The chief
20 administrator, or a person designated by the chief
21 administrator, of a county jail, municipal jail, juvenile
22 detention facility, or residential commitment facility shall,
23 upon the request of the victim or the appropriate next of kin
24 of a victim or other designated contact of the victim of any
25 of the crimes specified in paragraph (b), make a reasonable
26 attempt to notify the victim or appropriate next of kin of the
27 victim or other designated contact prior to the defendant's or
28 offender's release from incarceration, detention, or
29 residential commitment if the victim notification card has
30 been provided pursuant to paragraph (b). If prior
31 notification is not successful, a reasonable attempt must be

1 made to notify the victim or appropriate next of kin of the
2 victim or other designated contact within 4 hours following
3 the release of the defendant or offender from incarceration,
4 detention, or residential commitment. If the defendant is
5 released following sentencing, disposition, or furlough, the
6 chief administrator or designee shall make a reasonable
7 attempt to notify the victim or the appropriate next of kin of
8 the victim or other designated contact within 4 hours
9 following the release of the defendant. If the chief
10 administrator or designee is unable to contact the victim or
11 appropriate next of kin of the victim or other designated
12 contact by telephone, the chief administrator or designee must
13 send to the victim or appropriate next of kin of the victim or
14 other designated contact a written notification of the
15 defendant's or offender's release.

16 (g) Consultation with victim or guardian or family of
17 victim.--In addition to being notified of the provisions of s.
18 921.143, the victim of a felony involving physical or
19 emotional injury or trauma or, in a case in which the victim
20 is a minor child or in a homicide, the guardian or family of
21 the victim shall be consulted by the state attorney in order
22 to obtain the views of the victim or family about the
23 disposition of any criminal or juvenile case brought as a
24 result of such crime, including the views of the victim or
25 family about:

- 26 1. The release of the accused pending judicial
- 27 proceedings;
- 28 2. Plea agreements;
- 29 3. Participation in pretrial diversion programs; and
- 30 4. Sentencing of the accused.

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1 (h) Return of property to victim.--Law enforcement
2 agencies and the state attorney shall promptly return a
3 victim's property held for evidentiary purposes unless there
4 is a compelling law enforcement reason for retaining it. The
5 trial or juvenile court exercising jurisdiction over the
6 criminal or juvenile proceeding may enter appropriate orders
7 to implement the provisions of this subsection, including
8 allowing photographs of the victim's property to be used as
9 evidence at the criminal trial or the juvenile proceeding in
10 place of the victim's property when no substantial evidentiary
11 issue related thereto is in dispute.

12 (i) Notification to employer and explanation to
13 creditors of victim or witness.--A victim or witness who so
14 requests shall be assisted by law enforcement agencies and the
15 state attorney in informing his employer that the need for
16 victim and witness cooperation in the prosecution of the case
17 may necessitate the absence of that victim or witness from
18 work. A victim or witness who, as a direct result of a crime
19 or of his cooperation with law enforcement agencies or a state
20 attorney, is subjected to serious financial strain shall be
21 assisted by such agencies and state attorney in explaining to
22 the creditors of such victim or witness the reason for such
23 serious financial strain.

24 (j) Notification of right to request restitution.--Law
25 enforcement agencies and the state attorney shall inform the
26 victim of the victim's right to request and receive
27 restitution pursuant to s. 39.054(1)(a) or s. 775.089, and of
28 the victim's rights of enforcement under ss. 39.022 and
29 775.089(6) in the event an offender does not comply with a
30 restitution order. The state attorney shall seek the
31 assistance of the victim in the documentation of the victim's

1 losses for the purpose of requesting and receiving
2 restitution. In addition, the state attorney shall inform the
3 victim if and when restitution is ordered.

4 (k) Notification of right to submit impact
5 statement.--The state attorney shall inform the victim of the
6 victim's right to submit an oral or written impact statement
7 pursuant to s. 921.143 and shall assist in the preparation of
8 such statement if necessary.

9 (l) Local witness coordinating office.--The
10 requirements for notification provided for in paragraphs (b),
11 (d), (f), and (i) may be performed by the local witness
12 coordinating office established by s. 43.35, as appropriate.

13 (m) Victim assistance education and training.--Victim
14 assistance education and training shall be offered to persons
15 taking courses at law enforcement training facilities and to
16 state attorneys and assistant state attorneys so that victims
17 may be promptly, properly, and completely assisted.

18 (n) General victim assistance.--Victims and witnesses
19 shall be provided with such other assistance, such as
20 transportation, parking, separate pretrial waiting areas, and
21 translator services in attending court, as is practicable.

22 (o) Victim's rights information card or brochure.--A
23 victim of a crime shall be provided with a victim's rights
24 information card or brochure containing essential information
25 concerning the rights of a victim and services available to a
26 victim as required by state law.

27 (p) Information concerning escape from a state
28 correctional institution, county jail, juvenile detention
29 facility, or residential commitment facility.--In any case
30 where an offender escapes from a state correctional
31 institution, county jail, juvenile detention facility, or

1 residential commitment facility, immediate notification shall
2 be made by the institution of confinement to the victim or the
3 appropriate next of kin of a victim or other designated
4 contact of the victim and the state attorney of the
5 jurisdiction where the criminal charge or petition for
6 delinquency arose. ~~The state attorney shall thereupon make~~
7 ~~every effort to notify the victim, material witness, parents~~
8 ~~or legal guardian of a minor who is a victim or witness, or~~
9 ~~immediate relatives of a homicide victim of the escapee.~~The
10 state attorney shall ~~also~~ notify the sheriff of the county
11 where the criminal charge or petition for delinquency arose.
12 The sheriff shall offer assistance upon request.

13 (q) Presence of victim advocate during discovery
14 deposition.--At the request of the victim, the victim advocate
15 designated by state attorney's office, sheriff's office, or
16 municipal police department, or one representative from a
17 not-for-profit victim services organization, including, but
18 not limited to, rape crisis centers, domestic violence
19 advocacy groups, and alcohol abuse or substance abuse groups
20 shall be permitted to attend and be present during any
21 deposition of the victim.

22 (2) The secretary of the Department of Juvenile
23 Justice, and sheriff, chief administrator, or any of their
24 respective designees, who acts in good faith in making a
25 reasonable attempt to comply with the provisions of this
26 section with respect to timely victim notification, shall be
27 immune from civil or criminal liability for an inability to
28 timely notify the victim or appropriate next of kin of the
29 victim or other designated contact of such information. A
30 good faith effort shall be evidenced by a log entry noting
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1 that an attempt was made to notify the victim within the time
2 period specified by this section.

3 (3)(a) A copy of the guidelines and an implementation
4 plan adopted by each agency shall be filed with the Governor,
5 and subsequent changes or amendments thereto shall be likewise
6 filed when adopted.

7 (b) A copy of a budget request prepared pursuant to
8 chapter 216 shall also be filed for the sole purpose of
9 carrying out the activities and services outlined in the
10 guidelines.

11 (c) The Governor shall advise state agencies of any
12 statutory changes which require an amendment to their
13 guidelines.

14 (d) The Executive Office of the Governor shall review
15 the guidelines submitted pursuant to this section:

16 1. To determine whether all affected agencies have
17 developed guidelines which address all appropriate aspects of
18 this section;

19 2. To encourage consistency in the guidelines and
20 plans in their implementation in each judicial circuit and
21 throughout the state; and

22 3. To determine when an agency needs to amend or
23 modify its existing guidelines.

24 (e) The Executive Office of the Governor shall issue
25 an annual report detailing each agency's compliance or
26 noncompliance with its duties as provided under this section.
27 In addition, the Governor may apply to the circuit court of
28 the county where the headquarters of such agency is located
29 for injunctive relief against any agency which has failed to
30 comply with any of the requirements of this section, which has
31 failed to file the guidelines, or which has filed guidelines

1 in violation of this section, to compel compliance with this
2 section.

3 (4) The state attorney and one or more of the law
4 enforcement agencies within each judicial circuit may develop
5 and file joint agency guidelines, as required by this section,
6 which allocate the statutory duties among the participating
7 agencies. Responsibility for successful execution of the
8 entire guidelines lies with all parties.

9 (5) Nothing in this section or in the guidelines
10 adopted pursuant to this section shall be construed as
11 creating a cause of action against the state or any of its
12 agencies or political subdivisions.

13 (6) Victims and witnesses who are not incarcerated
14 shall not be required to attend discovery depositions in any
15 correctional facility.

16 (7) For the purposes of this section, a law
17 enforcement agency or the office of the state attorney may
18 release any information deemed relevant to adequately inform
19 the victim if the offense was committed by a juvenile.
20 Information gained by the victim pursuant to this chapter,
21 including the next of kin of a homicide victim, regarding any
22 case handled in juvenile court, must not be revealed to any
23 outside party, except as is reasonably necessary in pursuit of
24 legal remedies.

25 (8) As used in this section, the term "chief
26 administrator" includes the appropriate chief correctional
27 officers of a county jail or municipal jail, and the
28 appropriate chief administrator of a juvenile detention
29 facility or residential commitment facility.

30 Section 2. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

Provides for specified provisions relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems, to be entitled as the "Victim's Bill of Rights." Provides for adoption of policy and implementation of guidelines recognizing rights of victims of crimes. Specifies additional rights of victims to make or submit certain statements. Removes a restriction on the applicability of specified provisions relating to information for purposes of notifying victim or appropriate next of kin or other designated contact of victim, to make such provisions applicable to cases other than homicide cases. Specifies the victim's right to be heard. Provides for certain inquiry by the presiding judicial officer at the sentencing hearing regarding appearance or statement by victim or victim's representative relating to impact of crime. Requires immediate notification to victim or designated contact of certain information concerning offender's escape. Revises duties of the state attorney with respect to such notification.