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H.675

Introduced by Representatives Grad of Moretown and Morris of Bennington

Referred to Committee on

Date:

Subject: Crimes; victims; court procedure

Statement of purpose of bill as introduced: This bill proposes to ensure that victims of crimes have the right to be heard at a change of plea hearing when the State proposes a deferred sentence.

An act relating to victims' right to be heard at change of plea hearings

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:

(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and

1 (2) to appear, personally, to express reasonably his or her views
2 concerning the crime, the person convicted, and the need for restitution.

3 (b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be
4 delayed or voided by reason of the failure to give the victim the required notice
5 or the failure of the victim to appear.

6 (c) In accordance with Court rules, at the sentencing or change of plea
7 hearing, the Court shall ask if the victim is present and, if so, whether the
8 victim would like to be heard regarding sentencing or the proposed deferral of
9 sentencing. In imposing the sentence or considering whether to defer
10 sentencing, the Court shall consider any views offered at the hearing by the
11 victim. If the victim is not present, the Court shall ask whether the victim has
12 expressed, either orally or in writing, views regarding sentencing or the
13 proposed deferral of sentencing and shall take those views into consideration in
14 imposing the sentence or considering whether to defer sentencing.

15 (d) At or before the sentencing hearing, the prosecutor's office shall
16 instruct the victim of a listed crime, in all cases where the Court imposes a
17 sentence which includes a period of incarceration, that a sentence of
18 incarceration is to the custody of the Commissioner of Corrections and that the
19 Commissioner of Corrections has the authority to affect the actual time the
20 defendant shall serve in incarceration through good time credit, furlough,
21 work-release, and other early release programs. In addition, the prosecutor's

1 office shall explain the significance of a minimum and maximum sentence to
2 the victim and shall also explain the function of parole and how it may affect
3 the actual amount of time the defendant may be incarcerated.

4 (e) At or before a change of plea hearing where the plea agreement filed
5 with the court proposes a deferred sentence, the prosecutor's office shall
6 instruct the victim of a listed crime about the significance of a deferred
7 sentence and the potential consequences of a violation of conditions imposed
8 by the court. In addition, the prosecutor's office shall consult with the victim
9 concerning any proposed probation conditions prior to the hearing.

10 (f) The prosecutor's office shall use all reasonable efforts to keep the
11 victim informed and consult with the victim throughout the plea agreement
12 negotiation process in any case involving a victim of a listed crime.

13 Sec. 2. EFFECTIVE DATE

14 This act shall take effect on July 1, 2016.