

Brynn Hane  
2/9/2016

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 533  
3 entitled “An act relating to victim notification” respectfully reports that it has  
4 considered the same and recommends that the bill be amended by striking out  
5 all after the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. 13 V.S.A. § 5305 is amended to read:

7 § 5305. INFORMATION CONCERNING RELEASE FROM  
8 ~~CONFINEMENT~~ CUSTODY

9 (a) Victims, other than victims of acts of delinquency, and affected persons  
10 shall have the right to request notification by the agency having custody of the  
11 defendant before the defendant is released, including a release on bail or  
12 conditions of release, furlough or other community program, upon termination  
13 or discharge from probation, or whenever the defendant escapes, is recaptured,  
14 dies, or receives a pardon or commutation of sentence. Notice shall be given  
15 to the victim or affected person as expeditiously as possible at the address or  
16 telephone number provided to the agency having custody of the defendant by  
17 the person requesting notice. Any address or telephone number so provided  
18 shall be kept confidential.

19 (b) If the defendant is released on conditions at arraignment, the  
20 prosecutor’s office shall inform the victim of a listed crime of the conditions of  
21 release.

1 (c) If requested by a victim of a listed crime, the ~~department of corrections~~

2 Department of Corrections shall:

3 (1) at least 30 days before a parole board hearing concerning the  
4 defendant, inform the victim of the hearing and of the victim's right to testify  
5 before the parole board or to submit a written statement for the parole board to  
6 consider; and

7 (2) promptly inform the victim of the decision of the parole board,  
8 including providing to the victim any conditions attached to the defendant's  
9 release on parole.

10 Sec. 2. 13 V.S.A. § 5314 is amended to read:

11 § 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

12 \* \* \*

13 (b) Information to victims of listed crimes. As soon as practicable, the law  
14 enforcement agency shall use reasonable efforts to give to the victim of a listed  
15 crime, as relevant, all of the following:

16 (1) Information as to the accused's identity unless inconsistent with law  
17 enforcement purposes.

18 (2) Information as to whether the accused has been taken into custody.

19 (3) The file number of the case and the name, office street address, and  
20 telephone number of the law enforcement officer currently assigned to  
21 investigate the case.

1 (4) The prosecutor's name, office street address, and telephone number.

2 (5) An explanation that no individual is under an obligation to respond  
3 to questions which may be asked outside a courtroom or deposition.

4 (6) Information concerning any bail or conditions of release imposed on  
5 the defendant by a judicial officer prior to arraignment or an initial court  
6 appearance.

7 Sec. 3. 13 V.S.A. § 5321 is amended to read:

8 § 5321. APPEARANCE BY VICTIM

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

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

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

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

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

10 (d) At or before the sentencing hearing, the prosecutor's office shall  
11 instruct the victim of a listed crime, in all cases where the Court imposes a  
12 sentence which includes a period of incarceration, that a sentence of  
13 incarceration is to the custody of the Commissioner of Corrections and that the  
14 Commissioner of Corrections has the authority to affect the actual time the  
15 defendant shall serve in incarceration through good time credit, furlough,  
16 work-release, and other early release programs. In addition, the prosecutor's  
17 office shall explain the significance of a minimum and maximum sentence to  
18 the victim and shall also explain the function of parole and how it may affect  
19 the actual amount of time the defendant may be incarcerated.

20 (e) At or before a change of plea hearing where the plea agreement filed  
21 with the court proposes a deferred sentence, the prosecutor's office shall

1 instruct the victim of a listed crime about the significance of a deferred  
2 sentence and the potential consequences of a violation of conditions imposed  
3 by the court. In addition, the prosecutor’s office shall consult with the victim  
4 concerning any proposed probation conditions prior to the hearing.

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

8 Sec. 4. EFFECTIVE DATE

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

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11 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE