

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 232

Short Title: Victims' Rights Changes.

(Public)

Sponsors: Representatives R. Hunter, Hensley, McCrary, and Michaux.

Referred to: Judiciary I.

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.

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

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

2 **"§ 15A-825. Treatment due victims and witnesses.**

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

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

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

13 (2a) Is provided information that testimony as to one's home address is not
14 relevant in every case, and that the victim or witness may request the
15 district attorney to raise an objection should he/she deem it appropriate
16 to this line of questioning in the case at hand.

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

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

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

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

34 (6a) Is informed of the right to be present throughout the entire trial of the
35 defendant, subject to the right of the court to sequester witnesses.

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

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

41 ~~(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. This act becomes effective December 1, 1995.