

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 969 Session of 2020

INTRODUCED BY BROWNE, MARTIN, YAW, KILLION, MENSCH AND YUDICHAK, JANUARY 24, 2020

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 8, 2020

AN ACT

1 Amending the act of November 24, 1998 (P.L.882, No.111),
2 entitled "An act providing for victims' rights; imposing
3 penalties; establishing remedies; establishing the Office of
4 Victim Advocate, the Bureau of Victims' Services, the
5 Victims' Services Advisory Committee, the State Offender
6 Supervision Fund and other funds; and making repeals," in
7 preliminary provisions, further providing for definitions; in
8 crime victims, further providing for responsibilities of
9 department, local correctional facilities and board; in
10 administration, further providing for office and for powers
11 and duties of victim advocate and providing for
12 confidentiality of records; and, in financial matters,
13 further providing for costs for offender supervision
14 programs.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definitions of "board" and "victim advocate"
18 in section 103 of the act of November 24, 1998 (P.L.882,
19 No.111), known as the Crime Victims Act, are amended to read:

20 Section 103. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 \* \* \*

1 "Board." The Pennsylvania [Board of Probation and] Parole  
2 Board.

3 \* \* \*

4 "Victim advocate." The victim advocate in the Office of  
5 Victim Advocate within the [Pennsylvania Board of Probation and  
6 Parole] department.

7 Section 2. Sections 214(a), (b) and (f), 301 and 302 of the  
8 act are amended to read:

9 Section 214. Responsibilities of department, local correctional  
10 facilities and board.

11 (a) Forms.--The [department and the] board shall develop  
12 standardized forms regarding victim notification. The form shall  
13 include the address where the form is to be sent. The department  
14 shall develop a [standardized] standard form which may be used  
15 by local correctional facilities. In the case of counties with  
16 victim-witness coordinators, the local correctional facility  
17 shall perform its responsibilities under this section in  
18 cooperation with the county's victim-witness coordinator.

19 (b) Notice.--If the [department and board have] Office of  
20 Victim Advocate has received notice of a victim's desire to have  
21 input under section 201(7), the appropriate agency shall notify  
22 the victim sufficiently in advance of a pending release decision  
23 to extend an opportunity for prior comment. The local  
24 correctional facility's notice to the victim under section  
25 201(9) shall occur immediately.

26 \* \* \*

27 (f) Records.--Records maintained by the department, the  
28 local correctional facility [and], the board and the office  
29 pertaining to victims shall be kept separate. Current address,  
30 telephone number and any other personal information of the

1 victim and family members shall be deemed confidential.

2 \* \* \*

3 Section 301. Office.

4 (a) Establishment.--There is established within the [board]  
5 department the Office of Victim Advocate to represent the  
6 interests of crime victims before the board or department. The  
7 office shall operate under the direction of the victim advocate  
8 as provided in this section. The office shall function  
9 independently of the department regarding all of the office's  
10 decision-making functions, as well as any other powers and  
11 duties specified in law.

12 (b) Appointment.--The victim advocate must be an individual  
13 who by reason of training and experience is qualified to  
14 represent the interests of individual crime victims before the  
15 board. The victim advocate shall be appointed by the Governor,  
16 by and with the consent of a majority of all of the members of  
17 the Senate. The victim advocate shall hold office for a term of  
18 six years and until a successor shall have been duly appointed  
19 and qualified but in no event more than 90 days beyond the  
20 expiration of the appointed term. A vacancy occurring for any  
21 reason shall be filled in the manner provided by section 8 of  
22 Article IV of the Constitution of Pennsylvania for the remainder  
23 of the term. Whenever the victim advocate's term expires, that  
24 position shall be immediately deemed a vacancy, and the Governor  
25 shall nominate a person to fill that position within 90 days of  
26 the date of expiration even if the victim advocate continues in  
27 office. To be eligible to be appointed by the Governor as victim  
28 advocate, an individual must have at least six years of  
29 professional experience in victim advocacy, social work or  
30 related areas, including one year in a supervisory or

1 administrative capacity, and [a bachelor's degree. Any <--  
2 equivalent combination of experience and training shall be  
3 acceptable] BE A MEMBER OF THE BAR OF THIS COMMONWEALTH. <--

4 Compensation shall be set by the Executive Board as defined by  
5 the act of April 9, 1929 (P.L.177, No.175), known as The  
6 Administrative Code of 1929.

7 (c) Service and employees.--The victim advocate shall  
8 operate from [the central office of the board] office space  
9 provided by the department with such clerical, technical and  
10 professional staff as may be available within the budget of the  
11 [board] department. The compensation of employees of the office  
12 shall be set by the Executive Board. Legal counsel for the  
13 office shall be appointed in accordance with the act of October  
14 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys  
15 Act.

16 Section 302. Powers and duties of victim advocate.

17 The victim advocate has the following powers and duties:

18 (1) To represent the interests of individual crime  
19 victims before the board, department or hearing examiner.

20 (2) To supervise the victim notification duties  
21 presently conducted by the board.

22 (3) To assist in and coordinate the preparation of  
23 testimony by the crime victims as set forth in sections  
24 501(c) and 502 or the submission of oral, written or  
25 videotaped comments by crime victims prior to a release  
26 decision.

27 (4) To represent the interests of a crime victim under  
28 section 502.

29 (5) [To act as a liaison with the victim notification  
30 program director in the department to] To coordinate victim

1 notification and services for the department and the board.  
2 The victim advocate is authorized to address the interests of  
3 all victims before the board, department or hearing examiner  
4 concerning any issues determined appropriate by the victim  
5 advocate.

6 Section 3. The act is amended by adding a section to read:  
7 Section 303. Confidentiality of records.

8 (a) General rule.--Except as provided under this section,  
9 each report, record or other information in the possession of or  
10 maintained by the office, including the home addresses of  
11 employees of the office, shall:

12 (1) Be confidential and privileged.

13 (2) Not be subject to subpoena or discovery.

14 (3) Not be subject to the provisions of the act of  
15 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
16 Law.

17 (4) Be used for no purpose other than to advocate for  
18 the interests of crime victims.

19 (5) Except as otherwise provided by law or under this  
20 section, not be introduced into evidence in a judicial or  
21 administrative proceeding.

22 (b) Disclosure restricted.--Except as otherwise provided by  
23 law, a person who has had access to a report, record or any  
24 other information protected under this section may not disclose  
25 the content of the report, record or other information or  
26 testify in a judicial or administrative proceeding without the  
27 written consent of the direct victim or intervenor or, if the  
28 direct victim or intervenor is deceased, the victim advocate.

29 (c) Construction.--This section shall not be construed to  
30 preclude or limit introduction of the contents of a report,

1 record or other information in an investigation, prosecution or  
2 judicial proceeding enforcing section 1303 or in communicating  
3 with the prosecutor's office regarding restitution.

4 (d) Financial records.--A financial record, as defined in  
5 the Right-to-Know Law, which is from or relates to the office  
6 shall be subject to the Right-to-Know Law.

7 Section 4. Section 1102 of the act is amended to read:

8 Section 1102. Costs for offender supervision programs.

9 (a) County fund.--The county treasurer of each county shall  
10 establish and administer a county offender supervision fund  
11 consisting of the fees collected under this section. The county  
12 treasurer shall disperse money from this fund only at the  
13 discretion of the president judge of the court of common pleas.  
14 The money in this fund shall be used to pay the salaries and  
15 employee benefits of all probation and parole personnel employed  
16 by the county probation and parole department and the  
17 operational expenses of that department. Money from this fund  
18 shall be used to supplement Federal, State or county  
19 appropriations for the county adult probation and parole  
20 department. The president judge shall by August 31 provide the  
21 [board] department with an annual statement which fully reflects  
22 all collections deposited into and expenditures from the  
23 offender supervision fund for the preceding fiscal year. The  
24 [board] department shall promulgate regulations to provide for  
25 the permanent administration of this program.

26 (b) State fund.--There is established a State Offender  
27 Supervision Fund to be administered by the [board] department  
28 and comprised of the supervision fees collected by the [board]  
29 department under this section. The money in this fund shall be  
30 used to supplement the Federal or State funds appropriated for

1 the improvement of adult probation services.

2 (c) Court.--The court shall impose as a condition of  
3 supervision a monthly supervision fee of at least \$25 on any  
4 offender placed on probation, parole, accelerated rehabilitative  
5 disposition, probation without verdict or intermediate  
6 punishment unless the court finds that the fee should be  
7 reduced, waived or deferred based on the offender's present  
8 inability to pay. Of the fee collected, 50% shall be deposited  
9 into the County Offender Supervision Fund established in each  
10 county pursuant to this section, and the remaining 50% shall be  
11 deposited into the State Offender Supervision Fund established  
12 pursuant to this section.

13 (d) Board.--The board or the department shall impose as a  
14 condition of supervision a monthly supervision fee of at least  
15 \$25 on any offender under the [board's] department's supervision  
16 unless the board finds that such fee should be reduced, waived  
17 or deferred based on the offender's present inability to pay.  
18 All fees collected shall be deposited into the State Offender  
19 Supervision Fund established under subsection (b).

20 (e) Continuation.--

21 (1) For offenders under supervision of a county  
22 probation department or the board as of [August 14, 1991] the  
23 day prior to the effective date of this section or under the  
24 supervision of the department, the fee shall automatically  
25 become a part of the supervision conditions as if the court  
26 or board had imposed it unless the court or board makes a  
27 finding that the offender is presently unable to pay.

28 (2) The court or board may make a finding that the  
29 offender is unable to pay based on any of the following  
30 factors:

1           (i) The offender has diligently attempted but has  
2 been unable to obtain employment that provides the  
3 offender sufficient income to make such payments.

4           (ii) The offender is a student in a school, a  
5 college, a university or a course of vocational or  
6 technical training designed to fit the student for  
7 gainful employment.

8           (iii) The offender has an employment handicap as  
9 determined by an examination acceptable to or ordered by  
10 the court or board.

11           (iv) The offender's age prevents employment.

12           (v) The offender is responsible for the support of  
13 dependents, and the payment of the assessment constitutes  
14 an undue hardship on the offender.

15           (vi) Other extenuating circumstances as determined  
16 by the court or board.

17 Section 5. This act shall take effect immediately.