

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4558**

(BY DELEGATES FRICH, SHOTT, ARVON, P. SMITH,  
ROWAN, SOBONYA, MILLER, BORDER, UPSON,  
KESSINGER AND SUMMERS)

[Introduced February 16, 2016;  
referred to the Committee on the Judiciary.]



1 A BILL to amend and reenact §61-11A-8 of the Code of West Virginia, as amended, relating to  
2 victim notification and designation of additional individuals to receive notice of an  
3 offender's release, sentencing, placement or escape; providing an option to victims to  
4 designate additional adult individuals to receive notification; and requiring the victim to  
5 provide the additional adult individual's contact information in writing to the appropriate  
6 notifying entity.

*Be it enacted by the Legislature of West Virginia:*

1 That §61-11A-8 of the Code of West Virginia, as amended, be amended and reenacted to  
2 read as follows:

**ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.**

**§61-11A-8. Notification to victim of offender's release, placement, or escape from custody.**

1 (a) At the time a criminal prosecution is commenced by the filing of a complaint, if the  
2 complaint charges a person with committing an offense described in subsection (e) of this section,  
3 then ~~in such case~~ the prosecuting attorney is required to provide notice, in writing or by telephone,  
4 to the victim or a family member that he or she may request that they be notified prior to or at the  
5 time of any release of the accused from custody pending judicial proceedings.

6 (b) If a person is convicted of an offense described in subsection (e) of this section, the  
7 prosecuting attorney is required to provide notice, in writing or by telephone, to the victim or a  
8 family member that he or she may request that they be notified prior to or at the time of sentencing  
9 if the convicted person will be placed on work release, home confinement or probation.

10 (c) If a person is convicted of an offense described in subsection (e) of this section and is  
11 imprisoned in a state correctional facility or confined in a county or regional jail, the commissioner  
12 of corrections, the regional jail supervisor or the sheriff, as the case may be, is required to provide  
13 notice, in writing or by telephone, to the victim or a family member that he or she may request that  
14 they be notified prior to or at the time of:

15 (1) Releasing the convicted person from imprisonment in any correctional facility;

- 16 (2) Releasing the convicted person from confinement in any ~~county or regional~~ jail;
- 17 (3) Placing the convicted person in a halfway house or other nonsecure facility to complete
- 18 his or her sentence; or
- 19 (4) Any escape by the convicted person from a state correctional facility or a ~~county or~~
- 20 ~~regional~~ jail.
- 21 (d) The notice shall include instructions for the victim or the victim's family member on how
- 22 to request the notification.
- 23 (e) Offenses which are subject to the provisions of this section are as follows:
- 24 (1) Murder;
- 25 (2) Aggravated robbery;
- 26 (3) Sexual assault in the first degree;
- 27 (4) Kidnapping;
- 28 (5) Arson;
- 29 (6) Any sexual offense against a minor; or
- 30 (7) Any violent crime against a person.
- 31 (f) The Commissioner of Corrections, a regional jail supervisor, a sheriff or a prosecuting
- 32 attorney who receives a written request for notification shall provide notice, in writing or by
- 33 telephone, to the last known address or addresses or telephone number or numbers provided by
- 34 the victim or a member of the victim's family, or in the case of a minor child, to the custodial parent
- 35 of the child, in accordance with the provisions of this section. In case of escape, notification shall
- 36 be by telephone, if possible.
- 37 (g) If one or more family members request notification and if the victim is an adult and is
- 38 alive and competent, notification shall be sent to the victim, if possible, notwithstanding that the
- 39 victim did not request the notification.
- 40 (h) If notification by telephone to a victim is attempted, notification is not complete unless
- 41 it is given directly to the person requesting notification and after that person's identity has been

42 verified. An attempted notification made to a voice mail or another recording device or to another  
43 member of the household is insufficient.

44 (i) For the purposes of this section, the following words or phrases defined in this  
45 subsection have the meanings ascribed to them. These definitions are applicable unless a  
46 different meaning clearly appears from the context.

47 (1) "Filing of a complaint" means the filing of a complaint in accordance with the  
48 requirements of rules promulgated by the Supreme Court of Appeals or the provisions of this  
49 code.

50 (2) "Victim" means a victim of a crime listed in subsection (e) of this section who is alive  
51 and competent.

52 (3) "Victim's family member" means a member of the family of a victim of a crime listed in  
53 subsection (e) of this section who is not alive and competent.

54 (j) In addition to those individuals required to be notified under this section, a victim may  
55 designate an additional adult individual to receive notice required under this section: *Provided,*  
56 That the obligation to notify the additional individuals under this section only arises if the additional  
57 adult individual's contact information is provided in writing by the victim to the appropriate notifying  
58 entity.

NOTE: The purpose of this bill is to allow a victim to designate an additional adult individual to receive notice of an offender's release, sentencing, placement or escape. The bill additionally requires the victim to provide the additional adult individual's contact information in writing to the appropriate notifying entity.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.