

1 5360 AMH H2431.1

2 SSB 5360 - H AMD 000411 ADOPTED 4-14-93

3 By Representatives R. Johnson and Ballasiotes

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5 On page 5, after line 37, insert the following:

6 "Sec. 4. RCW 7.69.020 and 1985 c 443 s 2 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
11 or misdemeanor under the laws of this state or equivalent federal or
12 local law.

13 (2) "Survivor" or "survivors" of a victim of crime means a spouse,
14 child, parent, legal guardian, sibling, or grandparent. If there is
15 more than one survivor of a victim of crime, one survivor shall be
16 designated by the prosecutor to represent all survivors for purposes of
17 providing the notice to survivors required by this chapter.

18 (3) "Victim" means a person against whom a crime has been committed
19 or the representative of a person against whom a crime has been
20 committed.

21 (4) "Victim impact statement" means a statement submitted to the
22 court by the victim or a survivor, individually or with the assistance
23 of the prosecuting attorney if assistance is requested by the victim or
24 survivor, which may include but is not limited to information assessing
25 the financial, medical, social, and psychological impact of the offense
26 upon the victim or survivors.

27 (5) "Witness" means a person who has been or is expected to be
28 summoned to testify for the prosecution in a criminal action, or who by
29 reason of having relevant information is subject to call or likely to
30 be called as a witness for the prosecution, whether or not an action or
31 proceeding has been commenced.

32 (6) "Crime victim/witness program" means any crime victim and
33 witness program of a county or local law enforcement agency or
34 prosecutor's office, any rape crisis center's sexual assault victim
35 advocacy program as provided in chapter 70.125 RCW, any domestic
36 violence program's legal and community advocate program for domestic
37 violence victims as provided in chapter 70.123 RCW, or any other crime

1 victim advocacy program which provides trained advocates to assist
2 crime victims during the investigation and prosecution of the crime.

3 **Sec. 5.** RCW 7.69.030 and 1985 c 443 s 3 are each amended to read
4 as follows:

5 There shall be a reasonable effort made to ensure that victims,
6 survivors of victims, and witnesses of crimes have the following
7 rights:

8 (1) With respect to victims of violent or sex crimes, to receive,
9 at the time of reporting the crime to law enforcement officials, a
10 written statement of the rights of crime victims as provided in this
11 chapter. The written statement shall include the name, address, and
12 telephone number of a county or local crime victim/witness program, if
13 such a crime victim/witness program exists in the county;

14 (2) To be informed by local law enforcement agencies or the
15 prosecuting attorney of the final disposition of the case in which the
16 victim, survivor, or witness is involved;

17 ~~((+2))~~ (3) To be notified by the party who issued the subpoena
18 that a court proceeding to which they have been subpoenaed will not
19 occur as scheduled, in order to save the person an unnecessary trip to
20 court;

21 ~~((+3))~~ (4) To receive protection from harm and threats of harm
22 arising out of cooperation with law enforcement and prosecution
23 efforts, and to be provided with information as to the level of
24 protection available;

25 ~~((+4))~~ (5) To be informed of the procedure to be followed to apply
26 for and receive any witness fees to which they are entitled;

27 ~~((+5))~~ (6) To be provided, whenever practical, a secure waiting
28 area during court proceedings that does not require them to be in close
29 proximity to defendants and families or friends of defendants;

30 ~~((+6))~~ (7) To have any stolen or other personal property
31 expeditiously returned by law enforcement agencies or the superior
32 court when no longer needed as evidence. When feasible, all such
33 property, except weapons, currency, contraband, property subject to
34 evidentiary analysis, and property of which ownership is disputed,
35 shall be photographed and returned to the owner within ten days of
36 being taken;

37 ~~((+7))~~ (8) To be provided with appropriate employer intercession
38 services to ensure that employers of victims, survivors of victims, and

1 witnesses of crime will cooperate with the criminal justice process in
2 order to minimize an employee's loss of pay and other benefits
3 resulting from court appearance;

4 ~~((+8+))~~ (9) To access to immediate medical assistance and not to be
5 detained for an unreasonable length of time by a law enforcement agency
6 before having such assistance administered. However, an employee of
7 the law enforcement agency may, if necessary, accompany the person to
8 a medical facility to question the person about the criminal incident
9 if the questioning does not hinder the administration of medical
10 assistance;

11 ~~((+9+))~~ (10) With respect to victims of violent and sex crimes, to
12 have a crime victim advocate from a crime victim/witness program
13 present at any prosecutorial or defense interviews with the victim.
14 This subsection applies if practical and if the presence of the crime
15 victim advocate does not cause any unnecessary delay in the
16 investigation or prosecution of the case. The role of the crime victim
17 advocate is to provide emotional support to the crime victim;

18 (11) With respect to victims and survivors of victims, to be
19 physically present in court during trial, or if subpoenaed to testify,
20 to be scheduled as early as practical in the proceedings in order to be
21 physically present during trial after testifying and not to be excluded
22 solely because they have testified;

23 ~~((+10+))~~ (12) With respect to victims and survivors of victims, to
24 be informed by the prosecuting attorney of the date, time, and place of
25 the trial and of the sentencing hearing for felony convictions upon
26 request by a victim or survivor;

27 ~~((+11+))~~ (13) To submit a victim impact statement or report to the
28 court, with the assistance of the prosecuting attorney if requested,
29 which shall be included in all presentence reports and permanently
30 included in the files and records accompanying the offender committed
31 to the custody of a state agency or institution;

32 ~~((+12+))~~ (14) With respect to victims and survivors of victims, to
33 present a statement personally or by representation, at the sentencing
34 hearing for felony convictions; and

35 ~~((+13+))~~ (15) With respect to victims and survivors of victims, to
36 entry of an order of restitution by the court in all felony cases, even
37 when the offender is sentenced to confinement, unless extraordinary
38 circumstances exist which make restitution inappropriate in the court's
39 judgment.

1 **Sec. 6.** RCW 7.69A.020 and 1992 c 188 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
6 or misdemeanor under the laws of this state or equivalent federal or
7 local law.

8 (2) "Child" means any living child under the age of eighteen years.

9 (3) "Victim" means a living person against whom a crime has been
10 committed.

11 (4) "Witness" means a person who has been or is expected to be
12 summoned to testify for the prosecution in a criminal action, or who by
13 reason of having relevant information is subject to call or likely to
14 be called as a witness for the prosecution, whether or not an action or
15 proceeding has been commenced.

16 (5) "Family member" means child, parent, or legal guardian.

17 (6) "Advocate" means any person, including a family member not
18 accused of a crime, who provides support to a child victim or child
19 witness during any legal proceeding.

20 (7) "Court proceedings" means any court proceeding conducted during
21 the course of the prosecution of a crime committed against a child
22 victim, including pretrial hearings, trial, sentencing, or appellate
23 proceedings.

24 (8) "Identifying information" means the child's name, address,
25 location, and photograph, and in cases in which the child is a relative
26 or stepchild of the alleged perpetrator, identification of the
27 relationship between the child and the alleged perpetrator.

28 (9) "Crime victim/witness program" means any crime victim and
29 witness program of a county or local law enforcement agency or
30 prosecutor's office, any rape crisis center's sexual assault victim
31 advocacy program as provided in chapter 70.125 RCW, any domestic
32 violence program's legal and community advocate program for domestic
33 violence victims as provided in chapter 70.123 RCW, or any other crime
34 victim advocacy program which provides trained advocates to assist
35 crime victims during the investigation and prosecution of the crime.

36 **Sec. 7.** RCW 7.69A.030 and 1985 c 394 s 3 are each amended to read
37 as follows:

1 In addition to the rights of victims and witnesses provided for in
2 RCW 7.69.030, there shall be every reasonable effort made by law
3 enforcement agencies, prosecutors, and judges to assure that child
4 victims and witnesses are afforded the rights enumerated in this
5 section. The enumeration of rights shall not be construed to create
6 substantive rights and duties, and the application of an enumerated
7 right in an individual case is subject to the discretion of the law
8 enforcement agency, prosecutor, or judge. Child victims and witnesses
9 have the following rights:

10 (1) To have explained in language easily understood by the child,
11 all legal proceedings and/or police investigations in which the child
12 may be involved.

13 (2) With respect to child victims of sex or violent crimes or child
14 abuse, to have a crime victim advocate from a crime victim/witness
15 program present at any prosecutorial or defense interviews with the
16 child victim. This subsection applies if practical and if the presence
17 of the crime victim advocate does not cause any unnecessary delay in
18 the investigation or prosecution of the case. The role of the crime
19 victim advocate is to provide emotional support to the child victim and
20 to promote the child's feelings of security and safety.

21 (3) To be provided, whenever possible, a secure waiting area during
22 court proceedings and to have an advocate or support person remain with
23 the child prior to and during any court proceedings.

24 ~~((+3))~~ (4) To not have the names, addresses, nor photographs of
25 the living child victim or witness disclosed by any law enforcement
26 agency, prosecutor's office, or state agency without the permission of
27 the child victim, child witness, parents, or legal guardians to anyone
28 except another law enforcement agency, prosecutor, defense counsel, or
29 private or governmental agency that provides services to the child
30 victim or witness.

31 ~~((+4))~~ (5) To allow an advocate to make recommendations to the
32 prosecuting attorney about the ability of the child to cooperate with
33 prosecution and the potential effect of the proceedings on the child.

34 ~~((+5))~~ (6) To allow an advocate to provide information to the
35 court concerning the child's ability to understand the nature of the
36 proceedings.

37 ~~((+6))~~ (7) To be provided information or appropriate referrals to
38 social service agencies to assist the child and/or the child's family

1 with the emotional impact of the crime, the subsequent investigation,
2 and judicial proceedings in which the child is involved.

3 ~~((+7))~~ (8) To allow an advocate to be present in court while the
4 child testifies in order to provide emotional support to the child.

5 ~~((+8))~~ (9) To provide information to the court as to the need for
6 the presence of other supportive persons at the court proceedings while
7 the child testifies in order to promote the child's feelings of
8 security and safety.

9 ~~((+9))~~ (10) To allow law enforcement agencies the opportunity to
10 enlist the assistance of other professional personnel such as child
11 protection services, victim advocates or prosecutorial staff trained in
12 the interviewing of the child victim.

13 (11) With respect to child victims of violent or sex crimes or
14 child abuse, to receive either directly or through the child's parent
15 or guardian if appropriate, at the time of reporting the crime to law
16 enforcement officials, a written statement of the rights of child
17 victims as provided in this chapter. The written statement shall
18 include the name, address, and telephone number of a county or local
19 crime victim/witness program, if such a crime victim/witness program
20 exists in the county."

21 Renumber the remaining sections consecutively and correct any
22 internal references accordingly.

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