
HOUSE BILL 2312

State of Washington 58th Legislature 2004 Regular Session

By Representatives Carrell, Mielke, Boldt, Nixon, McMahan, Clements and Ahern

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1 AN ACT Relating to victims' rights in plea agreement procedures;
2 adding a new section to chapter 9.94A RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The Washington state Constitution recognizes
5 that crime victims have a meaningful role in the criminal justice
6 system and grants victims certain basic and fundamental rights,
7 including the right of victims or their representatives to be informed
8 of, to attend, and to make statements at certain court proceedings
9 involving criminal defendants. The exercise of these rights may not
10 constitute a basis for error in favor of a defendant in any criminal
11 proceeding.

12 State law provides that persons are subject to capital punishment
13 if they are found guilty of aggravated first degree murder. A person
14 is guilty of aggravated first degree murder if, with a premeditated
15 intent to cause the death of another person, they cause the death of
16 such person or of a third person, and one or more of the aggravating
17 circumstances enumerated in statute exist.

18 Plea agreements are agreements made between defendants and
19 prosecutors whereby defendants plead guilty or no contest to certain

1 criminal charges and prosecutors agree to drop certain charges, reduce
2 certain charges, or recommend that judges enter specific sentences that
3 are acceptable to the defendants. Criminal cases are settled by plea
4 agreements for many reasons: As criminal courts become ever more
5 crowded and overburdened, prosecutors feel increased pressure to move
6 cases quickly through the system; trials and appeals can take months or
7 even years at great expense to the public while guilty pleas can often
8 be arranged rather expeditiously; the outcome of a trial is usually
9 unpredictable and plea agreements provide both prosecutors and
10 defendants some control over the result; if trials result in hung
11 juries, prosecutors and defendants may negotiate a plea agreement
12 rather than go through yet another trial; no matter how strong evidence
13 may be, prosecutors have no assurance of a conviction and may undergo
14 a long, expensive trial and still lose the case; and plea agreements
15 give prosecutors flexibility where they can solicit defendants, though
16 guilty, to give testimony about other criminal defendants or help
17 resolve other cases that have been difficult to prove.

18 In aggravated first degree murder cases, plea agreements are an
19 especially sensitive issue because of the potential number and type of
20 victims, the magnitude of the crimes, and the message plea agreements
21 send to criminal offenders, victims, and the community at large.
22 Special care must be taken to ensure plea agreements in aggravated
23 first degree murder cases are appropriate, that victims and their
24 representatives are adequately involved in the decision-making process,
25 and that the best interests of justice and public safety ultimately
26 prevail.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
28 to read as follows:

29 (1) Victims or their representatives have the right to be notified
30 of any potential plea agreement and to express their views on any
31 proposed plea agreements prior to a plea agreement being reached
32 between the prosecutor and the defendant. The prosecutor shall
33 consider the views of the victim or the victim's representative in
34 deciding whether to negotiate or conclude a plea agreement with a
35 defendant.

36 (2) Victims or their representatives have the right to be notified
37 when a plea agreement is to be presented to the court and to express

1 their views on the plea agreement to the court prior to the court
2 accepting or rejecting the plea agreement. The court shall consider
3 the views of the victim or the victim's representative in deciding
4 whether to accept or reject the negotiated plea agreement.

5 (3) Before a plea agreement is allowed in any capital murder case
6 where a defendant has, or is alleged to have, with a premeditated
7 intent caused the death of another person, caused the death of such
8 person or of a third person, and there was more than one victim, and
9 the murders were part of a common scheme or plan, or the result of a
10 single act of the defendant, a prosecutor shall:

11 (a) Explain to victims or their representatives at the outset of
12 the case the rights of victims provided in the Washington state
13 Constitution;

14 (b) Explain to victims or their representatives at the outset of
15 the case how the plea agreement process works and the circumstances
16 that might lead to a plea agreement;

17 (c) Explain to victims or their representatives at the outset of
18 the case how victim advocates can help victims prepare and submit
19 impact statements that are useful to both the prosecutor and the court
20 throughout the plea agreement process;

21 (d) Ensure victims or their representatives are notified of any
22 potential plea agreement and have the opportunity to express their
23 views on any proposed plea agreements prior to any plea agreement being
24 reached with the defendant; and

25 (e) Ensure victims or their representatives are notified when a
26 plea agreement is to be presented to the court and have the opportunity
27 to express their views on the plea agreement to the court prior to the
28 court accepting the plea agreement.

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