

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 174
Judiciary

(Delegate Simpson, *et al.*)

Judicial Proceedings

Criminal Procedure - Victims of Sexually Assaultive Behavior

This bill requires an assistant State’s Attorney to meet with a victim of “sexually assaultive behavior” at the request of the victim after a decision by the Office of the State’s Attorney not to file a charging document against an alleged suspect or to dismiss charges against an alleged suspect.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill can be implemented with existing budgeted resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: With respect to an investigation or case involving a victim of “sexually assaultive behavior,” an assistant State’s Attorney with knowledge of the case must meet with the victim or the victim’s designated representative within 20 days after receiving a request from the victim to meet regarding a decision by the Office of the State’s Attorney not to file a charging document against an alleged suspect or to dismiss charges against an alleged suspect. The meeting may be conducted in person, by phone, or by other means mutually agreed on. At the meeting, the assistant State’s Attorney must explain the justification for not filing a charging document or for dismissing the charges.

Current Law: “Sexually assaultive behavior” means an act that would constitute a sexual crime under Title 3, Subtitle 3 of the Criminal Law Article; sexual abuse of a minor under § 3-602 of the Criminal Law Article; sexual abuse of a vulnerable adult under § 3-604 of the Criminal Law Article; a violation of 18 U.S.C. Chapter 109A; or a violation of a law of another state, the United States, or a foreign country that is equivalent to any of these offenses.

Under Maryland law, a victim of a crime or delinquent act (or a representative in the event the victim is deceased, disabled, or a minor) has a broad range of specific rights during the criminal justice process. On first contact with a victim, a law enforcement officer, District Court commissioner, or juvenile intake officer must give an identified victim a pamphlet that advises the victim of the rights, services, and procedures available in the time before and after the filing of a charging document. Also, within 10 days after the filing or unsealing of an indictment or information, the prosecuting attorney must provide a victim with a pamphlet that describes the rights, services, and procedures available to a victim after the indictment or information is filed and a notification request form by which a victim may request notice of various proceedings.

Many of the rights afforded a victim of crime depend on a victim completing a notification request form or requesting notice by following the Maryland Electronic Courts (MDEC) system protocol. For example, unless provided by the MDEC system, the prosecuting attorney must provide prior notice to a victim, if practicable, of each court proceeding in the case and the terms of any plea agreement. If a proper request for notification has been submitted and prior notice is not practicable, the prosecuting attorney must tell the victim or victim’s representative of the terms of any plea agreement, judicial action, and proceeding that affects the interests of the victim or victim’s representative, including a dismissal, *nolle prosequi*, or setting of the charges, as soon after a proceeding as practicable. Whether or not a notification request has been submitted, the prosecuting attorney may give the victim or victim’s representative information about the status of the case upon request.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 300 and HB 225 of 2022 and SB 555 and HB 270 of 2021.

Designated Cross File: SB 391 (Senators Lewis Young and Rosapepe) - Judicial Proceedings.

Information Source(s): Maryland State’s Attorneys’ Association; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2023
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