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HOUSE BILL NO. 1521

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 19, 1995)

(Patron Prior to Substitute—Delegate Johnson)

A BILL to amend and reenact § 19.2-299.1 of the Code of Virginia, relating to victim impact statements.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-299.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-299.1. When Victim Impact Statement required; contents; uses.

The presentence report prepared pursuant to § 19.2-299 shall, ~~on motion of the attorney for the Commonwealth~~ with the consent of the victim, *as defined in § 19.2-11.01, of a felony or of assault and battery in violation of § 18.2-57, § 18.2-57.1 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, in all cases involving noncapital murder, manslaughter, abduction, death or injury resulting from driving under the influence in violation of § 18.2-266, malicious wounding, robbery or criminal sexual assault, include a Victim Impact Statement and may, in the discretion of the court, include a Victim Impact Statement, in any other case except capital murder in which the court determines that the defendant, in committing the felony for which he has been convicted, may have caused significant physical, psychological or economic injury to the victim. For purposes of this section, a victim is (i) an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a felony, (ii) a spouse, child, parent or legal guardian of a minor victim, or (iii) a spouse, child, parent or legal guardian of a victim of a homicide in noncapital cases. Victim Impact Statements in all cases involving capital murder shall be prepared and submitted in accordance with the provisions of § 19.2-264.5.*

A Victim Impact Statement, ~~which~~ shall be kept confidential and shall be sealed upon entry of the sentencing order. *If prepared by someone other than the victim, it shall (i) identify the victim, (ii) itemize any economic loss suffered by the victim as a result of the offense, (iii) identify the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, (iv) detail any change in the victim's personal welfare, lifestyle or familial relationships as a result of the offense, (v) identify any request for psychological or medical services initiated by the victim or the victim's family as a result of the offense, and (vi) provide such other information as the court may require related to the impact of the offense upon the victim.*

If the court does not order a presentence investigation and report, the attorney for the Commonwealth ~~may~~ *shall, with the consent of the victim, prepare a Victim Impact Statement. In any event, a victim shall be advised by the local crime victim and witness assistance program that he may submit in his own words a written Victim Impact Statement.*

The Victim Impact Statement may be considered by the court in determining the appropriate sentence. A copy of the statement prepared pursuant to this section shall be made available to the defendant or counsel for the defendant without court order at least five days prior to the sentencing hearing. The statement shall not be admissible in any civil proceeding for damages arising out of the acts upon which the conviction was based. The statement, however, may be utilized by the Virginia Workers' Compensation Commission in its determinations on claims by victims of crimes pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title.