

## No. 2002-121

## AN ACT

## HB 219

Amending the act of November 24, 1998 (P.L.882, No.111), entitled "An act providing for victims' rights; imposing penalties; establishing remedies; establishing the Office of Victim Advocate, the Bureau of Victims' Services, the Victims' Services Advisory Committee, the State Offender Supervision Fund and other funds; and making repeals," further providing for powers and duties of victim advocate, for preparole notification to victim and for petitions to deny parole upon expiration of minimum sentence.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 302, 501 and 502 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, are amended to read:

Section 302. Powers and duties of victim advocate.

The victim advocate has the following powers and duties:

(1) To represent the interests of individual crime victims before the board, department or hearing examiner.

(2) To supervise the victim notification duties presently conducted by the board.

(3) To assist in and coordinate the preparation of [oral] testimony by the crime victims *as set forth in sections 501(c) and 502* or the submission of *oral*, written *or videotaped* comments by crime victims prior to a release decision.

(4) To represent the interests of a crime victim under section 502.

(5) To act as a liaison with the victim notification program director in the department to coordinate victim notification and services for the department and the board. The victim advocate is authorized to address the interests of all victims before the board, department or hearing examiner concerning any issues determined appropriate by the victim advocate.

Section 501. Preparole notification to victim.

(a) Persons to be notified.—No later than 90 days prior to the parole date of an offender, the victim advocate shall notify the victim of the offense for which the offender was sentenced, the parent or legal guardian of a victim who is a minor or a member of the family if the victim is incapable of communicating or has died and shall provide the appropriate person with an opportunity to submit a preparole statement expressing concerns or recommendations regarding the parole or parole supervision of the offender.

(b) Enrollment.—A victim or member of the family is responsible for notifying the victim advocate of the victim's or family member's intent to submit a preparole statement regarding the parole or parole supervision of

the offender. The notice shall include a mailing address or change of address notification.

(c) Procedure.—The victim advocate shall notify the person at the person's last known mailing address. The person shall submit the *oral, written or videotaped* preparole statement to the victim advocate within 30 days of the date of notice. The preparole statement shall be considered by the board during preparation of the parole plan.

Section 502. Petitions to deny parole upon expiration of minimum sentence.

(a) Petition.—Upon the request of a victim who has notified the board in writing of the victim's desire to have input and make comment prior to a parole release decision, the victim advocate shall either petition the board as to the special conditions of release which may be imposed or that the offender not be paroled based upon the statement that the victim submitted under section 501.

(b) Appearance.—The victim or the victim's representative shall be permitted to appear in person before the board or hearing examiner *or, in the alternative, the victim's testimony may be presented by conference call*. The testimony of a victim before the board shall be confidential. Records maintained by the department and the board pertaining to victims shall be kept separate. Current address, telephone number and any other personal information of the victim and family members shall be deemed confidential.

(c) Action.—The board, upon petition and after an interview, may do any of the following:

(1) Order that special conditions of parole be placed upon the offender or the offender not be paroled based upon the continuing effect of the crime on the victim.

(2) Order that the offender not be paroled if the board finds that:

(i) the offender would pose a risk or danger to the victim or the family of the victim if the offender were released on parole; or

(ii) the interests of the Commonwealth would otherwise be injured.

(d) Notice.—The board shall notify the victim of its decision prior to a release of the offender.

(e) District attorney.—Notwithstanding any other statutory provision, the office of the district attorney of the sentencing county may notify a crime victim of a pending release decision and act on the victim's behalf or on its own initiative to submit comments and represent the interests of a crime victim before the board prior to a release decision.

Section 2. This act shall take effect in 60 days.

APPROVED—The 2nd day of October, A.D. 2002.

MARK S. SCHWEIKER