

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 1154  
Committee Substitute Favorable 4/25/01  
Senate Judiciary II Committee Substitute Adopted 7/24/01**

Short Title: Crime Victims' Rights Act Amendments.

(Public)

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Sponsors:

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Referred to:

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April 12, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CRIME VICTIMS' RIGHTS ACT AND TO  
2 OTHERWISE IMPROVE THE RIGHTS OF VICTIMS OF CRIME IN NORTH  
3 CAROLINA.  
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 15A-830(a)(3) reads as rewritten:

7 "(3) Custodial agency. – The agency that has legal custody of an accused or  
8 defendant arising from a charge or conviction of a crime covered by  
9 this Article including, but not limited to, local jails or detention  
10 facilities, regional jails or detention facilities, facilities designated  
11 under G.S. 122C-252 for the custody and treatment of involuntary  
12 clients, or the Department of Correction."

13 **SECTION 2.** G.S. 15A-831 reads as rewritten:

14 **"§ 15A-831. Responsibilities of law enforcement agency.**

15 (a) As soon as practicable but within 72 hours after identifying a victim covered  
16 by this Article, the investigating law enforcement agency shall provide the victim with  
17 the following information:

- 18 (1) The availability of medical services, if needed.
- 19 (2) The availability of crime victims' compensation funds under Chapter  
20 15B of the General Statutes and the address and telephone number of  
21 the agency responsible for dispensing the funds.
- 22 (3) The address and telephone number of the district attorney's office that  
23 will be responsible for prosecuting the victim's case.
- 24 (4) The name and telephone number of an investigating law enforcement  
25 agency employee whom the victim may contact if the victim has not  
26 been notified of an arrest in the victim's case within six months after  
27 the crime was reported to the law enforcement agency.
- 28 (5) Information about an accused's opportunity for pretrial release.

1 (6) The name and telephone number of an investigating law enforcement  
2 agency employee whom the victim may contact to find out whether the  
3 accused has been released from custody.

4 (b) As soon as practicable but within 72 hours after the arrest of a person  
5 believed to have committed a crime covered by this Article, the arresting law  
6 enforcement agency shall inform the investigating law enforcement agency of the arrest.  
7 As soon as practicable but within 72 hours of being notified of the arrest, the  
8 investigating law enforcement agency shall notify the victim of the arrest.

9 (c) As soon as practicable but within 72 hours after receiving notification from  
10 the arresting law enforcement agency that the accused has been arrested, the  
11 investigating law enforcement agency shall forward to the district attorney's office that  
12 will be responsible for prosecuting the case the defendant's name and the victim's name,  
13 address, date of birth, social security number, race, sex, and telephone number, unless  
14 the victim refuses to disclose any or all of the information, in which case, the  
15 investigating law enforcement agency shall so inform the district attorney's office.

16 (d) Upon receiving the information in subsection (a) of this section, the victim  
17 shall, on a form provided by the investigating law enforcement agency, indicate whether  
18 the victim wishes to receive any further notices from the investigating law enforcement  
19 ~~agency.~~ agency on the status of the accused during the pretrial process. If the victim  
20 elects to receive further notices during the pretrial process, the victim shall be  
21 responsible for notifying the investigating law enforcement agency of any changes in  
22 the victim's name, address, and telephone number."

23 **SECTION 3.** G.S. 15A-832 reads as rewritten:

24 "**§ 15A-832. Responsibilities of the district attorney's office.**

25 (a) Within 21 days after the arrest of the accused, but not less than 24 hours  
26 before the accused's first scheduled probable-cause hearing, the district attorney's office  
27 shall provide to the victim a pamphlet or other written material that explains in a clear  
28 and concise manner the following:

- 29 (1) The victim's rights under this Article, including the right to confer with  
30 the attorney prosecuting the case about the disposition of the case and  
31 the right to provide a victim impact statement.
- 32 (2) The responsibilities of the district attorney's office under this Article.
- 33 (3) The victim's eligibility for compensation under the Crime Victims  
34 Compensation Act and the deadlines by which the victim must file a  
35 claim for compensation.
- 36 (4) The steps generally taken by the district attorney's office when  
37 prosecuting a felony case.
- 38 (5) Suggestions on what the victim should do if threatened or intimidated  
39 by the accused or someone acting on the accused's behalf.
- 40 (6) The name and telephone number of a victim and witness assistant in  
41 the district attorney's office whom the victim may contact for further  
42 information.

1 (b) Upon receiving the information in subsection (a) of this section, the victim  
2 shall, on a form provided by the district attorney's office, indicate whether the victim  
3 wishes to receive notices of some, all, or none of the trial and posttrial proceedings  
4 involving the accused. If the victim elects to receive notices, the victim shall be  
5 responsible for notifying the district attorney's office or any other department or agency  
6 that has a responsibility under this Article of any changes in the victim's address and  
7 telephone number. The victim may alter the request for notification at any time by  
8 notifying the district attorney's office and completing the form provided by the district  
9 attorney's office.

10 (c) The district attorney's office shall notify a victim of the date, time, and place  
11 of all trial court proceedings of the type ~~which~~ that the victim has elected to receive  
12 notice. All notices required to be given by the district attorney's office shall be given in  
13 a manner that is reasonably calculated to be received by the victim prior to the date of  
14 the court proceeding.

15 (d) Whenever practical, the district attorney's office shall provide a secure  
16 waiting area during court proceedings that does not place the victim in close proximity  
17 to the defendant or the defendant's family.

18 (e) When the victim is to be called as a witness in a court proceeding, the court  
19 shall make every effort to permit the fullest attendance possible by the victim in the  
20 proceedings. This subsection shall not be construed to interfere with the defendant's  
21 right to a fair trial.

22 (f) Prior to the disposition of the case, the district attorney's office shall offer the  
23 victim the opportunity to consult with the prosecuting attorney to obtain the views of the  
24 victim about the disposition of the case, including the victim's views about dismissal,  
25 plea or negotiations, sentencing, and any pretrial diversion programs.

26 (g) At the sentencing hearing, the prosecuting attorney shall submit to the court a  
27 copy of a form containing the identifying information set forth in G.S. 15A-831(c)  
28 about any victim's electing to receive further notices under this Article. ~~The form shall~~  
29 ~~be included~~ The clerk of superior court shall include the form with the final judgment  
30 ~~and commitment~~ commitment, or judgment suspending sentence, transmitted to the  
31 Department of Correction or other agency receiving custody of the defendant and shall  
32 be maintained by the custodial agency as a confidential file."

33 **SECTION 4.** Article 46 of Chapter 15A of the General Statutes is amended  
34 by adding two new sections to read:

35 **"§ 15A-832.1. Responsibilities of judicial officials issuing arrest warrants.**

36 (a) In issuing a warrant for the arrest of an offender for any of the misdemeanor  
37 offenses set forth in G.S. 15A-830(a)(7)g., based on testimony or evidence from a  
38 complaining witness rather than from a law enforcement officer, a judicial official shall  
39 record the defendant's name and the victim's name, address, and telephone number  
40 electronically or on a form separate from the warrant and developed by the  
41 Administrative Office of the Courts for the purpose of recording that information,

1 unless the victim refuses to disclose any or all of the information, in which case the  
2 judicial official shall so indicate.

3 (b) A judicial official issuing a warrant for the arrest of an offender for any of the  
4 misdemeanor offenses set forth in G.S. 15A-830(a)(7)g. shall deliver the court's copy of  
5 the warrant and the victim-identifying information to the office of the clerk of superior  
6 court by the close of the next business day. As soon as practicable, but within 72 hours,  
7 the office of the clerk of superior court shall forward to the district attorney's office the  
8 victim-identifying information set forth in subsection (a) of this section."

9 **SECTION 5.** G.S. 15A-833 reads as rewritten:

10 **"§ 15A-833. Evidence of victim impact.**

11 (a) A victim has the right to offer admissible evidence of the impact of the crime,  
12 which shall be considered by the court or jury in sentencing the defendant. The evidence  
13 may include the following:

- 14 (1) A description of the nature and extent of any physical, psychological,  
15 or emotional injury suffered by the victim as a result of the offense  
16 committed by the defendant.
- 17 (2) An explanation of any economic or property loss suffered by the  
18 victim as a result of the offense committed by the defendant.
- 19 (3) A request for restitution and an indication of whether the victim has  
20 applied for or received compensation under the Crime Victims  
21 Compensation Act.

22 (b) No victim shall be required to offer evidence of the impact of the crime. No  
23 inference or conclusion shall be drawn from a victim's decision not to offer evidence of  
24 the impact of the crime. At the victim's request and with the consent of the defendant, a  
25 representative of the district attorney's office or a law enforcement officer may proffer  
26 evidence of the impact of the crime to the court."

27 **SECTION 6.** G.S. 15A-835 reads as rewritten:

28 **"§ 15A-835. Posttrial responsibilities.**

29 (a) Within 30 days after the final trial court proceeding in the case, the district  
30 attorney's office shall notify the victim, in writing, of:

- 31 (1) The final disposition of the case.
- 32 (2) The crimes of which the defendant was convicted.
- 33 (3) The defendant's right to appeal, if any.
- 34 (4) The telephone number of offices to contact in the event of nonpayment  
35 of restitution by the defendant.

36 (b) Upon a defendant's giving notice of appeal to the Court of Appeals or the  
37 Supreme Court, the district attorney's office shall forward to the Attorney General's  
38 office the defendant's name and the victim's name, address, and telephone number.  
39 Upon receipt of this information, and thereafter as the circumstances require, the  
40 Attorney General's office shall provide the victim with the following:

- 1 (1) A clear and concise explanation of how the appellate process works,  
2 including information about possible actions that may be taken by the  
3 appellate court.
- 4 (2) Notice of the date, time, and place of any appellate proceedings  
5 involving the defendant. Notice shall be given in a manner that is  
6 reasonably calculated to be received by the victim prior to the date of  
7 the proceedings.
- 8 (3) The final disposition of an appeal.

9 (c) If the defendant has been released on bail pending the outcome of the appeal,  
10 the agency that has custody of the defendant shall notify the investigating law  
11 enforcement agency as soon as practicable, and within 72 hours of receipt of the  
12 notification the investigating law enforcement agency shall notify the victim that the  
13 defendant has been released.

14 (d) If the defendant's conviction is overturned, and the district attorney's office  
15 decides to retry the case or the case is remanded to superior court for a new trial, the  
16 victim shall be entitled to the same rights under this Article as if the first trial did not  
17 take place.

18 ~~(e) The Conference of District Attorneys shall maintain a repository relating to~~  
19 ~~victims' identities, addresses, and other appropriate information for use by agencies~~  
20 ~~charged with responsibilities under this Article."~~

21 **SECTION 7.** G.S. 15A-836 reads as rewritten:

22 **"§ 15A-836. Responsibilities of agency with custody of defendant.**

23 (a) When a form is included with the final judgment and commitment pursuant to  
24 G.S. 15A-832(g), or when the victim has otherwise filed a written request for  
25 notification with the custodial agency, the custodial agency shall notify the victim of:

- 26 (1) The projected date by which the defendant can be released from  
27 custody. The calculation of the release date shall be as exact as  
28 possible, including earned time and disciplinary credits if the sentence  
29 of imprisonment exceeds 90 days.
- 30 (2) An inmate's assignment to a minimum custody unit and the address of  
31 the unit. This notification shall include notice that the inmate's  
32 minimum custody status may lead to the inmate's participation in one  
33 or more community-based programs such as work release or  
34 supervised leaves in the community.
- 35 (3) The victim's right to submit any concerns to the agency with custody  
36 and the procedure for submitting such concerns.
- 37 (4) The defendant's escape from custody, within 72 hours; hours, except  
38 that if a victim has notified the agency in writing that the defendant has  
39 issued a specific threat against the victim, the agency shall notify the  
40 victim as soon as possible and within 24 hours at the latest.
- 41 (5) The defendant's capture, within 72 24 hours.

1 (6) The date the defendant is scheduled to be released from the facility.  
2 Whenever practical, notice shall be given 60 days before release. In no  
3 event shall notice be given less than seven days before release.

4 (7) The defendant's death.

5 (b) Notifications required in this section shall be provided within ~~30~~ 60 days of  
6 the date the custodial agency takes custody of the defendant or within ~~30~~ 60 days of the  
7 event requiring notification, or as otherwise specified in subsection (a) of this section."

8 **SECTION 8.** G.S. 15A-837 reads as rewritten:

9 **"§ 15A-837. Responsibilities of Division of Adult Probation and Parole.**

10 (a) The Division of Adult Probation and Parole shall notify the victim of:

11 (1) The defendant's regular conditions of probation or post-release  
12 supervision, special or added conditions, supervision requirements,  
13 and any subsequent changes.

14 (2) The date and location of a any hearing to determine whether the  
15 defendant's supervision should be revoked, continued, modified, or  
16 terminated.

17 (3) The final disposition of any hearing referred to in subdivision (2) of  
18 this section.

19 (4) Any restitution modification.

20 (5) The defendant's movement into or out of any intermediate sanction as  
21 defined in G.S. 15A-1340.11(6).

22 (6) The defendant's absconding supervision, within 72 hours.

23 (7) The capture of a defendant described in subdivision (6) of this section,  
24 within 72 hours.

25 (8) The date when the defendant is terminated or discharged.

26 (9) The defendant's death.

27 (b) Notifications required in this section shall be provided within 30 days of the  
28 event requiring notification, or as otherwise specified in subsection (a) of this section."

29 **SECTION 9.** G.S. 148-10.2 reads as rewritten:

30 **"§ 148-10.2. Policy: ~~Death row~~ Certain inmates not to contact family members of**  
31 **victims.**

32 (a) It shall be the policy of the Department of Correction to prohibit death row  
33 inmates from contacting the surviving family members of the victims without the  
34 written consent of the family members being contacted. For purposes of this ~~section,~~  
35 subsection, the term "contact" includes arranging for a third party to forward  
36 communications from the inmate to the surviving family members of the victim.

37 (b) At the request of the victim or a family member of the victim, the Department  
38 of Correction shall prohibit an inmate convicted of an offense listed in G.S. 15A-  
39 830(a)(7) from contacting the requesting party. For purposes of this subsection, the term  
40 "contact" includes arranging for a third party to forward communications from the  
41 inmate to the victim or family member.

1       (c)    The Department of Correction shall develop and impose sanctions against any  
2 inmate who violates the provisions of this section."

3               **SECTION 10.** Article 1 of Chapter 148 of the General Statutes is amended  
4 by adding a new section to read:

5 **"§ 148-5.1. Confining inmates away from victims.**

6       If a victim or immediate family member of a victim requests that, for the safety of  
7 the victim or family member, an inmate be confined outside the county where the victim  
8 or family member resides or is employed, the Department shall make a reasonable effort  
9 to house the inmate in a facility in another county. If the inmate is not so housed in  
10 another county, the Department shall notify the victim or family member in writing."

11               **SECTION 11.** This act becomes effective October 1, 2001.