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HOUSE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL JUSTICE REFORM; ESTABLISHING THE RIGHT OF
CRIME VICTIMS TO RECEIVE NOTICE FROM LAW ENFORCEMENT AND THE
DISTRICT ATTORNEY OF THE AVAILABILITY OF AND PROCEDURE FOR
APPLYING FOR CRIME VICTIMS REPARATION; AMENDING CERTAIN
PROCEDURES IN THE CRIME VICTIMS REPARATION ACT; EXPANDING
ELIGIBILITY FOR CRIME VICTIMS REPARATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-22-7 NMSA 1978 (being Laws 1981,
Chapter 325, Section 7, as amended) is amended to read:

"31-22-7. ELIGIBILITY FOR REPARATION.--

A. ~~[In the event any]~~ If a person is injured or
killed by ~~[any]~~ an act or omission of ~~[any other]~~ another
person coming within the criminal jurisdiction of the state
after ~~[the effective date of the Crime Victims Reparation Act]~~

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1 July 1, 1981, which act or omission includes a crime enumerated
2 in Section 31-22-8 NMSA 1978, and upon application for
3 reparation, the commission may award reparation in accordance
4 with the Crime Victims Reparation Act:

- 5 (1) to the victim;
- 6 (2) in the case of the victim's death, to or
7 for the benefit of any one or more of the deceased victim's
8 dependents; or
- 9 (3) to any individual who voluntarily assumes
10 funeral or medical expenses of the victim.

11 B. For the purpose of the Crime Victims Reparation
12 Act, a person shall be deemed to have intentionally committed
13 an act or omission constituting a crime, notwithstanding that
14 by reason of age, insanity, drunkenness or otherwise [~~he~~] the
15 person was legally incapable of forming a criminal intent.

16 C. In determining whether to make an order under
17 this section, the commission may consider any circumstances it
18 determines to be relevant. The commission shall consider the
19 behavior of the victim and whether, because of provocation or
20 otherwise, the victim bears responsibility for the act or
21 omission constituting a crime that caused [~~his~~] the victim's
22 injury or death and shall reduce the amount of reparation in
23 accordance with its assessment of the degree of responsibility
24 attributable to the victim.

25 D. An order may be made under this section whether

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1 or not any person is prosecuted for or convicted of a crime
2 enumerated in Section 31-22-8 NMSA 1978; provided an arrest has
3 been made or the act or omission constituting ~~such~~ a crime
4 has been reported to the police in a reasonable time or the act
5 or omission constituting a crime has been reported to a medical
6 or mental health care provider, victim counselor or other
7 counseling provider. No order may be made under this section
8 unless the commission finds that:

9 (1) the act or omission constituting a crime
10 did occur;

11 (2) the injury or death of the victim resulted
12 from the act or omission constituting a crime; and

13 (3) the claimant or victim fully cooperated
14 with the appropriate law enforcement agencies or the commission
15 finds that the claimant or victim acted reasonably under the
16 circumstances.

17 E. Upon application from the district attorney of
18 the appropriate district, the commission may suspend
19 proceedings under the Crime Victims Reparation Act for such
20 period as it deems desirable on the ~~ground~~ grounds that a
21 prosecution for the act or omission constituting a crime has
22 commenced or is imminent."

23 SECTION 2. Section 31-26-4 NMSA 1978 (being Laws 1994,
24 Chapter 144, Section 4, as amended) is amended to read:

25 "31-26-4. VICTIM'S RIGHTS.--A victim shall have the right

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- to:
- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
 - B. timely disposition of the case;
 - C. be reasonably protected from the accused throughout the criminal justice process;
 - D. notification of court proceedings;
 - E. attend all public court proceedings the accused has the right to attend;
 - F. confer with the prosecution;
 - G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
 - H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
 - I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
 - J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
 - K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there

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1 are compelling evidentiary reasons for retention of the
2 victim's property; ~~and~~

3 L. be informed by the court at a sentencing
4 proceeding that the offender is eligible to earn meritorious
5 deductions from the offender's sentence and the amount of
6 meritorious deductions that may be earned by the offender; and

7 M. be notified by law enforcement and the district
8 attorney of the availability of and procedures to apply for
9 crime victims reparation."

10 SECTION 3. Section 31-26-8 NMSA 1978 (being Laws 1994,
11 Chapter 144, Section 8) is amended to read:

12 "31-26-8. PROCEDURES FOR PROVIDING VICTIMS WITH
13 PRELIMINARY INFORMATION--LAW ENFORCEMENT AGENCIES.--The law
14 enforcement agency that investigates a criminal offense shall:

15 A. inform the victim of medical services and crisis
16 intervention services available to victims;

17 B. provide the victim with the police report number
18 for the criminal offense and a copy of the following statement:
19 "If within thirty days you are not notified of an arrest in
20 your case, you may call (telephone number for the law
21 enforcement agency) to obtain information on the status of your
22 case."; ~~and~~

23 C. provide the victim with the name of the district
24 attorney for the judicial district in which the criminal
25 offense was committed and the address and telephone number for

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1 that district attorney's office; and

2 D. provide the victim or, if appropriate, a member
3 of the victim's family with a written notification in a manner
4 and form prescribed by the crime victims reparation commission
5 of the availability of crime victims reparation and eligibility
6 to apply."

7 SECTION 4. Section 31-26-9 NMSA 1978 (being Laws 1994,
8 Chapter 144, Section 9, as amended) is amended to read:

9 "31-26-9. PROCEDURES FOR PROVIDING VICTIMS WITH NOTICE OF
10 RIGHTS AND INFORMATION REGARDING PROSECUTION OF A CRIMINAL
11 OFFENSE--DISTRICT ATTORNEYS.--

12 A. Within seven working days after a district
13 attorney files a formal charge against the accused for a
14 criminal offense, the district attorney shall provide the
15 victim of the criminal offense with:

16 (1) a copy of Article 2, Section 24 of the
17 constitution of New Mexico, regarding victims' rights;

18 (2) a copy of the Victims of Crime Act;

19 (3) a copy of the charge filed against the
20 accused for the criminal offense;

21 (4) a clear and concise statement of the
22 procedural steps generally involved in prosecuting a criminal
23 offense; ~~and~~

24 (5) the name of a person within the district
25 attorney's office whom the victim may contact for additional

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1 information regarding prosecution of the criminal offense; and
2 (6) written notification in a manner and form
3 prescribed by the crime victims reparation commission of the
4 availability of crime victims reparation and eligibility to
5 apply.

6 B. The district attorney's office shall provide the
7 victim with oral or written notice, in a timely fashion, of a
8 scheduled court proceeding attendant to the criminal offense."

9 SECTION 5. Section 36-1-26 NMSA 1978 (being Laws 1984,
10 Chapter 110, Section 2) is amended to read:

11 "36-1-26. DIRECTOR--DUTIES.--The director of the
12 administrative office of the district attorneys shall, under
13 the supervision of the elected or appointed district attorneys:

14 A. assist in the preparation and presentation of
15 fiscal and budgetary matters to the department of finance and
16 administration, the legislative finance committee and the
17 legislature;

18 B. prepare personnel pay plans [~~and~~];

19 C. develop a comprehensive [~~data base~~] database on
20 case management;

21 [~~G.~~] D. prepare and distribute uniform forms and
22 procedures manuals and develop uniform systems for use by
23 district attorneys' offices with respect to administrative,
24 personnel and budgetary matters;

25 [~~D.~~] E. prepare and distribute forms and procedures

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1 for the establishment of a uniform worthless check program;

2 ~~[E.]~~ F. prepare, update and distribute a district
3 attorneys' trial manual;

4 ~~[F.]~~ G. prepare and conduct training and education
5 programs for district attorneys;

6 ~~[G.]~~ H. prosecute conflict of interest and other
7 cases at the request of an elected or appointed district
8 attorney;

9 ~~[H.]~~ I. submit an annual report to the department
10 of finance and administration and the legislative finance
11 committee detailing the activities of the office and
12 statistical and other data relating to all district attorneys'
13 offices;

14 J. prepare and distribute forms for collecting
15 victim impact information; and

16 ~~[I.]~~ K. perform such other duties in furtherance of
17 the administration of justice and the administration of the
18 business of the district attorneys as directed by the elected
19 or appointed district attorneys."

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