SENATE BILL 625

49TH LEGISLATURE - **STATE OF NEW MEXICO** - **FIRST SESSION, 2009**

INTRODUCED BY

Rod Adair

AN ACT

RELATING TO CRIMINAL PROCEDURE; REQUIRING WRITTEN NOTIFICATION OF A CRIME VICTIM; PROVIDING A CRIME VICTIM STANDING TO REQUEST RECONSIDERATION IF A DISTRICT ATTORNEY DOES NOT COMPLY WITH NOTICE PROVISIONS REQUIRED IN THE VICTIMS OF CRIME ACT; REQUIRING A DISTRICT ATTORNEY TO DEMONSTRATE COMPLIANCE WITH NOTICE REQUIREMENTS OF THE VICTIMS OF CRIME ACT.

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

Section 1. Section 31-26-9 NMSA 1978 (being Laws 1994, Chapter 144, Section 9, as amended) is amended to read:

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

A. Within seven working days after a district attorney files a formal charge against the accused for a

.177089.1

criminal offense, the district attorney shall provide the

victim of the criminal offense with:

(1) a copy of Article 2, Section 24 of the

constitution of New Mexico, regarding victims' rights;

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

(3) a copy of the charge filed against the

accused for the criminal offense;

(4) a clear and concise statement of the

procedural steps generally involved in prosecuting a criminal

offense; and

(5) the name of a person within the district

attorney's office whom the victim may contact for additional

information regarding prosecution of the criminal offense.

B. The district attorney's office shall provide the

victim with [oral or] written notice, in a timely fashion, of a

scheduled court proceeding attendant to the criminal offense

and, upon providing the written notice, shall file a

certificate of service.

C. A district attorney's failure to provide notice

pursuant to this section is grounds for a victim to request

reconsideration of a sentence imposed upon the accused;

provided that the victim files the request for reconsideration

within thirty days of a juvenile proceeding or within ninety

days of an adult proceeding."

Section 2. Section 31-26-10.1 NMSA 1978 (being Laws 2005,

.177089.1

underscored material = new
[bracketed material] = delete

1 Chapter 283, Section 1) is amended to read:

2 "31-26-10.1. CRIME VICTIM PRESENCE AT COURT PROCEEDINGS--

3 PLEA AGREEMENT NOTIFICATION.--

4 A. At any scheduled court proceeding, the court

5 shall inquire on the record whether a victim is present for the

6 purpose of making an oral statement or submitting a written

7 statement respecting the victim's rights enumerated in Section

8 31-26-4 NMSA 1978. If the victim is not present, the court

9 shall inquire on the record whether an attempt has been made to

10 notify the victim of the proceeding. If the district attorney

11 cannot [verify] produce a certificate of service pursuant to

12 Section 31-26-9 NMSA 1978 that an attempt has been made, the

13 court shall:

14 (1) reschedule the hearing; or

15 (2) continue with the hearing but reserve

16 ruling until the victim has been notified and given an

17 opportunity to make a statement; and

18 (3) order the district attorney to notify the

19 victim of the rescheduled hearing.

20 B. A victim who has not been notified of the

21 scheduled court proceeding may file a request for

22 reconsideration of a sentence imposed upon the accused, and, if

23 the request is timely filed pursuant to Section 31-26-9 NMSA

24 1978, the court shall grant the request for reconsideration.

25 [B.] C. The provisions of this section shall not

.177089.1

- 3 -

1   limit the district attorney's ability to exercise prosecutorial

2   discretion on behalf of the state in a criminal case.

3   [C.] D. The provisions of this section shall not

4   require the court to continue or reschedule any proceedings if

5   it would result in a violation of a jurisdictional rule."

6   - 4 -

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

.177089.1