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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL PROCEDURE - VICTIM'S RIGHTS

Introduced By: Representatives Roberts, Lancia, Nardolillo, Costa, and Giarrusso

Date Introduced: February 26, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-28-3 of the General Laws in Chapter 12-28 entitled "Victim's  
2 Rights" is hereby amended to read as follows:

3 **12-28-3. General rights.** -- (a) Each victim of a criminal offense who either makes a  
4 timely report of the crime and who cooperates with law enforcement authorities in the  
5 investigation and prosecution of the offense, or who makes a report of any offense which would  
6 be a violation of §§ 11-37-2, 11-37-4, or 11-37-8.1, and who cooperates with law enforcement  
7 authorities in the investigation and prosecution of the offense, shall have the following rights:

8 (1) To be notified no less frequently than every three (3) months by law enforcement  
9 authorities of the status of the investigation, until the time that the alleged perpetrator is  
10 apprehended or the investigation closed. In the case of a criminal offense that results in the  
11 victim's death, the law enforcement authorities shall provide notification to a designated family  
12 member of the victim;

13 (2) To be notified by law enforcement authorities of the arraignment of the alleged  
14 perpetrator before a court empowered to set bail; and to be informed of the release of the alleged  
15 perpetrator on bail or personal recognizance;

16 (3) To receive protection from harm and threats of harm arising out of the victim's  
17 cooperation with law enforcement and prosecution efforts, and to be provided with information as  
18 to the means of protection available;

19 (4) To be notified of all court proceedings at which the victim's presence is required in a

1 reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any  
2 scheduled court proceeding in sufficient time to prevent an unnecessary appearance at the  
3 courthouse;

4 (5) To be provided, whenever feasible, with a secure waiting area during court  
5 proceedings that does not require the victim to be in close proximity to the defendant and the  
6 family and friends of the defendant;

7 (6) To be informed of the procedure to be followed in order to apply for and receive any  
8 witness fee to which the victim is entitled;

9 (7) To be provided with appropriate employer intercession services to ensure that the  
10 employer of the victim will cooperate with the criminal justice process in order to minimize the  
11 employee's loss of pay and other benefits resulting from court appearances;

12 (8) To have any stolen or other personal property expeditiously returned by law  
13 enforcement agencies when no longer needed as evidence;

14 (9) To be informed of financial assistance and other social services available to crime  
15 victims and the manner of applying for them. All eligible victims shall be informed of the  
16 existence of the criminal injuries compensation fund and the manner of applying for it;

17 (10) To be consulted by the administrator of probation and parole in the course of his or  
18 her preparation of the presentence report on felony cases and to have included in that report a  
19 statement regarding the impact which the defendant's criminal conduct has had upon the victim;

20 (11) To be afforded the right to address the court prior to sentencing in those cases where  
21 the defendant has been adjudicated guilty following a trial;

22 (12) To be informed of the disposition of the case against the alleged offender;

23 (13) To be notified in felony cases whenever the defendant or perpetrator is released  
24 from custody at the adult correctional institutions. When release is ordered prior to final  
25 conviction, it shall be the responsibility of the governmental entity having final responsibility for  
26 the defendant's supervised custody to give notice to the victim. When release is granted by parole,  
27 the notice to the victim shall be given by the parole board. In all other cases when release is  
28 granted, the notice to the victim shall be given by the department of corrections. Victims who  
29 wish to be notified by the department of corrections shall register their names and the addresses  
30 they wish the notices to be sent with the department of corrections. Department of corrections  
31 notification shall also include furlough, transfer out of state, escape and death;

32 (14) To be afforded the opportunity to make a statement, in writing and signed,  
33 regarding the impact which the defendant's criminal conduct had upon the victim. The statement  
34 shall be inserted into the case file maintained by the attorney general or prosecutor and shall be

1 presented to the court for its review prior to the acceptance of any plea negotiation. The statement  
2 shall be submitted to the parole board for inclusion in its records regarding the defendant's  
3 conduct against the victim; and

4 (15) To be informed by the prosecuting officer of the right to request that restitution be  
5 an element of the final disposition of a case.

6 (b) The rights afforded to the victim of a crime by this section shall be afforded as well  
7 to the immediate families of homicide victims.

8 (c) Unless otherwise specified, in felony cases it shall be the responsibility of the  
9 attorney general and the victims' services unit as described in § 12-28-9 to make certain that the  
10 victim receives the notification that is required by this section. In misdemeanor cases, it shall be  
11 the responsibility of the law enforcement agency making the arrest and of the victims' service unit  
12 as described in § 12-28-9 to make certain that the victim receives the notification that is required  
13 by this section.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL PROCEDURE - VICTIM'S RIGHTS

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1           This act would require that a victim of a sexual assault under §§ 11-37-2, 11-37-4, and  
2 11-37-8.1, be afforded the protections of the Victim's Rights Act, regardless of when the crime  
3 occurred, as long as it is reported to authorities and the victim cooperates.

4           This act would take effect upon passage.

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