
Judiciary Committee

PSHB 2312

Title: An act relating to victims' rights in plea agreement procedures.

Brief Description: Clarifying victims' rights regarding plea agreements.

Sponsors: Representatives Carrell, Mielke, Boldt, Nixon, McMahan, Clements and Ahern.

Brief Summary of Proposed Substitute Bill

- Grants victims' representatives in an aggravated first degree murder case involving more than one victim the right to express their views on a plea agreement and have them considered by the prosecutor in deciding whether to negotiate or conclude the plea agreement.
- Grants victims' representatives in an aggravated first degree murder case involving more than one victim the right to express their views on a plea agreement and have them considered by the court in deciding whether to accept or reject the plea agreement.
- Requires prosecutors to explain to victims' representatives in an aggravated first degree murder involving more than one victim their rights in the plea agreement process.

Hearing Date: 1/23/04

Staff: Wendy Chen (786-7119); Bill Perry (786-7123).

Background:

Washington crime victims have certain constitutional and statutory rights. The Constitution grants victims of felony crimes the right to be informed of, to attend, and to make statements at certain court proceedings. Victims' rights statutes afford a number of additional rights, including the right of violent or sex crime victims to be informed of their rights when they report a crime and to have a crime victim advocate present at judicial proceedings; the right of felony crime victims to present a statement at the sentencing hearing; and the right of all crime victims to be informed of the disposition of the case, to submit a victim impact statement to the court, and to present a statement regarding an application for pardon or commutation of sentence. Victims may designate, or have a prosecutor designate, a representative to exercise their rights.

The Sentencing Reform Act (SRA) provides for plea agreements between the prosecutor and defendant in which the defendant agrees to plea to a certain offense, and the prosecutor agrees to drop or reduce certain charges or recommend certain sentences. The court must approve plea

agreements as consistent with the interests of justice and with prosecuting standards under the SRA.

The SRA requires the prosecutor to make reasonable efforts to provide victims of a violent offense information about the plea agreement and to ascertain and inform the court of any objections or comments from victims.

One of the aggravating circumstances of first degree murder involves multiple victims whose murders are part of a common scheme or plan or the result of a single act of the person. A person found guilty of aggravated first degree murder is subject to life imprisonment or capital punishment.

Summary of Proposed Substitute Bill:

A victim's representative in an aggravated first degree murder case where there is more than one victim, and the murders are part of a common scheme or plan or the result of a single act of the defendant has the right to be notified of a plea agreement negotiation between the prosecutor and defendant and also has the right to express his or her views on the agreement. The prosecutor must consider the views in deciding whether to negotiate or conclude the plea agreement.

A victim's representative in such aggravated first degree murder cases has the right to be notified when a plea agreement is presented to the court and also has the right to express his or her views on the agreement. The court must consider the views in deciding whether to accept or reject the agreement.

At the outset of a case and before a plea agreement is allowed, the prosecutor must explain to victims' representatives in such aggravated first degree murder cases their rights under the Washington State Constitution, the process and circumstances leading to the plea agreement, and the services of victim advocates in helping the representatives submit impact statements. The prosecutor must ensure that the representatives are notified of a plea agreement negotiation between the prosecutor and defendant and of a plea agreement presentation to the court, and that the representatives have the opportunity to express their views on the agreement at each stage.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.