

1 5360-S AME AMH-11

2 **SSB 5360 - H COMM AMD ADOPTED 4-14-93**

3 By Committee on Judiciary

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5 On page 1, beginning on line 16, after "required" strike all
6 material through "proficiency" on line 17

7 **SSB 5360 - H COMM AMD ADOPTED 4-14-93**

8 By Committee on Judiciary

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10 On page 2, line 37, after "list by" strike "court staff" and insert
11 "the court clerk"

12 On page 3, line 1, after "(2)" strike "Court staff shall be
13 required to obtain" and insert "All court clerks shall obtain"

14 On page 3, beginning on line 14, after "brochures to" strike "the
15 staff of all courts" and insert "all court clerks"

16 On page 3, after line 16, insert the following:

17 "(4) For purposes of this section, "court clerks" means court
18 administrators in courts of limited jurisdiction and elected court
19 clerks."

20 **SSB 5360 - H COMM AMD ADOPTED 4-14-93**

21 By Committee on Judiciary

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23 On page 2, beginning on line 33, after "order," strike all material
24 through "order." on line 35, and insert "and the following statement:
25 "You can be arrested even if the person or persons who obtained the
26 order invite or allow you to violate the order's prohibitions. The
27 respondent has the sole responsibility to avoid or refrain from
28 violating the order's provisions. Only the court can change the order
29 upon written application.""

1 **SSB 5360 - H COMM AMD ADOPTED 4-14-93**

2 By Committee on Appropriations

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4 On page 3, after line 16, insert the following:

5 "(4) The administrator for the courts shall arrange for translation
6 of the instructions and informational brochures required by this
7 section, which shall contain a sample of the standard petition and
8 order for protection forms, into Spanish, Vietnamese, Laotian,
9 Cambodian, and Chinese, and shall distribute a master copy of the
10 translated instructions and informational brochures to all court clerks
11 by January 1, 1995."

12 On page 5, after line 37 insert:

13 "NEW SECTION. Sec. 4. If specific funding for section 2
14 subsection (4) of this act, referencing this act by bill, section and
15 subsection number, is not provided by June 30, 1993, in the omnibus
16 appropriations act, section 2 subsection (4) is null and void."

17 Renumber the remaining section consecutively and correct internal
18 references accordingly.

3

4 On page 5, after line 37, insert the following:

5 "Sec. 4. RCW 7.69.020 and 1985 c 443 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
10 or misdemeanor under the laws of this state or equivalent federal or
11 local law.

12 (2) "Survivor" or "survivors" of a victim of crime means a spouse,
13 child, parent, legal guardian, sibling, or grandparent. If there is
14 more than one survivor of a victim of crime, one survivor shall be
15 designated by the prosecutor to represent all survivors for purposes of
16 providing the notice to survivors required by this chapter.

17 (3) "Victim" means a person against whom a crime has been committed
18 or the representative of a person against whom a crime has been
19 committed.

20 (4) "Victim impact statement" means a statement submitted to the
21 court by the victim or a survivor, individually or with the assistance
22 of the prosecuting attorney if assistance is requested by the victim or
23 survivor, which may include but is not limited to information assessing
24 the financial, medical, social, and psychological impact of the offense
25 upon the victim or survivors.

26 (5) "Witness" means a person who has been or is expected to be
27 summoned to testify for the prosecution in a criminal action, or who by
28 reason of having relevant information is subject to call or likely to
29 be called as a witness for the prosecution, whether or not an action or
30 proceeding has been commenced.

31 (6) "Crime victim/witness program" means any crime victim and
32 witness program of a county or local law enforcement agency or
33 prosecutor's office, any rape crisis center's sexual assault victim
34 advocacy program as provided in chapter 70.125 RCW, any domestic
35 violence program's legal and community advocate program for domestic
36 violence victims as provided in chapter 70.123 RCW, or any other crime
37 victim advocacy program which provides trained advocates to assist
38 crime victims during the investigation and prosecution of the crime.

1 **Sec. 5.** RCW 7.69.030 and 1985 c 443 s 3 are each amended to read
2 as follows:

3 There shall be a reasonable effort made to ensure that victims,
4 survivors of victims, and witnesses of crimes have the following
5 rights:

6 (1) With respect to victims of violent or sex crimes, to receive,
7 at the time of reporting the crime to law enforcement officials, a
8 written statement of the rights of crime victims as provided in this
9 chapter. The written statement shall include the name, address, and
10 telephone number of a county or local crime victim/witness program, if
11 such a crime victim/witness program exists in the county;

12 (2) To be informed by local law enforcement agencies or the
13 prosecuting attorney of the final disposition of the case in which the
14 victim, survivor, or witness is involved;

15 (~~(2)~~) (3) To be notified by the party who issued the subpoena
16 that a court proceeding to which they have been subpoenaed will not
17 occur as scheduled, in order to save the person an unnecessary trip to
18 court;

19 (~~(3)~~) (4) To receive protection from harm and threats of harm
20 arising out of cooperation with law enforcement and prosecution
21 efforts, and to be provided with information as to the level of
22 protection available;

23 (~~(4)~~) (5) To be informed of the procedure to be followed to apply
24 for and receive any witness fees to which they are entitled;

25 (~~(5)~~) (6) To be provided, whenever practical, a secure waiting
26 area during court proceedings that does not require them to be in close
27 proximity to defendants and families or friends of defendants;

28 (~~(6)~~) (7) To have any stolen or other personal property
29 expeditiously returned by law enforcement agencies or the superior
30 court when no longer needed as evidence. When feasible, all such
31 property, except weapons, currency, contraband, property subject to
32 evidentiary analysis, and property of which ownership is disputed,
33 shall be photographed and returned to the owner within ten days of
34 being taken;

35 (~~(7)~~) (8) To be provided with appropriate employer intercession
36 services to ensure that employers of victims, survivors of victims, and
37 witnesses of crime will cooperate with the criminal justice process in
38 order to minimize an employee's loss of pay and other benefits
39 resulting from court appearance;

1 ~~((8))~~ (9) To access to immediate medical assistance and not to be
2 detained for an unreasonable length of time by a law enforcement agency
3 before having such assistance administered. However, an employee of
4 the law enforcement agency may, if necessary, accompany the person to
5 a medical facility to question the person about the criminal incident
6 if the questioning does not hinder the administration of medical
7 assistance;

8 ~~((9))~~ (10) With respect to victims of violent and sex crimes, to
9 have a crime victim advocate from a crime victim/witness program
10 present at any prosecutorial or defense interviews with the victim.
11 This subsection applies if practical and if the presence of the crime
12 victim advocate does not cause any unnecessary delay in the
13 investigation or prosecution of the case. The role of the crime victim
14 advocate is to provide emotional support to the crime victim;

15 (11) With respect to victims and survivors of victims, to be
16 physically present in court during trial, or if subpoenaed to testify,
17 to be scheduled as early as practical in the proceedings in order to be
18 physically present during trial after testifying and not to be excluded
19 solely because they have testified;

20 ~~((10))~~ (12) With respect to victims and survivors of victims, to
21 be informed by the prosecuting attorney of the date, time, and place of
22 the trial and of the sentencing hearing for felony convictions upon
23 request by a victim or survivor;

24 ~~((11))~~ (13) To submit a victim impact statement or report to the
25 court, with the assistance of the prosecuting attorney if requested,
26 which shall be included in all presentence reports and permanently
27 included in the files and records accompanying the offender committed
28 to the custody of a state agency or institution;

29 ~~((12))~~ (14) With respect to victims and survivors of victims, to
30 present a statement personally or by representation, at the sentencing
31 hearing for felony convictions; and

32 ~~((13))~~ (15) With respect to victims and survivors of victims, to
33 entry of an order of restitution by the court in all felony cases, even
34 when the offender is sentenced to confinement, unless extraordinary
35 circumstances exist which make restitution inappropriate in the court's
36 judgment.

37 **Sec. 6.** RCW 7.69A.020 and 1992 c 188 s 2 are each amended to read
38 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
4 or misdemeanor under the laws of this state or equivalent federal or
5 local law.

6 (2) "Child" means any living child under the age of eighteen years.

7 (3) "Victim" means a living person against whom a crime has been
8 committed.

9 (4) "Witness" means a person who has been or is expected to be
10 summoned to testify for the prosecution in a criminal action, or who by
11 reason of having relevant information is subject to call or likely to
12 be called as a witness for the prosecution, whether or not an action or
13 proceeding has been commenced.

14 (5) "Family member" means child, parent, or legal guardian.

15 (6) "Advocate" means any person, including a family member not
16 accused of a crime, who provides support to a child victim or child
17 witness during any legal proceeding.

18 (7) "Court proceedings" means any court proceeding conducted during
19 the course of the prosecution of a crime committed against a child
20 victim, including pretrial hearings, trial, sentencing, or appellate
21 proceedings.

22 (8) "Identifying information" means the child's name, address,
23 location, and photograph, and in cases in which the child is a relative
24 or stepchild of the alleged perpetrator, identification of the
25 relationship between the child and the alleged perpetrator.

26 (9) "Crime victim/witness program" means any crime victim and
27 witness program of a county or local law enforcement agency or
28 prosecutor's office, any rape crisis center's sexual assault victim
29 advocacy program as provided in chapter 70.125 RCW, any domestic
30 violence program's legal and community advocate program for domestic
31 violence victims as provided in chapter 70.123 RCW, or any other crime
32 victim advocacy program which provides trained advocates to assist
33 crime victims during the investigation and prosecution of the crime.

34 **Sec. 7.** RCW 7.69A.030 and 1985 c 394 s 3 are each amended to read
35 as follows:

36 In addition to the rights of victims and witnesses provided for in
37 RCW 7.69.030, there shall be every reasonable effort made by law
38 enforcement agencies, prosecutors, and judges to assure that child

1 victims and witnesses are afforded the rights enumerated in this
2 section. The enumeration of rights shall not be construed to create
3 substantive rights and duties, and the application of an enumerated
4 right in an individual case is subject to the discretion of the law
5 enforcement agency, prosecutor, or judge. Child victims and witnesses
6 have the following rights:

7 (1) To have explained in language easily understood by the child,
8 all legal proceedings and/or police investigations in which the child
9 may be involved.

10 (2) With respect to child victims of sex or violent crimes or child
11 abuse, to have a crime victim advocate from a crime victim/witness
12 program present at any prosecutorial or defense interviews with the
13 child victim. This subsection applies if practical and if the presence
14 of the crime victim advocate does not cause any unnecessary delay in
15 the investigation or prosecution of the case. The role of the crime
16 victim advocate is to provide emotional support to the child victim and
17 to promote the child's feelings of security and safety.

18 (3) To be provided, whenever possible, a secure waiting area during
19 court proceedings and to have an advocate or support person remain with
20 the child prior to and during any court proceedings.

21 ~~((+3))~~ (4) To not have the names, addresses, nor photographs of
22 the living child victim or witness disclosed by any law enforcement
23 agency, prosecutor's office, or state agency without the permission of
24 the child victim, child witness, parents, or legal guardians to anyone
25 except another law enforcement agency, prosecutor, defense counsel, or
26 private or governmental agency that provides services to the child
27 victim or witness.

28 ~~((+4))~~ (5) To allow an advocate to make recommendations to the
29 prosecuting attorney about the ability of the child to cooperate with
30 prosecution and the potential effect of the proceedings on the child.

31 ~~((+5))~~ (6) To allow an advocate to provide information to the
32 court concerning the child's ability to understand the nature of the
33 proceedings.

34 ~~((+6))~~ (7) To be provided information or appropriate referrals to
35 social service agencies to assist the child and/or the child's family
36 with the emotional impact of the crime, the subsequent investigation,
37 and judicial proceedings in which the child is involved.

38 ~~((+7))~~ (8) To allow an advocate to be present in court while the
39 child testifies in order to provide emotional support to the child.

1 (~~(8)~~) (9) To provide information to the court as to the need for
2 the presence of other supportive persons at the court proceedings while
3 the child testifies in order to promote the child's feelings of
4 security and safety.

5 (~~(9)~~) (10) To allow law enforcement agencies the opportunity to
6 enlist the assistance of other professional personnel such as child
7 protection services, victim advocates or prosecutorial staff trained in
8 the interviewing of the child victim.

9 (11) With respect to child victims of violent or sex crimes or
10 child abuse, to receive either directly or through the child's parent
11 or guardian if appropriate, at the time of reporting the crime to law
12 enforcement officials, a written statement of the rights of child
13 victims as provided in this chapter. The written statement shall
14 include the name, address, and telephone number of a county or local
15 crime victim/witness program, if such a crime victim/witness program
16 exists in the county."

17 Renumber the remaining sections consecutively and correct any
18 internal references accordingly.

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