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HOUSE BILL 2311

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State of Washington

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2004 Regular Session

By Representatives Carrell, Mielke, Boldt, Nixon, McDonald, Pearson, McMahan, Anderson, Clements, Ahern, Hinkle and Benson

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1 AN ACT Relating to ensuring victims' rights to express their views  
2 regarding a plea agreement before a court; adding a new section to  
3 chapter 9.94A RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The Washington state Constitution recognizes  
6 that crime victims have a meaningful role in the criminal justice  
7 system and grants victims certain basic and fundamental rights,  
8 including the right of victims or their representatives to be informed  
9 of, to attend, and to make statements at certain court proceedings  
10 involving criminal defendants. The exercise of these rights may not  
11 constitute a basis for error in favor of a defendant in any criminal  
12 proceeding.

13 State law provides that persons are subject to capital punishment  
14 if they are found guilty of aggravated first degree murder. A person  
15 is guilty of aggravated first degree murder if, with a premeditated  
16 intent to cause the death of another person, they cause the death of  
17 such person or of a third person, and one or more of the aggravating  
18 circumstances enumerated in statute exist.

1 Plea agreements are agreements made between defendants and  
2 prosecutors whereby defendants plead guilty or no contest to certain  
3 criminal charges and prosecutors agree to drop certain charges, reduce  
4 certain charges, or recommend that judges enter specific sentences that  
5 are acceptable to the defendants. Criminal cases are settled by plea  
6 agreements for many reasons: As criminal courts become ever more  
7 crowded and overburdened, prosecutors feel increased pressure to move  
8 cases quickly through the system; trials and appeals can take months or  
9 even years at great expense to the public while guilty pleas can often  
10 be arranged rather expeditiously; the outcome of a trial is usually  
11 unpredictable and plea agreements provide both prosecutors and  
12 defendants some control over the result; if trials result in hung  
13 juries, prosecutors and defendants may negotiate a plea agreement  
14 rather than go through yet another trial; no matter how strong evidence  
15 may be, prosecutors have no assurance of a conviction and may undergo  
16 a long, expensive trial and still lose the case; and plea agreements  
17 give prosecutors flexibility where they can solicit defendants, though  
18 guilty, to give testimony about other criminal defendants or help  
19 resolve other cases that have been difficult to prove.

20 In aggravated first degree murder cases, plea agreements are an  
21 especially sensitive issue because of the potential number and type of  
22 victims, the magnitude of the crimes, and the message plea agreements  
23 send to criminal offenders, victims, and the community at large.  
24 Special care must be taken to ensure plea agreements in aggravated  
25 first degree murder cases are appropriate, that victims and their  
26 representatives are adequately involved in the decision-making process,  
27 and that the best interests of justice and public safety ultimately  
28 prevail.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW  
30 to read as follows:

31 (1) Victims, or their representatives, in aggravated first degree  
32 murder cases have the right to be notified when a plea agreement is to  
33 be presented to the court and to express their views on the plea  
34 agreement to the court prior to the court accepting or rejecting the  
35 plea agreement. The court shall consider the views of the victim or  
36 the victim's representative in deciding whether to accept or reject the  
37 negotiated plea agreement.

1           (2) Before a plea agreement is allowed in any aggravated first  
2 degree murder case, and prior to any plea agreement reached with the  
3 defendant being presented to the court, a prosecutor shall:

4           (a) Explain to victims or their representatives the rights of  
5 victims provided in the Washington state Constitution;

6           (b) Explain to victims or their representatives how the plea  
7 agreement process works and the circumstances that led to the plea  
8 agreement;

9           (c) Explain to victims or their representatives how victim  
10 advocates can help victims prepare and submit impact statements  
11 regarding the plea agreement that are useful to both the prosecutor and  
12 the court;

13           (d) Ensure victims or their representatives are notified when a  
14 plea agreement is to be presented to the court and have the opportunity  
15 to express their views on the plea agreement to the court prior to the  
16 court accepting the plea agreement.

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