

SENATE BILL NO. 451

INTRODUCED BY MAZUREK

IN THE SENATE

February 20, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass. Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
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April 3, 1985

Second reading, amendments
concurrent in.

April 5, 1985

Third reading, amendments
concurrent in. Ayes, 45; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 451
 2 INTRODUCED BY Maguire

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE FAIR
 5 AND PROPER TREATMENT OF VICTIMS AND WITNESSES IN THE
 6 CRIMINAL JUSTICE SYSTEM; REQUIRING THE PROVISION OF SERVICES
 7 AND ASSISTANCE TO CRIME VICTIMS AND WITNESSES; GRANTING
 8 RULEMAKING AUTHORITY TO THE ATTORNEY GENERAL; AND PROVIDING
 9 AN IMMEDIATE EFFECTIVE DATE."

10
 11 WHEREAS, without the cooperation of victims and
 12 witnesses, the criminal justice system would cease to
 13 function; yet with some exceptions, these individuals are
 14 either ignored by the criminal justice system or simply used
 15 as a means to identify and punish offenders; and

16 WHEREAS, all too often the victim of a serious crime is
 17 forced to suffer physical, psychological, or financial
 18 hardship, first as a result of the criminal act, and then as
 19 a result of contact with a criminal justice system
 20 unresponsive to the real needs of such victim; and

21 WHEREAS, while the defendant is provided with counsel
 22 who can explain both the criminal justice process and the
 23 rights of the defendant, the victim or witness has no
 24 counterpart and is usually not even notified when the
 25 defendant is released on bail, the case is dismissed, a plea

1 to a lesser charge is accepted, or a court date is changed;
 2 and

3 WHEREAS, the victim and witness who cooperate with the
 4 prosecutor often find that they must share the pretrial
 5 waiting room with the defendant or his family and friends;
 6 and

7 WHEREAS, the victim may lose valuable property to a
 8 criminal only to lose it again for long periods of time to
 9 law enforcement officials until the trial, and sometimes
 10 until all appeals are over; and many times the property is
 11 damaged or lost, which is particularly stressful for the
 12 elderly or the poor; and

13 WHEREAS, the majority of serious crimes fall under the
 14 jurisdiction of state and local law enforcement agencies.

15 THEREFORE, the Legislature of the State of Montana
 16 finds it appropriate to provide for the fair and proper
 17 treatment of crime victims and witnesses in the criminal
 18 justice system.

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 Section 1. Purpose. The legislature declares that the
 22 purposes of [this act] are to:

- 23 (1) protect the role of crime victims and witnesses in
 24 the criminal justice process;
 25 (2) assure that victims and witnesses of crime receive



-2- INTRODUCED BILL
 SB 451

1 fair and proper treatment from law enforcement agencies and
2 prosecutors; and

3 (3) provide a standard of conduct governing the
4 treatment of victims and witnesses in criminal cases.

5 Section 2. Services to victims of crime. Law
6 enforcement personnel shall assure that a victim of a crime
7 routinely receives emergency social and medical services as
8 soon as possible and that such victim is given information
9 on the following:

10 (1) the availability of crime victim compensation;

11 (2) community-based victim treatment programs;

12 (3) the role of the victim in the criminal justice
13 process, including what he can expect from the system, as
14 well as what the system expects from the victim; and

15 (4) stages in the criminal justice process of
16 significance to a crime victim and the manner in which
17 information about such stages may be obtained.

18 Section 3. Notification of available protective
19 services. Law enforcement officers and prosecuting attorneys
20 shall routinely provide a victim or witness information on
21 the availability of services to protect the victim or
22 witness from intimidation.

23 Section 4. Scheduling changes. (1) As soon as
24 practicable, the prosecuting attorney shall notify a victim
25 or witness of any scheduling changes that may affect the

1 appearance of the victim or witness at a criminal justice
2 proceeding that he is scheduled to attend.

3 (2) For the purpose of providing notification, the
4 prosecuting attorney shall have available a system for
5 promptly alerting a victim or witness that a scheduling
6 change has been made.

7 Section 5. Prompt notification to victims and
8 witnesses of felony offenses. (1) A person described in
9 subsection (2) who provides the appropriate official with a
10 current address and telephone number must receive prompt
11 advance notification, if possible, of proceedings relating
12 to his case, including:

13 (a) the arrest of an accused;

14 (b) the initial appearance of an accused before a
15 judicial officer;

16 (c) the release of the accused pending judicial
17 proceedings; and

18 (d) proceedings in the prosecution of the accused,
19 including entry of a plea of guilty, the setting of a trial
20 date, the sentencing schedule, the sentence imposed, the
21 term of imprisonment, if imposed, and the release of the
22 accused from imprisonment.

23 (2) A person entitled to notification under subsection
24 (1) must be a victim or witness of a felony offense, a
25 relative of such a victim or witness who is a minor, or a

1 relative of a homicide victim.

2 Section 6. Consultation with victim of felony offense.
3 The prosecuting attorney in a criminal case shall consult
4 with the victim of a felony offense or, in the case of a
5 minor child victim or homicide victim, with the family of
6 the victim in order to obtain the views of the victim or his
7 family regarding the disposition of the case, including:

- 8 (1) dismissal of the case;
9 (2) release of the accused pending judicial
10 proceedings;
11 (3) plea negotiations; and
12 (4) pretrial diversion of the case from the judicial
13 process.

14 Section 7. Separate waiting area. Victims and other
15 prosecution witnesses must be provided, prior to court
16 appearance, with a waiting area that is separate from all
17 other witnesses and persons who have arrived to attend the
18 court proceeding.

19 Section 8. Property return. A law enforcement agency
20 or prosecuting attorney shall promptly return any of the
21 victim's property held for evidentiary purposes, unless
22 there is a compelling law enforcement reason for retaining
23 such property.

24 Section 9. Notification to employer or creditor. (1)
25 The law enforcement agency or prosecuting attorney in a

1 criminal case shall assist a victim or witness who requests
2 assistance in informing an employer that the need for victim
3 and witness cooperation in the prosecution of the case may
4 necessitate absence of the victim or witness from his place
5 of employment.

6 (2) A law enforcement agency or prosecuting attorney
7 shall assist a victim or witness who, as a direct result of
8 a crime or because of cooperation with the law enforcement
9 agency or prosecuting attorney, is subjected to serious
10 financial strain. Such agency or prosecuting attorney shall
11 assist the victim or witness by explaining to creditors the
12 reason for such serious financial strain.

13 Section 10. Training in victim assistance. The Montana
14 law enforcement academy shall offer education and training
15 in victim assistance to law enforcement officers and
16 prosecuting attorneys and shall provide such education and
17 training in its regular curriculum, so that victims may be
18 properly assisted.

19 Section 11. Duty of attorney general. The attorney
20 general shall assure that victims and witnesses of crime
21 receive fair and proper treatment in the criminal justice
22 system. In addition, the attorney general shall assure that
23 victims and witnesses are provided important services and
24 assistance as required under [this act].

25 Section 12. Rulemaking authority. The attorney general

1 shall adopt rules necessary to implement the provisions of
2 this act and to assure compliance by law enforcement
3 agencies, prosecuting attorneys, and others who may be
4 subject to the requirements of this act.

5 Section 13. No cause of action for damages. Nothing in
6 [sections 1 through 12] may be construed to create a cause
7 of action for damages against the state or one of its
8 political subdivisions.

9 Section 14. Effective date. This act is effective on
10 passage and approval; however, no rules adopted pursuant to
11 section 12 may take effect until October 1, 1985.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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6 [sections 1 through ~~12~~ 10] may be construed to create a
7 cause of action for damages against the state or one of its
8 political subdivisions.

9 ~~Section-14;---Effective-date;---This-act-is-effective---on~~
10 ~~passage---and-approval;---however;---no-rules-adopted-pursuant-to~~
11 ~~section-12-may-take-effect-until-October-17-1985;~~

-End-

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6 [sections 1 through ~~12~~ 10] may be construed to create a
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8 political subdivisions.

9 ~~Section 14.---Effective-date---This-act-is-effective---on~~
10 ~~passage---and-approval, however, no rules adopted pursuant to~~
11 ~~section 12 may take effect until October 17, 1985.~~

-End-

STANDING COMMITTEE REPORT

HOUSE

March 25 19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 451

Third reading copy (Blue color)

PROVIDES FOR THE FAIR AND PROPER TREATMENT OF CRIME VICTIMS AND WITNESSES

Respectfully report as follows: That Senate Bill No. 451

be amended as follows:

- 1. Page 3, line 7.
Strike: "routinely"
- 2. Page 3, line 20.
Strike: "routinely"
- 3. Page 4, following line 13.
Strike: subsection (b) in its entirety.

Renumber subsequent subsections.

MF

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~

Jul 3/25

Tom Hannah
REP. TOM HANNAH Chairman.

1 SENATE BILL NO. 451

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19 a result of contact with a criminal justice system
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21 WHEREAS, while the defendant is provided with counsel
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25 defendant is released on bail, the case is dismissed, a plea

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3 WHEREAS, the victim and witness who cooperate with the
4 prosecutor often find that they must share the pretrial
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REFERENCE BILL
SB 451

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25 relative of such a victim or witness who is a minor, or a

1 relative of a homicide victim.

2 Section 6. Consultation with victim of felony offense.
3 The prosecuting attorney in a criminal case shall consult
4 with the victim of a felony offense or, in the case of a
5 minor child victim or homicide victim, with the family of
6 the victim in order to obtain the views of the victim or his
7 family regarding the disposition of the case, including:

- 8 (1) dismissal of the case;
9 (2) release of the accused pending judicial
10 proceedings;
11 (3) plea negotiations; and
12 (4) pretrial diversion of the case from the judicial
13 process.

14 ~~Section 7. Separate waiting area. Victims and other~~
15 ~~prosecution witnesses must be provided prior to court~~
16 ~~appearance, with a waiting area that is separate from all~~
17 ~~other witnesses and persons who have arrived to attend the~~
18 ~~court proceeding.~~

19 Section 7. Property return. A law enforcement agency
20 or prosecuting attorney shall promptly return any of the
21 victim's property held for evidentiary purposes, unless
22 there is a compelling law enforcement reason for retaining
23 such property.

24 Section 8. Notification to employer or creditor. (1)
25 The law enforcement agency or prosecuting attorney in a

1 criminal case shall assist a victim or witness who requests
2 assistance in informing an employer that the need for victim
3 and witness cooperation in the prosecution of the case may
4 necessitate absence of the victim or witness from his place
5 of employment.

6 (2) A law enforcement agency or prosecuting attorney
7 shall assist a victim or witness who, as a direct result of
8 a crime or because of cooperation with the law enforcement
9 agency or prosecuting attorney, is subjected to serious
10 financial strain. Such agency or prosecuting attorney shall
11 assist the victim or witness by explaining to creditors the
12 reason for such serious financial strain.

13 Section 9. Training in victim assistance. The Montana
14 law enforcement academy shall offer education and training
15 in victim assistance to law enforcement officers and
16 prosecuting attorneys and shall provide such education and
17 training in its regular curriculum, so that victims may be
18 properly assisted.

19 Section 10. Duty of attorney general. The attorney
20 general shall assure that victims and witnesses of crime
21 receive fair and proper treatment in the criminal justice
22 system. In addition, the attorney general shall assure that
23 victims and witnesses are provided important services and
24 assistance as required under [this act].

25 ~~Section 12. Rulemaking authority. The attorney~~

1 ~~general shall adopt rules necessary to implement the~~
2 ~~provisions of this act and to assure compliance by law~~
3 ~~enforcement agencies, prosecuting attorneys, and others who~~
4 ~~may be subject to the requirements of this act.~~

5 Section 11. No cause of action for damages. Nothing in
6 [sections 1 through 12 10] may be construed to create a
7 cause of action for damages against the state or one of its
8 political subdivisions.

9 ~~Section 14. Effective date. This act is effective on~~
10 ~~passage and approval; however, no rules adopted pursuant to~~
11 ~~section 12 may take effect until October 1, 1985.~~

-End-