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 TH	E HOUSE
March 7, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurred 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

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Received from House.

April 3, 1985

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April 5, 1985

Second reading, amendments concurred in.

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

Sent to enrolling.

Reported correctly enrolled.

LC 0894/01

Mayuch ASI 1 INTRODUCED BY 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE FAIR 4

A BILL FOR AN ACT ENTITLED: AN ACT PROVIDING FOR THE FAIR
AND PROPER TREATMENT OF VICTIMS AND WITNESSES IN THE
CRIMINAL JUSTICE SYSTEM; REQUIRING THE PROVISION OF SERVICES
AND ASSISTANCE TO CRIME VICTIMS AND WITNESSES; GRANTING
RULEMAKING AUTHORITY TO THE ATTORNEY GENERAL; AND PROVIDING
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

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

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 the14 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

1

2

and

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:

(1) protect the role of crime victims and witnesses inthe criminal justice process;

25 (2) assure that victims and witnesses of crime receive

INTRODUCED BILL 5B 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;

(3) the role of the victim in the criminal justice
process, including what he can expect from the system, as
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 appearance of the victim or witness at a criminal justice
 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

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

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

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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 judicial10 proceedings;

11 (3) plea negotiations; and

12 (4) pretrial diversion of the case from the judicial13 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.

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

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

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

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

25 Section 12. Rulemaking authority. The attorney general

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

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49th Legislature

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SB 0451/02

APPROVED BY COMMITTEE ON JUDICIARY

1 SENATE BILL NO. 451 1 2 INTRODUCED BY MAZUREK 2 and 3 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE FAIR 4 4 5 5 AND PROPER TREATMENT OF VICTIMS AND WITNESSES IN THE 6 CRIMINAL JUSTICE SYSTEM; REQUIRING THE PROVISION OF SERVICES б and 7 AND ASSISTANCE TO CRIME VICTIMS AND WITNESSES +-- GRANTING 7 8 RUBEMAKING--AUTHORITY-TO-THE-ATTORNEY-GENERAL;-AND-PROVIDING 8 9 AN-IMMEDIATE-EPPECTIVE-BATE." 9 10 10 11 WHEREAS, without the cooperation of victims and 11 12 witnesses, the criminal justice system would cease to 12 13 function; yet with some exceptions, these individuals are 13 14 either ignored by the criminal justice system or simply used 14 15 15 as a means to identify and punish offenders; and WHEREAS, all too often the victim of a serious crime is 16 16 17 forced to suffer physical, psychological, or financial 17 18 hardship, first as a result of the criminal act, and then as 18 19 19 a result of contact with a criminal justice system 20 unresponsive to the real needs of such victim; and 20 21 21 WHEREAS, while the defendant is provided with counsel 22 22 who can explain both the criminal justice process and the 23 rights of the defendant, the victim or witness has no 23 24 counterpart and is usually not even notified when the 24

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defendant is released on bail, the case is dismissed, a plea

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

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

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

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

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

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

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

(1) protect the role of crime victims and witnesses in

- the criminal justice process:
- (2) assure that victims and witnesses of crime receive 25

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SB 451 SECOND READING

SB 0451/02

fair and proper treatment from law enforcement agencies and
 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:

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 proceeding that he is scheduled to attend.

3 (2) For the purpose of providing notification, the
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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:

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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

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-3-

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:

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 14
 Section-7--Separate--waiting-area--Victims-and-other

 15
 prosecution-witnesses--must--be--provided;--prior--to--court

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 17
 other-witnesses-and-persons-who-have-arrived-to--attend--the

 18
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 or prosecuting attorney shall promptly return any of the
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The law enforcement agency or prosecuting attorney in a

criminal case shall assist a victim or witness who requests
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Section 10. Duty of attorney general. The attorney general shall assure that victims and witnesses of crime receive fair and proper treatment in the criminal justice system. In addition, the attorney general shall assure that victims and witnesses are provided important services and assistance as required under [this act].

25 Section-12---Rulemaking---authority----The----attorney

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general---shall--adopt--rules--necessary--to--implement--the 1 provisions-of-this-act--and--to--assure--compliance--by--law 2 3 enforcement--agencies7-prosecuting-attorneys7-and-others-who may-be-subject-to-the-requirements-of-this-act-4 5 Section 11. No cause of action for damages. Nothing in [sections 1 through 12 10] may be construed to create a 6 7 cause of action for damages against the state or one of its political subdivisions. 8 9 Section-14---Effective-date---This-act-is-effective--on

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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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SB 0451/02

1 criminal case shall assist a victim or witness who requests 1 relative of a homicide victim. 2 assistance in informing an employer that the need for victim 2 Section 6. Consultation with victim of felony offense. and witness cooperation in the prosecution of the case may 3 3 The prosecuting attorney in a criminal case shall consult necessitate absence of the victim or witness from his place 4 with the victim of a felony offense or, in the case of a 4 5 of employment. 5 minor child victim or homicide victim, with the family of 6 (2) A law enforcement agency or prosecuting attorney the victim in order to obtain the views of the victim or his 6 7 shall assist a victim or witness who, as a direct result of family regarding the disposition of the case, including: 7 a crime or because of cooperation with the law enforcement 8 8 (1) dismissal of the case; 9 agency or prosecuting attorney, is subjected to serious (2) release of the accused pending judicial 9 financial strain. Such agency or prosecuting attorney shall 10 10 proceedings; assist the victim or witness by explaining to creditors the 11 11 (3) plea negotiations; and 12 reason for such serious financial strain. 12 (4) pretrial diversion of the case from the judicial Section 9. Training in victim assistance. The Montana 13 13 process. law enforcement academy shall offer education and training Section-7---Separate--waiting--area---Victims-and-other 14 14 in victim assistance to law enforcement officers and 15 prosecution-witnesses--must--be--provided7--prior--to--court 15 prosecuting attorneys and shall provide such education and 16 16 appearance,--with--a--waiting-area-that-is-separate-from-all 17 training in its regular curriculum, so that victims may be other-witnesses-and-persons-who-have-arrived-to--attend--the 17 18 properly assisted. 18 court-proceeding-Section 10. Duty of attorney general. The attorney 19 Section 7. Property return. A law enforcement agency 19 general shall assure that victims and witnesses of crime 20 or prosecuting attorney shall promptly return any of the 20 receive fair and proper treatment in the criminal justice 21 21 victim's property held for evidentiary purposes, unless 22 system. In addition, the attorney general shall assure that there is a compelling law enforcement reason for retaining 22 victims and witnesses are provided important services and 23 23 such property. assistance as required under [this act]. 24 24 Section 8. Notification to employer or creditor. (1) 25 Section-12---Rulemaking---authority-----Phe----attorney The law enforcement agency or prosecuting attorney in a 25 -6--5-SB 451 SB 451

SB 0451/02

1	generalshalladoptrulesnecessarytoimplementthe
2	provisions-of-this-actandtoassurecompliancebylaw
3	enforcementagencies;-prosecuting-attorneys;-and-others-who
4	may-be-subject-to-the-requirements-of-this-act.
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6	[sections 1 through $\frac{12}{10}$] may be construed to create a
7	cause of action for damages against the state or one of its
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9 Section-14---Effective-date--This-act-is-effective--on
 10 passage--and-approvai7-however7-no-rules-adopted-pursuant-to
 11 section-12-may-take-effect-until-October-17-1905-

-End-

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STANDING COMMITTEE REPORT

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MR. Speaker:	·····	
We, your committee on	Judiciary	
having had under consideration	Senate	Bill No
Thirdreading copy ((Blue) color	
PROVIDES FOR THE FAI AND WITNESSES	R AND PROPER TREATMENT OF C	RIME VICTIMS
Respectfully report as follows: That	Senate	
Respectfully report as follows: That	Senate	Bill No45
	Senate	Bill No45
be amended as follows: 1. Page 3, line 7.	Senate	Bill No45
<pre>be amended as follows: 1. Page 3, line 7. Strike: "routinely" 2. Page 3, line 20.</pre>	ine 13.	Bill No45
<pre>be amended as follows: 1. Page 3, line 7. Strike: "routinely" 2. Page 3, line 20. Strike: "routinely" 3. Page 4, following 1</pre>	ine 13. in its entirety.	Bill No45

AND AS AMENDED, BE CONCURRED IN XXXXXXXXX Ju yzy

Tom Hannal Chairman. REP. TOM HANNAH

SENATE BILL NO. 451 INTRODUCED BY MAZUREK

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-EPPECTIVE-DATE."

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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;
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REFERENCE BILL

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14Section-7--Separate-waiting-area--Victims-and-other15prosecution-witnesses-must-be--providedy--prior-to-court16appearance7--with--a--waiting-area-that-is-separate-from-all17other-witnesses-and-persons-who-have-arrived-to--attend--the18court-proceeding-

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 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

-5-

-6-

general---shall--adopt--rules--necessary--to--implement--the provisions-of-this-act--and--to--assure--compliance--by--law enforcement--agencies;-prosecuting-attorneys;-and-others-who may-be-subject-to-the-requirements-of-this-act; Section 11. No cause of action for damages. Nothing in [sections 1 through 12 10] may be construed to create a 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-approval7-however7-no-rules-adopted-pursuant-to

11 section-12-may-take-effect-until-October-17-1985;

-End-