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AB-60 Restorative justice program. (2023-2024)

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Assembly Bill No. 60

CHAPTER 513

An act to amend Sections 679.02 and 679.027 of the Penal Code, and to amend Section 742 of the Welfare and Institutions Code, relating to criminal procedure.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 60, Bryan. Restorative justice program.

Existing law establishes specified rights for victims and witnesses of crimes, including to be notified or informed regarding specified court proceedings and inmate placement or parole eligibility. Existing law requires the Attorney General to, by June 1, 2025, create and distribute a "Victim Protections and Resources" card, which contains information about victim rights and resources, as specified.

This bill would give a victim the right to be notified of the availability of community-based restorative justice programs and processes available to them, including programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation, as specified. The bill would additionally require the Attorney General to include this information in the "Victim Protections and Resources" card, as specified.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a minor or nonminor to be a dependent or ward of the court under certain circumstances. Existing law requires the probation officer to inform the victim of a crime in a juvenile proceeding of the final disposition of the case and of any victim-offender conferencing program or victim impact class available in the county.

This bill would remove the requirement that the victim be notified of a victim-offender conferencing program, but would require the victim to be notified of the availability of community-based restorative justice programs and processes available to them. By increasing the duties of probation officers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Restorative justice is a practice and theory rooted in and developed from indigenous practices. When put into practice, restorative justice is a community-based, nonpunitive set of processes that center the needs of people who have been harmed. Restorative justice encourages accountability, healing, and repair when harm has occurred. These processes can include facilitated meetings between the person who was harmed, the person who harmed them, family members, and members of the community to discuss the causes and impact of the harm.

(b) Restorative justice processes often result in deep understanding of the harm caused, meaningful expressions of accountability, and agreements to take specific actions to repair harm, including personal or community service, engagement in employment or counseling, and payment of restitution. Restorative justice processes also provide an opportunity for victim or survivors to ask questions, share about the impact of harm, and engage in dialogue in ways that are not possible within the traditional criminal legal system.

(c) In 2015, a peer-reviewed study in the Journal of Experimental Criminology found that restorative justice processes can result in reduced feelings of fear, anger, post-traumatic stress symptoms, and depression for people who have been harmed. Researchers, including Dr. Mark Umbreit, studying the impact of restorative justice conferencing across different countries found that restorative justice processes result in higher rates of satisfaction for people who have been harmed than current criminal legal systems. In 2015, a study of Community Works West's restorative justice youth diversion program in the County of Alameda showed that restorative justice processes also reduce future acts of harm and violence and have been used with documented success in counties throughout the state.

(d) Restorative justice offers the opportunity to better meet the needs that arise when harm has been caused than the traditional criminal legal system.

(e) It is the intent of the Legislature to establish a victim's right to be informed of the availability and benefits of restorative justice programs.

SEC. 2. Section 679.02 of the Penal Code is amended to read:

679.02. (a) The following rights are hereby established as the statutory rights of victims and witnesses of crimes:

(1) To be notified as soon as feasible that a court proceeding to which the victim or witness has been subpoenaed as a witness will not proceed as scheduled, provided the prosecuting attorney determines that the witness' attendance is not required.

(2) Upon request of the victim or a witness, to be informed by the prosecuting attorney of the final disposition of the case, as provided by Section 11116.10.

(3) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all sentencing proceedings, and of the right to appear, to reasonably express their views, have those views preserved by audio or video means as provided in Section 1191.16, and to have the court consider their statements, as provided by Sections 1191.1 and 1191.15.

(4) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all juvenile disposition hearings in which the alleged act would have been a felony if committed by an adult, and of the right to attend and to express their views, as provided by Section 656.2 of the Welfare and Institutions Code.

(5) Upon request by the victim or the next of kin of the victim if the victim has died, to be notified of any parole eligibility hearing and of the right to appear, either personally as provided by Section 3043, or by other means as provided by Sections 3043.2 and 3043.25, to reasonably express their views, and to have their statements considered, as provided by Section 3043 of this code and by Section 1767 of the Welfare and Institutions Code.

(6) Upon request by the victim or the next of kin of the victim if the crime was a homicide, to be notified of an inmate's placement in a reentry or work furlough program, or notified of the inmate's escape as provided by Section 11155.

(7) To be notified that a witness may be entitled to witness fees and mileage, as provided by Section 1329.1.

(8) For the victim, to be provided with information concerning the victim's right to civil recovery and the opportunity to be compensated from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and Section 1191.2 of this code.

(9) To the expeditious return of property that has allegedly been stolen or embezzled, when it is no longer needed as evidence, as provided by Chapter 12 (commencing with Section 1407) and Chapter 13 (commencing with Section 1417) of Title 10 of Part 2.

(10) To an expeditious disposition of the criminal action.

(11) To be notified, if applicable, in accordance with Sections 679.03 and 3058.8 if the defendant is to be placed on parole.

(12) For the victim, upon request, to be notified of any pretrial disposition of the case, to the extent required by Section 28 of Article I of the California Constitution.

(A) A victim may request to be notified of a pretrial disposition.

(B) The victim may be notified by any reasonable means available.

(C) This paragraph is not intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.

(13) For the victim, to be notified by the district attorney's office of the right to request, upon a form provided by the district attorney's office, and receive a notice pursuant to paragraph (14), if the defendant is convicted of any of the following offenses:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289, in violation of Section 220.

(B) A violation of Section 207 or 209 committed with the intent to commit a violation of Section 261, 286, 287, 288, or 289, or former Section 262 or 288a.

(C) Rape, in violation of Section 261.

(D) Oral copulation, in violation of Section 287 or former Section 288a.

(E) Sodomy, in violation of Section 286.

(F) A violation of Section 288.

(G) A violation of Section 289.

(14) When a victim has requested notification pursuant to paragraph (13), the sheriff shall inform the victim that the person who was convicted of the offense has been ordered to be placed on probation, and give the victim notice of the proposed date upon which the person will be released from the custody of the sheriff.

(15) For the victim, to be notified of the availability of community-based restorative justice programs and processes available to them, including, but not limited to, programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation. The victim has a right to be notified as early and often as possible, including during the initial contact, during followup investigation, at the point of diversion, throughout the process of the case, and in postconviction proceedings.

(b) The rights set forth in subdivision (a) shall be set forth in the information and educational materials prepared pursuant to Section 13897.1. The information and educational materials shall be distributed to local law enforcement agencies and local victims' programs by the Victims' Legal Resource Center established pursuant to Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(c) Local law enforcement agencies shall make available copies of the materials described in subdivision (b) to victims and witnesses.

(d) This section is not intended to affect the rights and services provided to victims and witnesses by the local assistance centers for victims and witnesses.

(e) The court shall not release statements made pursuant to paragraph (3) or (4) of subdivision (a) to the public prior to the statement being heard in court.

SEC. 3. Section 679.027 of the Penal Code is amended to read:

679.027. (a) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, inform each victim, or the victim's next of kin if the victim is deceased, of the rights they may have under applicable law relating to the victimization, including rights relating to housing, employment, compensation, and immigration relief.

(b) (1) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed

appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Victim Protections and Resources" card described in paragraph (3).

(2) The Victim Protections and Resources card may be designed as part of and included with the "Marsy Rights" card described by Section 679.026.

(3) By June 1, 2025, the Attorney General shall design and make available in PDF or other imaging format to every agency listed in paragraph (1) a "Victim Protections and Resources" card, which shall contain information in lay terms about victim rights and resources, including, but not limited to, the following:

(A) Information about the rights provided by Sections 230 and 230.1 of the Labor Code.

(B) Information about the rights provided by Section 1946.7 of the Civil Code.

(C) Information about the rights provided by Section 1161.3 of the Civil Code, including information in lay terms about which crimes and tenants are eligible and under what circumstances.

(D) Information about federal immigration relief available to certain victims of crime.

(E) Information about the program established by Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, including information about the types of expenses the program may reimburse, eligibility, and how to apply.

(F) Information about the program established by Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(G) Information about eligibility for filing a restraining or protective order.

(H) Contact information for the Victims' Legal Resource Center established by Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(I) A list of trauma recovery centers funded by the state pursuant to Section 13963.1 of the Government Code, with their contact information, which shall be updated annually.

(J) The availability of community-based restorative justice programs and processes available to them, including programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation.

(c) This section shall become operative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support the actions in this section.

SEC. 4. Section 742 of the Welfare and Institutions Code is amended to read:

742. (a) Upon the request of an alleged victim of a crime, the probation officer shall, within 60 days of the final disposition of a case within which a petition has been filed pursuant to Section 602, inform that person by letter of the final disposition of the case. "Final disposition" means dismissal, acquittal, or findings made pursuant to this article. If the court orders that restitution shall be made to the victim of a crime, the amount, terms, and conditions thereof shall be included in the information provided pursuant to this section.

(b) When a petition has been filed pursuant to Section 602, the probation officer shall inform the victim of the offense, if any, of any victim impact class available in the county, and of their right pursuant to subdivision (a) to be informed of the final disposition of the case, including their right, if any, to victim restitution, as permitted by law.

(c) A victim shall be notified of the availability of community-based restorative justice programs and processes available to them, including, but not limited to, programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation. The victim shall be notified as early and often as possible, including, but not limited to, during the initial contact, during followup investigation, at the point of diversion, throughout the process of the case, and in all postconviction proceedings.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.