

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:44-6

(victims of crime--impact statement--extends right to submit)

LAWS OF: 1986

CHAPTER 85

BILL NO: A520

Sponsor(s): Shusted and others

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes

Substituted for S1135 (not attached since identical to A520). Amendments during passage denoted by asterisks.

Date of Passage:

Assembly:

Feb. 24, 1986

Senate:

June 26, 1986

Date of Approval:

Aug. 14, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

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8-14-86
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ASSEMBLY, No. 520
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman SHUSTED

AN ACT concerning victim impact statements in presentence reports and amending N. J. S. 2C:44-6 and P. L. 1982, c. 77.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:44-6 is amended to read as follows:

2 2C:44-6. Procedure on Sentence; Presentence Investigation and
3 Report. a. The court shall not impose sentence without first order-
4 ing a presentence investigation of the defendant and according due
5 consideration to a written report of such investigation when re-
6 quired by Rules of Court. The court may order a presentence
7 investigation in any other case.

8 b. The presentence investigation shall include an analysis of
9 the circumstances attending the commission of the offense, the de-
10 fendant's history of delinquency or criminality, family situation,
11 personal habits, the disposition of any charge made against any
12 codefendants and may include a report on his physical and mental
13 condition and any other matters that the probation officer deems
14 relevant or the court directs to be included. The presentence report
15 may also include a statement by the victim of the offense for which
16 the defendant is being sentenced. The statement may include the
17 nature and extent of any physical harm or psychological or emo-
18 tional harm or trauma suffered by the victim, the extent of any
19 *loss to include* loss of earnings or ability to work suffered by the
20 victim and the effect of the crime upon the victim's family. The
21 probation department shall notify the victim *or nearest relative*
22 *of a homicide victim* of his right to make a statement for inclusion

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

23 in the presentence report if the victim *or relative* so desires. Any
 24 such statement shall be made within 20 days of notification by the
 25 probation department.

26 The presentence report shall specifically include an assessment
 27 of the gravity and seriousness of harm inflicted on the victim in-
 28 cluding whether or not the defendant knew or reasonably should
 29 have known that the victim of the offense was particularly vul-
 30 nerable or incapable of resistance due to advanced age, disability,
 31 ill-health, or extreme youth, or was for any other reason substan-
 32 tially incapable of exercising normal physical or mental power of
 33 resistance.

34 c. If, after the presentence investigation, the court desires ad-
 35 ditional information concerning an offender convicted of an offense
 36 before imposing sentence, it may order that he be examined as to
 37 his medical or mental condition except that he may not be com-
 38 mitted to an institution for such examination.

39 d. Disclosure of any presentence investigation report or psychi-
 40 atric examination report shall be in accordance with law and the
 41 Rules of Court.

42 e. The court shall not impose a sentence of imprisonment for
 43 an extended term unless the ground therefor has been established
 44 at a hearing after the conviction of the defendant and on written
 45 notice to him of the ground proposed. The defendant shall have
 46 the right to hear and controvert the evidence against him and to
 47 offer evidence upon the issue.

48 [f. "Victim" means "victim" as defined by the "Criminal Injuries
 49 Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B-1 et seq.).]
 50 Deleted by Amendment, P. L. , c. .

1 2. Section 23 of P. L. 1982, c. 77 (C. 2A:4A-42) is amended
 2 to read as follows:

3 23. Predispositional evaluation. a. Before making a disposition,
 4 the court may refer the juvenile to an appropriate individual,
 5 agency or institution for examination and evaluation.

6 b. In arriving at a disposition, the court may also consult with
 7 such individuals and agencies as may be appropriate to the juve-
 8 nile's situation, including the county probation department, the
 9 Division of Youth and Family Services, school personnel, clergy,
 10 law enforcement authorities, family members and other interested
 11 and knowledgeable parties. In so doing, the court may convene a
 12 predispositional conference to discuss and recommend disposition.

13 c. *The predisposition report ordered pursuant to the Rules of*
 14 *Court may include a statement by the victim of the offense for*
 15 *which the juvenile has been adjudicated delinquent or by the near-*

16 *est relative of a homicide victim. The statement may include the*
17 *nature and extent of any physical harm or psychological or emo-*
18 *tional harm or trauma suffered by the victim, the extent of any*
19 *loss to include loss of earning or ability to work suffered by the*
20 *victim and the effect of the crime upon the victim's family. The*
21 *probation department shall notify the victim or nearest relative*
22 *of a homicide victim of his right to make a statement for inclusion*
23 *in the predisposition report if the victim or relative so desires. Any*
24 *statement shall be made within 20 days of notification by the pro-*
25 *bation department.*

1 3. This act shall take effect immediately.

CRIMINAL JUSTICE

Extends the right of victim impact statements to all victims of
defendants for whom a presentence report is prepared.

16 *est relative of a homicide victim. The statement may include the*
17 *nature and extent of any physical harm or psychological or emo-*
18 *tional harm or trauma suffered by the victim, the extent of any*
19 *loss to include loss of earning or ability to work suffered by the*
20 *victim and the effect of the crime upon the victim's family. The*
21 *probation department shall notify the victim or nearest relative*
22 *of a homicide victim of his right to make a statement for inclusion*
23 *in the predisposition report if the victim or relative so desires. Any*
24 *statement shall be made within 20 days of notification by the pro-*
25 *bation department.*

1 3. This act shall take effect immediately.

STATEMENT

Certain victims of crime have been granted the right to make a statement about the impact of the crime upon their lives and families. This statement is made part of the presentence report prepared by the probation department and reviewed by the judge prior to imposing sentence. This bill would amend existing law concerning victim impact statements to extend this right to all victims of defendants for whom a presentence report is prepared. It will also grant this right to the nearest relative of a homicide victim. Section 2 of the bill extends the same right to make a statement about the impact of the crime to persons who are victimized by juveniles and to the nearest relative of a homicide victim. The definition of "victim" is specifically deleted since it limits the right to submit a victim impact statement to only victims of violent crimes.

A 520 (1986)

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 520

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 1986

The Assembly Judiciary Committee reports favorably Assembly Bill No. 520.

Under present law certain victims of crime have the right to submit a statement concerning the impact of the crime upon their lives and families. This statement is made part of the presentence report prepared by the probation department and reviewed by the judge prior to imposing sentence. This bill amends the law to extend this right to the nearest relative of a homicide victim. Under the bill the definition of "victim" is specifically deleted from present law since it limits the right to submit a victim impact statement to victims of only violent crimes.

Section 2 of the bill amends the Code of Juvenile Justice to extend the same right to make a statement about the impact of the crime to persons who are victimized by juveniles, or to the nearest relative of a homicide victim.

SENATE JUDICIARY COMMITTEE

STATEMENT TO
Assembly, No. 520

DATED: May 19, 1986

The Senate Judiciary Committee reports favorably
Assembly, No. 520.

Presently, if a juvenile is adjudicated delinquent, a predispositional evaluation of the juvenile is conducted prior to disposition by the family court. This bill would permit a person who has been the victim of the act of delinquency or the nearest relative of a homicide victim to submit a written statement to be included in the predispositional report. This statement would provide information such as the extent of any physical or emotional suffering; any loss of earnings incurred by the victim as a result of the incident and the effect of the incident upon the victim's family.

This bill would also extend the present right to submit a statement in adult criminal proceedings to the nearest relative of a homicide victim.