

1 SB528
2 140556-1
3 By Senators Ward, Beasley and Taylor
4 RFD: Judiciary
5 First Read: 17-APR-12

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8 SYNOPSIS: Under existing law, the Board of Pardons
9 and Paroles is required to give a 30-day written
10 notice to a victim of certain crimes, or the
11 victim's immediate family if the victim is
12 deceased, of action to be considered by the board.

13 Also under existing law, the notice is
14 provided to the victim named in the indictment, to
15 the parents of a minor victim, to the immediate
16 family of a deceased victim, and if there are no
17 immediate family members, to other family members
18 of the deceased victim, as well as to other
19 interested persons who have registered for
20 notification.

21 This bill would specify that it is the
22 responsibility of the Board of Pardons and Paroles
23 to register victims of certain crimes and update
24 contact information of victims of certain crimes
25 entitled to notification of board action.
26

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Section 15-22-36, Code of Alabama 1975, to
6 specify that it is the responsibility of the Board of Pardons
7 and Paroles to register victims of certain crimes and update
8 contact information of victims entitled to notifications of
9 board hearings using an automated notification system.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 15-22-36, Code of Alabama 1975,
12 is amended to read as follows:

13 "§15-22-36.

14 "(a) In all cases, except treason and impeachment
15 and cases in which sentence of death is imposed and not
16 commuted, as is provided by law, the Board of Pardons and
17 Paroles shall have the authority and power, after conviction
18 and not otherwise, to grant pardons and paroles and to remit
19 fines and forfeitures.

20 "(b) Each member of the Board of Pardons and Paroles
21 favoring a pardon, parole, remission of a fine or forfeiture,
22 or restoration of civil and political rights shall enter in
23 the file his or her reasons in detail, which entry and the
24 order shall be public records, but all other portions of the
25 file shall be privileged.

1 "(c) No pardon shall relieve one from civil and
2 political disabilities unless specifically expressed in the
3 pardon. No pardon shall be granted unless the prisoner has
4 successfully completed at least three years of permanent
5 parole or until the expiration of his or her sentence if his
6 or her sentence was for less than three years. Notwithstanding
7 the foregoing, a pardon based on innocence may be granted upon
8 the unanimous affirmative vote of the board following receipt
9 and filing of clear proof of his or her innocence of the crime
10 for which he or she was convicted and the written approval of
11 the judge who tried his or her case or district attorney or
12 with the written approval of a circuit judge in the circuit
13 where he or she was convicted if the judge who tried his or
14 her case is dead or no longer serving.

15 "(d) The Board of Pardons and Paroles shall have no
16 power to grant a pardon, order a parole, remit a fine or
17 forfeiture, or restore civil and political rights until 30
18 days' notice that the prisoner is being considered therefor
19 has been given by the board to the Attorney General, the judge
20 who presided over the case, the district attorney who tried
21 the subject's case, the chief of police in the municipality in
22 which the crime occurred, if the crime was committed in an
23 incorporated area with a police department, and to the sheriff
24 of the county where convicted, and to the same officials of
25 the county where the crime occurred if different from the
26 county of conviction; provided, however, that if they are dead

1 or not serving, the notice shall be given to the district
2 attorney, incumbent sheriff, and one of the judges of the
3 circuit in which the subject was convicted. The board also
4 shall be required to provide the same notice to the Crime
5 Victims Compensation Commission.

6 "(e) (1) Until and unless at least 30 days' written
7 notice of the board's action to be considered has been given
8 by the board to the ~~victim~~ victims named in the indictment, or
9 to immediate family members if the victim is deceased, or to
10 the parents or guardians of a minor victim, who are registered
11 in the automated victim notification system ~~the victim's~~
12 ~~representative, or any other interested individual, after the~~
13 ~~board has received a request that includes the preferred mode~~
14 ~~of notification from the victim, the victim's representative,~~
15 ~~or other interested individual and is submitted 30 days or~~
16 ~~more in advance of the board action to considered, either~~
17 ~~through the automated victim notification system or by a~~
18 ~~direct request to the board or other authorized individual.~~
19 The the Board of Pardons and Paroles shall have no power or
20 authority to in any way approve or order any parole, pardon,
21 remission of fine or forfeiture, restoration of civil and
22 political rights, furlough, leave or early release of a person
23 convicted of the following offenses:

24 "a. A Class A felony.

1 "b. Any felony committed prior to the first day of
2 January, 1980, which if committed after the first day of
3 January, 1980, would be designated a Class A felony.

4 "c. Any felony involving violence, death, or any
5 physical injury to the person of another.

6 "d. Any felony involving unlawful sexual assault or
7 other unlawful sexual conduct on the person of another.

8 "e. Any felony involving sexual assault, or a lewd
9 or lascivious act upon a child under the age of 16 years or
10 attempt thereof.

11 "f. Sexual abuse or any other criminal conduct
12 committed prior to the first day of January, 1980, which if
13 committed after the first day of January, 1980, would be
14 defined as sexual abuse under the Alabama Criminal Code.

15 "g. Child abuse or any criminal conduct committed
16 prior to the first day of January, 1980, which if committed
17 after the first day of January, 1980, would be defined as
18 child abuse under the Alabama Criminal Code.

19 "h. Sodomy or any criminal conduct committed prior
20 to the first day of January, 1980, which if committed after
21 the first day of January, 1980, would be defined as sodomy
22 under the Alabama Criminal Code.

23 "i. Any violation of Section 13A-6-69, as amended.

24 ~~"(2) If, however, the victim, victim's~~
25 ~~representative, or other interested individual has not been~~
26 ~~registered for notice through the automated victim~~

1 notification system or otherwise made a direct request to the
2 board for notice or to another authorized individual, the
3 victim's information has not been updated, or a particular
4 mode of notification has not been requested at least 30 days
5 or more in advance of the board's action to be considered, the
6 board shall not be limited in power or authority in any way to
7 approve or order any parole, pardon, remission of fine or
8 forfeiture, restoration of civil and political rights,
9 furlough, leave, or early release of a person convicted of the
10 offenses named in subsection (e)(1)a. to i., inclusive.

11 ~~"(3)~~ (2) The notice shall be given by U.S. certified
12 mail, return receipt requested, U.S. mail, electronic
13 transmission, ~~or~~ and by other commonly accepted ~~method~~ methods
14 of delivery, ~~upon a request~~ consistent with the victim's
15 selection made through the automated victim notification
16 system or otherwise upon direct request made to the board or
17 other authorized individual 30 days or more in advance of the
18 board's action to be considered and shall include:

19 "a. The name of the prisoner or defendant involved.

20 "b. The ~~crime~~ crimes for which the prisoner or
21 defendant was convicted.

22 "c. The date of the sentence.

23 "d. The court in which the conviction occurred.

24 "e. The sentence imposed.

1 "f. The actual time the prisoner has been held in
2 confinement and the prisoner's minimum release date, as
3 computed by the Department of Corrections.

4 "g. The action to be considered by the board.

5 "h. The date, time, and location of the board
6 meeting at which the action is to be considered.

7 "i. The right of the victim named in the indictment,
8 a victim's representative, or the victim's immediate family
9 members, if the victim is deceased ~~as a result of the offense,~~
10 ~~the victim's immediate family, as defined by the board's~~
11 ~~operating rules,~~ or, in the event there is no immediate
12 family, a relative of a victim, if any, to present his or her
13 views to the board in person or in writing.

14 ~~"Notice for robbery victims who were robbed while on~~
15 ~~duty as an employee of a business establishment shall be~~
16 ~~sufficient if mailed to the last address provided by the~~
17 ~~victim or as otherwise noted on the indictment or in the board~~
18 ~~files.~~

19 ~~"(4)~~ (3) If a victim, victim's representative, or
20 otherwise interested individual requests not to be notified,
21 the request shall be made to the Board of Pardons and Paroles
22 in writing or by electronic signature. Confirmation of a
23 request to not be notified shall be provided to the ~~victim~~
24 person so requesting to the last known mailing address and by
25 electronic transmission, and include instructions on how to
26 reverse the request not to be notified. After a request not to

1 be notified is received and confirmation is sent to the
2 requestor, the board shall provide no further notifications,
3 unless and until the victim, victim's representative, or
4 otherwise interested individual subsequently requests future
5 notifications, at least 30 days in advance of the board's
6 action to be considered through the automated victim
7 notification system designated by the board or by contacting
8 the board or other authorized individual in writing, in
9 person, or by telephone.

10 ~~"(5)~~ (4) Should a victim, victim's representative,
11 or otherwise interested person wish to receive notice of any
12 specific board hearing and action ~~taken~~ considered by the
13 board, ~~if any~~, in a specific case, the individual may register
14 to ~~request the~~ receive notice through the automated victim
15 notification system or otherwise request notice by making a
16 direct request to the board or other authorized individual to
17 receive notice at least 30 days in advance of the board's
18 action to be considered. The individual ~~shall be required~~ will
19 have the option to designate his or her preferred mode or
20 modes of communication.

21 ~~"(6)~~ (5) Prior to the sentencing of any defendant
22 convicted of the offenses named in subsection (e)(1)a. to i.,
23 inclusive, and only after the most recent victim information
24 has been furnished to the Board of Pardons and Paroles
25 pursuant to Section 12-17-184(9), in those cases, the
26 probation and parole officer assigned to prepare a

1 pre-sentence investigation report shall register the most
2 recent information for the ~~victim~~ victims named in the
3 indictment into the automated victim notification system
4 designated by the board. In case of a homicide, the
5 information of immediate family members shall be entered into
6 the automated victim notification system designated by the
7 board. If a surviving victim is a minor, information for
8 parents or guardians shall be entered into the automated
9 victim notification system designated by the board. The
10 probation and parole officer assigned to prepare a
11 pre-sentence investigation report shall then report to the
12 sentencing court that all most current victim information has
13 been so registered. The sentencing court shall then record
14 into the case record that the victim information has been
15 entered into the automated victim notification system.

16 ~~"(7)~~ (6)a. For those cases in which a defendant has
17 been convicted and sentenced prior to the implementation task
18 force determining that the automated victim notification
19 system complies with the requirements of this section and
20 Sections ~~15-20-23~~ 15-22-23 and 15-22-36.2, for any homicide,
21 and Class A felony, except Burglary I in which no victim was
22 present, or any criminal sex offense, as defined by Section
23 ~~15-20-21(4)~~ 15-20A-5, the board shall exercise due diligence
24 to locate the victim or victims and register the most recent
25 victim information on file into the automated victim
26 notification system designated by the board. If all attempts

1 to locate a victim, or in case of a homicide to locate
2 immediate family ~~member or~~ members, have failed and the agent
3 of the board has certified that due diligence has been
4 exercised, no future location attempts shall be required.

5 "b. 1. For the purposes of this section, the board
6 shall satisfy its duty to exercise due diligence to locate
7 victims or family members of victims if it, at a minimum,
8 completes a search of the following sources to locate contact
9 information:

10 "(i) The automatic victim notification system
11 designated by the board, and victim contact information
12 contained within, as well as victim information in the board's
13 physical files.

14 "(ii) State records, including but not limited to,
15 driver's license records, tax records, voter registration, and
16 any other state or federal agency records available for public
17 access.

18 (iii) United States Postal records.

19 2. If the board is unable to locate a victim or
20 family member of a victim entitled to notification, a board
21 employee shall execute a "certificate of due diligence"
22 certifying that the victim cannot be located and detailing the
23 steps taken by the board to locate the victim. The certificate
24 of due diligence shall become part of the board file.

25 "(f) After any board action is taken granting any
26 pardon or parole, the board shall promptly notify all persons

1 who timely requested notice, pursuant to this section as to
2 the action taken by the board and the conditions, if any, of
3 any such parole or pardon via electronic notification through
4 the automated victim notification system or posting publicly
5 on a state agency website.

6 "(g) Nothing in this section shall be interpreted as
7 authorizing the board to approve or order any parole, pardon,
8 remission of fine or forfeiture, restoration of civil and
9 political rights, furlough, leave, or early release of a
10 person without ensuring the due diligence required by this
11 section even if a victim or family member of a victim entitled
12 to notification under this section failed to register for
13 notice or to update contact information in order to receive
14 notification. The board shall be responsible for updating the
15 contact information of victims or family members of a victim
16 entitled to notification under this section, using a process
17 to automatically update addresses of victims on a continual
18 basis to be determined by the implementation task force."

19 Section 2. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.