

SENATE BILL NO. 447

INTRODUCED BY G. PERRY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING VICTIMS' RIGHTS LAWS AS THEY RELATE TO ADULT OFFENDERS; PROVIDING THAT VICTIMS OF CRIMINAL OFFENSES MUST BE PROVIDED, UPON REQUEST, ONE FREE COPY OF CERTAIN DOCUMENTS FILED IN A CRIMINAL CASE; PROVIDING THAT A VICTIM HAS A RIGHT TO BE ACCOMPANIED BY A VICTIM ADVOCATE DURING INTERVIEWS; AND AMENDING SECTIONS 46-24-106 AND 46-24-201, MCA."

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

Section 1. Section 46-24-106, MCA, is amended to read:

"46-24-106. Crime victims -- family members -- right to attend proceedings -- exceptions -- right to receive documents -- rights during interview. (1) Except as provided in subsection (2), a victim of a criminal offense has the right to be present during any trial or hearing conducted by a court that pertains to the offense, including a court proceeding conducted under Title 41, chapter 5. A victim of a criminal offense may not be excluded from any trial or hearing based solely on the fact that the victim has been subpoenaed or required to testify as a witness in the trial or hearing.

(2) A judge may exclude a victim of a criminal offense from:

- (a) a trial or hearing upon the finding of specific facts supporting exclusion or for disruptive behavior; or
- (b) a portion of a proceeding under Title 41, chapter 5, that deals with sensitive personal matters of a youth or a youth's family and that does not directly relate to the act or alleged act committed against the victim.

(3) If a victim is excluded from a trial or hearing upon the finding of specific facts supporting exclusion, the victim must be allowed to address the court on the issue of exclusion prior to the findings.

(4) A family member of a victim may not be excluded from a trial or hearing based solely on the fact that the family member is subpoenaed or required to testify as a witness in the trial or hearing unless there is a showing that the family member can give relevant testimony as to the guilt or innocence of the defendant or that the defendant's right to a fair trial would be jeopardized if the family member is not excluded.

(5) As used in this section, "victim" means:

- (a) a person who suffers loss of property, bodily injury, or reasonable apprehension of bodily injury as

1 a result of:

2 (i) the commission of an offense;

3 (ii) the good faith effort to prevent the commission of an offense; or

4 (iii) the good faith effort to apprehend a person reasonably suspected of committing an offense; or

5 (b) a member of the immediate family of a homicide victim.

6 (6) (a) Except as provided in subsection (6)(b) (6)(c), a victim of a criminal offense has the right to
 7 receive, upon request and at no cost to the victim, one copy of all public documents filed during any trial or
 8 hearing conducted by a court that pertains to the offense IN THE COURT FILE.

9 (B) IF THE VICTIM IS UNDER 18 YEARS OF AGE, COPIES PROVIDED UNDER SUBSECTION (6)(A) MUST BE PROVIDED
 10 TO THE VICTIM'S PARENT OR GUARDIAN INSTEAD OF TO THE MINOR VICTIM.

11 (b)(c) Subsection (6)(a) does not apply to:

12 (i) trial transcripts;

13 (ii) trial exhibits;

14 (iii) court proceedings conducted under Title 41, chapter 5; or

15 (iv) documents the prosecutor determines would adversely affect the prosecution if released.

16 (7) A victim of a criminal offense has the right, upon request, to have a victim advocate present when
 17 the victim is interviewed about the offense."

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19 **Section 2.** Section 46-24-201, MCA, is amended to read:

20 **"46-24-201. Services to victims of crime.** (1) Law enforcement personnel shall ensure that a victim
 21 of a crime receives emergency social and medical services as soon as possible and that the victim is given
 22 written notice, in the form supplied by the attorney general, of the following:

23 (a) the availability of crime victim compensation;

24 (b) access by the victim and the defendant to information about the case, including the right to receive
 25 documents under 46-24-106;

26 (c) the role of the victim in the criminal justice process, including what the victim can expect from the
 27 system, as well as what the system expects from the victim, and including the right to be accompanied during
 28 interviews as provided in 46-24-106; and

29 (d) stages in the criminal justice process of significance to a crime victim and the manner in which
 30 information about the stages may be obtained.

1 (2) In addition to the information supplied under subsection (1), law enforcement personnel shall provide
2 the victim with written information on community-based victim treatment programs, including medical, housing,
3 counseling, and emergency services available in the community.

4 (3) As soon as possible, law enforcement personnel shall give to the victim the following information:

5 (a) the name, office address, and telephone number of a law enforcement officer assigned to investigate
6 the case; and

7 (b) the prosecuting attorney's name, office address, and telephone number."
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