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S.B. 16*
135th General Assembly

Bill Analysis

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Version: As Reported by House Civil Justice

Primary Sponsor: Sen. Wilson

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SUMMARY

(Note that due to time constraints, amendments adopted in committee on June 21, 2023, are addressed only in the in **SUMMARY** portion of this analysis.)

Immunity associated with perishable food donation

- Extends the immunity provided to a person who donates perishable food to a nonprofit organization to include donations to a nonprofit that charges individuals an amount to cover food handling costs, rather than limiting the immunity only with respect to donations to a nonprofit that does not charge for the food as in current law.

Victims' rights

- Excludes from the definition of "case document" motor vehicle accident reports submitted to the Department of Public Safety unless the victim or victim's representative requests redaction of those reports.
- Permits a court to appoint a victim advocate or other appropriate person if the victim is incapacitated, incompetent, or deceased and no family member or victim advocate comes forward to be the victim's representative, or if the victim representative is not acting in the victim's interests.
- Requires specified information be provided by the prosecution to the victim within a reasonable time frame after prosecution in the case has commenced, rather than after 14 days.

* This analysis was prepared before the report of the House Civil Justice Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Removes the requirement that the prosecutor provide the victim with information on the following:
 - The right of the victim to have a victim's representative;
 - How to designate a representative;
 - The right of the victim and victim's representative to confer with the prosecutor upon request;
 - The fact that the victim can seek the advice of an attorney or have legal representation;
 - Information on negotiation.
- Requires a court to provide a prosecutor notice of having to seal or expunge a juvenile record not less than 30 days before the hearing.
- Permits charging a victim or victim's representative for copies of certain case documents at actual cost.
- Permits a prosecutor and court to agree to a shorter notice period for nonjuvenile sealing and expungement hearings than the otherwise required 60 days notice.
- Requires the court to inform all law enforcement agencies that have jurisdiction to enforce a protection order that the order is no longer effective at the time of termination of that order.
- Removes the maximum time limit of five years from payment of sanctions imposed for misdemeanors.
- Eliminates the requirement that the clerk of the sentencing court make an offender's payment history available to the victim, victim's representative, victim's attorney, prosecutor, probation department, and court, upon request, without cost.
- Removes from the victim's rights request form the section where the victim or victim's representative was required to indicate whether the victim was a victim against whom the criminal offense or delinquent act was committed or if the victim was directly or proximately harmed by the commissions of the offense or act.
- Requires the Attorney General to provide access to a sample victims' rights request form.
- Requires the victim's rights request form to be provided in English, Spanish, and Arabic, and any other language upon request.
- Adds to the victim's rights request form the following sections:
 - A section that allows the victim or victim's representative to request redaction of the victim's name, address, and identifying information in case documents.

- A section that allows the victim or victim's representative to request interpretation services and provide the information necessary for the criminal justice system to provide those services.
- A section that explains that if a victim of violating a protection order, an offense of violence, or a sexually oriented offense does not complete the form or request the victim's applicable rights on first contact with law enforcement, it is considered an assertion of the victim's rights until the victim completes the form or requests applicable rights, or the prosecutor contacts the victim.
- Removes the requirement that a victim's name and identifying information be filed separately on documents filed with the court.
- Requires a separate redaction request be submitted to the Department of Public Safety for redaction of victim information motor vehicle accident reports.
- Requires a juvenile judge, upon a motion from the prosecution, child victim, or child victim's attorney, where the child victim was less than 13 years old when the complaint or indictment was filed, to order the child victim's testimony be taken outside the room in which the proceeding is being conducted and broadcast into the room.
- Requires a juvenile judge, upon a motion from the prosecution, child victim, or child victim's attorney, where the child victim was less than 18 years old when the complaint or indictment was filed, to order the child victim's testimony be taken outside the room in which the proceeding is being conducted and broadcast into the room where the child victim would, by a preponderance of the evidence, suffer serious emotional trauma if required to provide live trial testimony.
- Requires a juvenile judge, upon motion of the prosecution, a victim with a developmental disability or the victim's attorney, to order that the victim's testimony be taken in a room other than the one in which the proceeding is being conducted and be broadcast into the room, where a child is charged with an offense that would be an act of violence if committed by an adult, or other listed offenses.
- Requires a juvenile judge, upon motion of the prosecution, a victim with a developmental disability, or the victim's attorney, to order that the victim's testimony be taken in a room other than the one in which the proceeding is being conducted and be broadcast into the room, where it is shown by a preponderance of the evidence that the victim will suffer serious emotional trauma if required to provide live trial testimony.
- Permits the victim's rights compilation to be provided to victims with the information card or other materials regarding information explaining awards of reparations.
- Prohibits a court from appointing a person employed by the prosecuting attorney to act as a victim representative without the consent of the prosecuting attorney.
- Specifies the procedures for if a law enforcement agency does not obtain a completed victim's rights request form from a victim of violating a protection order, an offense of violence, or a sexually oriented offense.

- Specifies the timing of submission of a victim’s rights request form to the court by law enforcement or the prosecutor.
- Clarifies how the costs for an interpreter for the victim are allocated.
- Specifies that if the victim of violating a protection order, an offense of violence, or sexually oriented offense, or the victim’s representative, was unable to complete the victim’s rights request form at the time of first contact with law enforcement, then all case documents related to the case or matters currently before the court regarding that offense must be redacted prior to public release as public records to remove the name, address, or other identifying information of the victim.
- Establishes procedures for a victim or victim’s attorney to access and view the forensic interview of the victim.

DETAILED ANALYSIS

Immunity associated with perishable food donation

Under current law, a person who makes a perishable food donation to a nonprofit is only immune from civil liability for that donation if the nonprofit provides the food free of charge. The bill extends that immunity to a person who donates perishable food to a nonprofit that charges individuals in need an amount sufficient to cover the cost of handling the perishable food distributed to them.¹

HISTORY

| Action | Date |
|------------------------------|----------|
| Introduced | 01-11-23 |
| Reported, S. Gov’t Oversight | 04-19-23 |
| Passed Senate (32-0) | 04-26-23 |
| Reported, H. Civil Justice | --- |

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¹ R.C. 2305.37.