

ASSEMBLY BILL

No. 886

Introduced by Assembly Member Cook
(Principal coauthor: Senator Berryhill)

February 17, 2011

An act to amend Section 679.02 of the Penal Code, relating to victim's rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 886, as introduced, Cook. Victim's rights: victim impact statement.

Existing law establishes the rights of crime victims, witnesses, and other specified persons to appear, reasonably express his or her views, and to have the court consider his or her statements.

This bill would prohibit the court from releasing the statements to the public prior to being heard in court.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 679.02 of the Penal Code is amended to
2 read:
3 679.02. (a) The following are hereby established as the
4 statutory rights of victims and witnesses of crimes:
5 (1) To be notified as soon as feasible that a court proceeding to
6 which he or she has been subpoenaed as a witness will not proceed
7 as scheduled, provided the prosecuting attorney determines that
8 the witness' attendance is not required.

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

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

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

17 (5) Upon request by the victim or the next of kin of the victim
18 if the victim has died, to be notified of any parole eligibility hearing
19 and of the right to appear, either personally as provided by Section
20 3043 of this code, or by other means as provided by Sections
21 3043.2 and 3043.25 of this code, to reasonably express his or her
22 views, and to have his or her statements considered, as provided
23 by Section 3043 of this code and by Section 1767 of the Welfare
24 and Institutions Code.

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

29 (7) To be notified that he or she may be entitled to witness fees
30 and mileage, as provided by Section 1329.1.

31 (8) For the victim, to be provided with information concerning
32 the victim’s right to civil recovery and the opportunity to be
33 compensated from the Restitution Fund pursuant to Chapter 5
34 (commencing with Section 13959) of Part 4 of Division 3 of Title
35 2 of the Government Code and Section 1191.2 of this code.

36 (9) To the expeditious return of his or her property which has
37 allegedly been stolen or embezzled, when it is no longer needed
38 as evidence, as provided by Chapter 12 (commencing with Section
39 1407) and Chapter 13 (commencing with Section 1417) of Title
40 10 of Part 2.

- 1 (10) To an expeditious disposition of the criminal action.
2 (11) To be notified, if applicable, in accordance with Sections
3 679.03 and 3058.8 if the defendant is to be placed on parole.
4 (12) For the victim, upon request, to be notified of any pretrial
5 disposition of the case, to the extent required by Section 28 of
6 Article I of the California Constitution.
7 (A) A victim may request to be notified of a pretrial disposition.
8 (B) The victim may be notified by any reasonable means
9 available.
10 Nothing in this paragraph is intended to affect the right of the
11 people and the defendant to an expeditious disposition as provided
12 in Section 1050.
13 (13) For the victim, to be notified by the district attorney's office
14 of the right to request, upon a form provided by the district
15 attorney's office, and receive a notice pursuant to paragraph (14),
16 if the defendant is convicted of any of the following offenses:
17 (A) Assault with intent to commit rape, sodomy, oral copulation,
18 or any violation of Section 264.1, 288, or 289, in violation of
19 Section 220.
20 (B) A violation of Section 207 or 209 committed with the intent
21 to commit a violation of Section 261, 262, 286, 288, 288a, or 289.
22 (C) Rape, in violation of Section 261.
23 (D) Oral copulation, in violation of Section 288a.
24 (E) Sodomy, in violation of Section 286.
25 (F) A violation of Section 288.
26 (G) A violation of Section 289.
27 (14) When a victim has requested notification pursuant to
28 paragraph (13), the sheriff shall inform the victim that the person
29 who was convicted of the offense has been ordered to be placed
30 on probation, and give the victim notice of the proposed date upon
31 which the person will be released from the custody of the sheriff.
32 (b) The rights set forth in subdivision (a) shall be set forth in
33 the information and educational materials prepared pursuant to
34 Section 13897.1. The information and educational materials shall
35 be distributed to local law enforcement agencies and local victims'
36 programs by the Victims' Legal Resource Center established
37 pursuant to Chapter 11 (commencing with Section 13897) of Title
38 6 of Part 4.

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

4 (d) Nothing in this section is intended to affect the rights and
5 services provided to victims and witnesses by the local assistance
6 centers for victims and witnesses.

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