S T A T E O F N E W Y O R K

1553

2009-2010 Regular Sessions

I N S E N A T E

February 2, 2009

Introduced by Sens. STAVISKY, ADAMS, DIAZ, C. JOHNSON, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to a victim's right of access to information in certain proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1.20 of the criminal procedure law is amended by adding a new subdivision 44 to read as follows:

44. "VICTIM" MEANS A PERSON AS DEFINED IN SUBDIVISION SEVEN OF SECTION 10.00 OF THE PENAL LAW ALLEGED TO HAVE SUSTAINED PHYSICAL INJURY TO PERSON OR FINANCIAL DAMAGE TO PROPERTY AS A DIRECT RESULT OF THE CRIME OR CRIMES CHARGED IN AN ACCUSATORY INSTRUMENT.

S 2. The criminal procedure law is amended by adding a new article 235 to read as follows:

ARTICLE 235

VICTIM'S RIGHT TO DISCLOSURE
OF THE ACCUSED'S CASE STATUS

SECTION 235.10 VICTIM'S RIGHT OF ACCESS.

S 235.10 VICTIM'S RIGHT OF ACCESS.

1. A VICTIM OF A CRIME MAY OBTAIN UPON DEMAND FROM THE PROSECUTOR, INFORMATION CONCERNING THE STATUS OF THE ACCUSED'S CASE FROM THE TIME OF ARRAIGNMENT TO SENTENCING.

2. A VICTIM HAS THE RIGHT TO KNOW WHAT PLEA THE ACCUSED HAS ENTERED.

3. A VICTIM HAS THE RIGHT TO KNOW WHAT TRIAL DATE HAS BEEN ASSIGNED FOR TRYING THE ACCUSED.

4. A VICTIM HAS THE RIGHT TO KNOW IF THE ACCUSED'S CASE HAS BEEN TRANSFERRED TO A COURT OTHER THAN THE ORIGINAL ONE WHERE THE ACCUSED ENTERED HIS/HER PLEA.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD04399-01-9

S 3. The family court act is amended by adding a new section 340.3 to read as follows:

S 340.3. VICTIM'S RIGHT OF ACCESS TO DISCLOSURE OF THE ACCUSED'S CASE STATUS. 1. "VICTIM" MEANS AN INDIVIDUAL, A CORPORATION, AN UNINCORPORATED ASSOCIATION, A PARTNERSHIP, OR A GOVERNMENTAL AGENCY OR INSTRUMENTALITY ALLEGED TO HAVE SUSTAINED PHYSICAL INJURY TO PERSON OR FINANCIAL DAMAGE TO PROPERTY AS A DIRECT RESULT OF THE CRIME OR CRIMES CHARGED IN AN ACCUSATORY INSTRUMENT, AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

2. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE VICTIM SHALL HAVE THE RIGHT TO REQUEST PARTICIPATION IN THE PROCEEDINGS, AND SUCH REQUEST SHALL BE GRANTED BY THE COURT UNLESS IT CAN BE SHOWN FOR GOOD CAUSE THAT SUCH PARTICIPATION WOULD INHIBIT THE JUDICIAL PROCEEDINGS.

3. A VICTIM MAY OBTAIN UPON DEMAND FROM THE AGENCY RESPONSIBLE FOR THE PROSECUTION OF THE ACCUSED, INFORMATION CONCERNING THE STATUS OF THE ACCUSED'S CASE FROM THE TIME OF ARRAIGNMENT TO SENTENCING.

4. A VICTIM HAS THE RIGHT TO KNOW WHAT PLEA THE ACCUSED HAS BEEN OFFERED.

5. A VICTIM HAS THE RIGHT TO KNOW WHAT HEARING OR TRIAL DATE HAS BEEN ASSIGNED FOR TRYING THE ACCUSED.

6. NOTWITHSTANDING THE PROVISIONS OF SECTION 341.1 OF THIS ARTICLE, THE VICTIM HAS THE RIGHT TO ATTEND THE HEARING AND/OR TRIAL.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.