

SENATE BILL NO. 312—SENATOR MANENDO

MARCH 18, 2013

Referred to Committee on Transportation

SUMMARY—Makes various changes concerning victim impact panels. (BDR 43-888)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to driving under the influence; revising provisions concerning impact panels of victims of crimes involving driving under the influence of intoxicating liquor or a controlled substance in certain counties; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a judge who sentences a defendant for a crime involving
2 driving or being in actual physical control of a vehicle while under the influence of
3 intoxicating liquor or a controlled substance is required to order the defendant to
4 attend a live meeting of a panel of victims in person, unless such a meeting is not
5 available within 60 miles of the defendant's residence. The judge or judges in each
6 judicial district are responsible for maintaining a list of the panels of persons who
7 have been injured or have had members of their families or close friends injured or
8 killed by a person who was driving or in actual physical control of a vehicle while
9 under the influence of intoxicating liquor or a controlled substance and who have,
10 by contacting the judge or judges in the district, expressed their willingness to
11 discuss collectively the personal effect of those crimes. (NRS 484C.530) **Sections**
12 **2-13** of this bill make various changes concerning such victim impact panels in
13 each judicial district in a county whose population is 100,000 or more (currently
14 Clark and Washoe Counties). In particular, **sections 2-13** make the Department of
15 Motor Vehicles responsible for regulating the organizations that sponsor and
16 conduct victim impact panels. **Section 6** requires organizations that wish to sponsor
17 victim impact panels to be registered with the Department and establishes the
18 requirements for such registration. **Section 7** requires that each meeting of a victim
19 impact panel be conducted by a qualified coordinator and specifies the training,
20 knowledge and experience required to serve as a coordinator. **Section 8** requires
21 victims who wish to make a presentation as a member of a victim impact panel to
22 submit to the sponsor information concerning the events that gave rise to the harms
23 suffered by the victim and provides a criminal penalty for persons who make false



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statements in connection with such harms. **Section 9** establishes requirements for meetings of victim impact panels and requires that, if such a meeting is conducted in person, there must be present at the site of the meeting security personnel who are trained in the detection of a person who is under the influence of a controlled substance or intoxicating liquor. **Section 9** further authorizes a meeting of a victim impact panel to be conducted by means of videoconferencing or other form of electronic communication. **Sections 10-12** establish various procedures for the receipt and disbursement of money generated from fees for attending meetings of panels, administrative fines and civil penalties. **Section 13** requires the Department to adopt regulations to carry out its duties relating to **sections 2-13**. **Section 14** of this bill adds references to the new requirements of **sections 2-13** to the existing requirements for victim impact panels, which remain in effect for each judicial district in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties).

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

Section 1. Chapter 484C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Registered sponsor” means an organization in this State that is registered with the Department to sponsor meetings of victim impact panels.*

Sec. 4. *“Victim” means a person who has been injured or has had a member of his or her family or a close friend injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct.*

Sec. 5. *“Victim impact panel” or “panel” means three or more victims who meet in the presence of persons who have been sentenced for crimes involving driving while under the influence of intoxicating liquor or a controlled substance to discuss collectively the personal effect on the victims of such crimes.*

Sec. 5.5. *The provisions of sections 2 to 13, inclusive, of this act do not apply to a county whose population is less than 100,000.*

Sec. 6. *1. An organization that wishes to sponsor meetings of victim impact panels pursuant to subsections 2 and 4 of NRS 484C.530 and sections 2 to 13, inclusive, of this act, must be registered with the Department.*



2. An application for registration must be submitted in the form prescribed by the Department. The application must include, without limitation:

(a) Proof that the organization is:

(1) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021; and

(2) Is registered with the Secretary of State, if registration is required by law.

(b) A list of the names of all victims who at the time of the application have:

(1) Expressed to the organization a willingness to serve as members of a panel; and

(2) Submitted the documentary or other evidence required pursuant to section 8 of this act.

(c) The name of at least one qualified coordinator who satisfies the requirements of section 7 of this act and who is available to conduct meetings of victim impact panels on behalf of the registered sponsor.

(d) A curriculum that describes the material to be covered during each meeting of a victim impact panel.

(e) If the sponsor intends to conduct a meeting of a victim impact panel by videoconference or other electronic means, a description of the facilities for such communication that the sponsor intends to use.

3. A registered sponsor must renew its registration annually in accordance with procedures established by the Department.

4. The Department may, at reasonable times and without notice, inspect the facilities and records of a registered sponsor.

5. If the Department determines that a person or organization has sponsored a victim impact panel without being registered pursuant to this section, the Department shall:

(a) Impose a \$5,000 administrative fine on the person or organization; and

(b) Refuse to accept an application for registration from the person or organization for 2 years after the date of the Department's determination.

Sec. 7. 1. Each meeting of a victim impact panel must be conducted by a qualified coordinator. A coordinator must:

(a) Have successfully completed specialized training in victim advocacy, including, without limitation, training offered by the National Organization for Victim Assistance or a comparable organization that is nationally recognized;

(b) Have at least 5 years of experience in victim advocacy; and



(c) Possess significant knowledge and experience in matters relevant to the conduct of a victim impact panel, including, without limitation, sudden violent death, critical and catastrophic injuries, the grieving process, the recovery process, post-traumatic stress disorder, survivor guilt, financial trauma, laws relating to driving under the influence of intoxicating liquor or a controlled substance, the preparation of victim impact statements and sensitivity to individual, gender, racial and cultural diversity.

➔ The training, experience and knowledge of the coordinator must have been gained with victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance.

2. A person may not serve as a coordinator of a victim impact panel if the person has ever been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony in this State or under the laws of any state, territory or possession of the United States; or

(b) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct or a lesser charge, if the person's plea to the lesser charge was in exchange for the dismissal of a charge of a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct.

3. If the Department determines that a registered sponsor has violated any provision of this section, the Department shall revoke the registration of the sponsor.

Sec. 8. 1. Before a victim may make a presentation as a member of a victim impact panel in a meeting of the panel conducted pursuant to section 7 of this act, the victim must submit to the registered sponsor documentary and other information concerning the events that gave rise to the harms suffered by the victim. The information may include, without limitation:

(a) Reports of peace officers and statements of witnesses;

(b) Affidavits signed by the victim or other persons;

(c) Published or other media accounts;

(d) Photographs, video or film footage; and

(e) Medical records.

2. A registered sponsor shall verify the accuracy of the information provided by the victim and certify its accuracy to the Department.

3. A person who knowingly makes a false statement, certifies to an incorrect document or withholds information for the purpose of receiving or assisting another person in receiving victim compensation or some other benefit under subsections 2 and 4 of



1 *NRS 484C.530 and sections 2 to 13, inclusive, of this act to which*
2 *he or she is not entitled is guilty of a misdemeanor and shall be*
3 *punished by a fine of \$1,000 and the performance of 100 hours of*
4 *community service pursuant to the conditions prescribed in*
5 *NRS 176.087.*

6 **Sec. 9. 1. A meeting of a victim impact panel conducted**
7 **pursuant to section 7 of this act:**

8 (a) *Must include presentations by not fewer than three panel*
9 *members. A registered sponsor shall not allow a victim to make a*
10 *presentation as a member of a panel more than two times during*
11 *any month;*

12 (b) *Must not include a presentation by a victim or any other*
13 *person who:*

14 (1) *Injured or killed another person while driving or in*
15 *actual physical control of a vehicle while under the influence of*
16 *intoxicating liquor or a controlled substance or who was engaging*
17 *in any other conduct prohibited by NRS 484C.110, 484C.120,*
18 *484C.130 or 484C.430 or a law of any other jurisdiction that*
19 *prohibits the same or similar conduct; or*

20 (2) *Was an adult passenger who was not injured in a*
21 *vehicle that injured or killed another person while being driven by*
22 *such a person;*

23 (c) *May be conducted in person or by videoconference or other*
24 *electronic means approved by the Department; and*

25 (d) *Must, if conducted in person, have present during the*
26 *meeting at the site of the meeting security personnel who are*
27 *trained in the detection of a person who is under the influence of:*

28 (1) *A controlled substance; and*

29 (2) *Intoxicating liquor.*

30 2. *If the Department determines that a registered sponsor has*
31 *violated any provision of this section, the Department shall*
32 *suspend the registration of the sponsor for 1 year and may impose*
33 *an administrative fine of not more than \$1,000.*

34 **Sec. 10. 1. A registered sponsor shall collect the fees**
35 **established by the court pursuant to subsection 2 of NRS 484C.530**
36 **from defendants who attend a meeting of a victim impact panel.**

37 2. *A registered sponsor shall not generate a profit from his or*
38 *her sponsorship or conducting any meeting of a victim impact*
39 *panel.*

40 3. *Of the money collected by a registered sponsor pursuant to*
41 *this section:*

42 (a) *Not less than 20 percent must:*

43 (1) *If the Department adopts regulations providing for the*
44 *conduct of programs of victim compensation by registered*



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sponsors, be disbursed by the registered sponsor directly to a victim for services, including, without limitation:

(I) Funeral expenses;

(II) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, which are actually and reasonably incurred as a result of the injury or death of a victim;

(III) Temporary assistance with the ordinary expenses of daily life, including, without limitation, housing, utilities and food;

(IV) Travel expenses, including, without limitation, airfare, car rental and hotel accommodations; and

(V) Other reasonable services for the victim; or

(2) Be remitted to the Department for deposit with the State Treasurer for credit to a separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance. Any money received pursuant to this subparagraph must be accounted for separately in the Fund in the separate account described in section 11 of this act.

(b) Not less than 10 percent must be disbursed by the registered sponsor in the form of grants to law enforcement agencies in this State to support activities relating to crimes involving driving while under the influence of intoxicating liquor or a controlled substance, including, without limitation, purchase of equipment, enforcement, specialized training and community education programs.

4. A registered sponsor shall, on a quarterly basis, submit a financial statement to the Department and shall submit an annual financial statement in connection with its application for the renewal of its registration. The financial statement must be in a format prescribed by the Department and include, without limitation:

(a) The name and address of each victim and law enforcement agency to which the registered sponsor made a disbursement;

(b) The amount of each disbursement;

(c) The date of each disbursement; and

(d) An itemization of the services or purposes for which the money was disbursed.

↪ Each disbursement must be supported by a receipt or other evidence of the disbursement.

5. If the Department determines that a registered sponsor has violated any provision:



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(a) Of this section, the Department shall suspend the registration of the sponsor for not more than 2 years; and

(b) Of subsection 1, the Department shall impose an administrative fine of \$5,000.

Sec. 11. All administrative fines collected by the Department pursuant to sections 2 to 11, inclusive, of this act, must be deposited with the State Treasurer for credit to a separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to victims of crimes involving driving while under the influence of intoxicating liquor or a controlled substance.

Sec. 12. 1. In addition to any other penalty provided by law, a person convicted of a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 is liable to the State for a civil penalty of \$5, payable to the Department.

2. Any money received by the Department pursuant to subsection 1 must be retained by the Department and used to defray the expenses incurred by the Department to administer the provisions of subsections 2 and 4 of NRS 484C.530 and sections 2 to 13, inclusive, of this act.

Sec. 13. The Department shall adopt regulations to carry out the provisions of sections 2 to 13, inclusive, of this act.

Sec. 14. NRS 484C.530 is hereby amended to read as follows:
484C.530 1. The judge or judges in each judicial district in a county whose population is less than 100,000 shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

➤ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. The judge or judges in each judicial district in a county whose population is 100,000 or more shall cause the preparation



1 *and maintenance of a list of the registered sponsors of victim*
2 *impact panels that are registered with the Department pursuant to*
3 *section 6 of this act. The list must include the name and telephone*
4 *number of the registered sponsor to be contacted regarding each*
5 *such panel and a schedule of times and locations of the meetings*
6 *of each such panel. The judge or judges shall establish, in*
7 *cooperation with the Department and representatives of the*
8 *registered sponsors of the panels, the fees to be paid by defendants*
9 *who are ordered to attend a meeting of the panel. The amount of*
10 *the fees must be reasonable.*

11 3. Except as otherwise provided in this subsection, *in a county*
12 *whose population is less than 100,000*, if a defendant pleads guilty
13 or guilty but mentally ill to, or is found guilty or guilty but mentally
14 ill of, any violation of NRS 484C.110, 484C.120, 484C.130 or
15 484C.430, the court shall, in addition to imposing any other
16 penalties provided by law, order the defendant to:

17 (a) Attend in person, at the defendant's expense, a live meeting
18 of a panel ~~of persons who have been injured or had members of~~
19 ~~their families or close friends injured or killed by a person who was~~
20 ~~driving or in actual physical control of a vehicle while under the~~
21 ~~influence of intoxicating liquor or a controlled substance or who~~
22 ~~was engaging in any other conduct prohibited by NRS 484C.110,~~
23 ~~484C.120, 484C.130 or 484C.430 or a law of any other jurisdiction~~
24 ~~that prohibits the same or similar conduct.~~ *listed pursuant to*
25 *subsection 1* in order to have the defendant understand the effect
26 such a crime has on other persons; and

27 (b) Pay the fee, if any, established by the court pursuant to
28 subsection 1.

29 ➤ The court may, but is not required to, order the defendant to
30 attend such a meeting if one is not available within 60 miles of the
31 defendant's residence.

32 4. *Except as otherwise provided in this subsection, in a*
33 *county whose population is 100,000 or more, if a defendant pleads*
34 *guilty or guilty but mentally ill to, or is found guilty or guilty but*
35 *mentally ill of, any violation of NRS 484C.110, 484C.120,*
36 *484C.130 or 484C.430, the court shall, in addition to imposing any*
37 *other penalties provided by law, order the defendant to:*

38 (a) *Attend in person or by videoconference or other electronic*
39 *means if a live meeting of a panel is not available within 60 miles*
40 *of the defendant's residence, at the defendant's own expense, a*
41 *live meeting of a victim impact panel conducted pursuant to*
42 *section 7 of this act in order to have the defendant understand the*
43 *effect such a crime has on other persons; and*

44 (b) *Pay the fees established by the court pursuant to*
45 *subsection 2.*



- 1 **5.** A person ordered to attend a meeting pursuant to subsection
- 2 ~~2~~ **3 or 4** shall, after attending the meeting, present evidence or
- 3 other documentation satisfactory to the court that the person
- 4 attended the meeting and remained for its entirety.

