

By Senator Fasano

11-121-04

1                                   A bill to be entitled  
2           An act relating to plea agreements; amending s.  
3           921.143, F.S.; prohibiting the court from  
4           accepting a plea agreement that prohibits a law  
5           enforcement officer from appearing at a parole  
6           hearing or clemency hearing; prohibiting a plea  
7           agreement that prohibits a law enforcement  
8           officer who was a victim in the offense from  
9           appearing or providing a statement at the  
10          sentencing hearing; defining the term "law  
11          enforcement officer" for purposes of the act;  
12          specifying that the act does not impair certain  
13          rights afforded by law or the State  
14          Constitution; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Section 921.143, Florida Statutes, is  
19 amended to read:

20           921.143 Appearance of victim, law enforcement officer,  
21 or next of kin to make statement at sentencing hearing;  
22 submission of written statement.--

23           (1) At the sentencing hearing, and prior to the  
24 imposition of sentence upon any defendant who has been  
25 convicted of any felony or who has pleaded guilty or nolo  
26 contendere to any crime, including a criminal violation of a  
27 provision of chapter 316, the sentencing court shall permit  
28 the victim of the crime for which the defendant is being  
29 sentenced, the victim's parent or guardian if the victim is a  
30 minor, the lawful representative of the victim or of the  
31 victim's parent or guardian if the victim is a minor, or the

1 next of kin of the victim if the victim has died from causes  
2 related to the crime, to:

3 (a) Appear before the sentencing court for the purpose  
4 of making a statement under oath for the record; and

5 (b) Submit a written statement under oath to the  
6 office of the state attorney, which statement shall be filed  
7 with the sentencing court.

8 (2) The state attorney or any assistant state attorney  
9 shall advise all victims or, when appropriate, the victim's  
10 parent, guardian, next of kin, or lawful representative that  
11 statements, whether oral or written, shall relate to the facts  
12 of the case and the extent of any harm, including social,  
13 psychological, or physical harm, financial losses, loss of  
14 earnings directly or indirectly resulting from the crime for  
15 which the defendant is being sentenced, and any matter  
16 relevant to an appropriate disposition and sentence.

17 (3) The court may not accept a plea agreement that  
18 prohibits a law enforcement officer from appearing or speaking  
19 at a parole hearing or clemency hearing.

20 (a) In any case in which the victim is a law  
21 enforcement officer, a plea agreement may not prohibit the  
22 officer or an authorized representative of the officer's  
23 employing agency from appearing or providing a statement at  
24 the sentencing hearing. As used in this subsection, the term  
25 "law enforcement officer" has the meaning ascribed in s.  
26 943.10.

27 (b) This subsection does not impair any right afforded  
28 under chapter 960 or under s. 16(b), Art. I of the State  
29 Constitution.

30 (4)~~(3)~~ The court may refuse to accept a negotiated  
31 plea and order the defendant to stand trial.

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Section 2. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Provides that the court may not accept a plea agreement that prohibits a law enforcement officer from appearing at certain hearings. Provides that a plea agreement may not prohibit the law enforcement officer who was a victim in the case from appearing or providing a statement at the sentencing hearing.