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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 1268                      **Hearing Date:** March 29, 2022  
**Author:** Caballero  
**Version:** February 18, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Victims of crime: family access to information*

### HISTORY

**Source:** Californians for Safety and Justice

**Prior Legislation:** None

**Support:** California Catholic Conference; Ella Baker Center for Human Rights; Essie Justice Group; Initiate Justice; Peace Officers Research Association of California

**Opposition:** None known

### PURPOSE

*The purpose of this bill is to require law enforcement to provide specified information regarding the criminal investigation surrounding the death of a minor to the minor's immediate family, subject to certain limitations.*

*Existing law* establishes the Victim's Bill of Rights – also known as “Marsy’s Law” – in the California Constitution, which sets forth various provisions regarding the rights of victims and their families in criminal cases. (Cal. Const. Art.1 Sec.28.)

*Existing law*, for the purposes of Marsy’s Law, defines “victim” to include the spouse, parents, children, siblings or guardian of the person directly injured by a criminal act. (Cal. Const. Art. 1 Sec. 28(e).)

*Existing law* declares that criminal activity has a serious impact on the citizens of California and that the rights of victims and their families in criminal prosecutions are a subject of grave statewide concern. (Cal. Const. Art.1 Sec.28(a)(1).)

*Existing law* provides that a victim is entitled to be involved and updated, upon request, at various phases of their criminal case. (Cal. Const. Art.1 Sec.28(b).)

*Existing law* provides that a victim’s parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, has the right to be notified of all sentencing proceedings, and of their right to attend and be heard in those proceedings. (Penal Code §679.02(a)(3).)

*Existing law* provides that a victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, has the right to be notified of all juvenile disposition hearings in which the alleged act would have been a felony if committed by an adult, and of their right to attend and be heard in those proceedings. (Penal Code §679.02(a)(4).)

*Existing law* provides that, upon request by a victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, those parties have the right to be notified of any parole eligibility hearing, and of their right to attend and be heard in those proceedings. (Penal Code §679.02(a)(5).)

*Existing law* provides that whenever a county coroner takes custody of a dead body pursuant to law, he or she shall make a reasonable attempt to locate the family. (Gov. Code. 27471(a).)

*Existing law* provides that the coroner or a coroner's deputy, on being informed of a death and finding that it requires his or her inquiry, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances of death, and either order its removal for further investigation or release the body to the next of kin. (Gov. Code. 27471.2(a).)

*Existing law* requires county coroners to maintain a "coroner's register," which, among other things, shall contain a record of the persons notified of the death, together with a notation of any unsuccessful attempts at notification. (Gov. Code. 27463(g).)

*This bill* provides that, in the event of a death of a minor being investigated by law enforcement, the law enforcement agency that initiates or bears the primary responsibility for the investigation shall provide the victim's immediate family, at their request, with the following information:

- Contact information for each law enforcement agency involved in the investigation and the identification of the primary contact, if known, for the particular investigation at the involved law enforcement agency.
- The case number referencing the investigation, if applicable.
- A list of the personal effects found with the minor and contact information necessary to permit an immediate family member to collect the victim's personal effects. The list of victim's personal effects may be withheld from the immediate family if providing information about the personal effects would interfere with the investigation.
- Information regarding the status of the investigation, at the discretion of the law enforcement agency.

*This bill* specifies that law enforcement shall not be required to provide any information that would jeopardize or otherwise allow an individual to interfere with the ongoing investigation.

*This bill* specifies that its provisions shall not be interpreted to require law enforcement to provide investigative records generated pursuant to their investigation for inspection by a victim's immediate family.

*This bill* specifies that its provisions do not apply when a member of the immediate family is a suspect, or a person of interest, in the death of the minor.

*This bill* defines “immediate family” as the victim’s spouse, parent, guardian, grandparent, aunt, uncle, brother, sister, and children or grandchildren who are related by blood, marriage or adoption.

## COMMENTS

### 1. Need for This Bill

According to the author:

“SB 1268 would improve communication between families who have lost a child and agencies involved in the relevant police investigation, and ensure families have access to basic case information. In 1977, Patricia Ward was informed that her 16 year-old son, Curtis Williamson, had died due to accidental drowning after being chased into the water by a group of people at San Diego’s Crown Point. Ms. Ward’s journey to obtain case information and justice for her son, Curtis, sheds light on opportunities for changes in the law to increase transparency and aid the families of crime victims. SB 1268 would require the primary law enforcement agency handling the investigation to provide the immediate family with information relating to the investigation, including the case number, contact information of investigative officers, access to personal effects, and information regarding the status of the investigation at the discretion of law enforcement.”

### 2. The Case of Curtis Williamson

On March 26, 1997, 16-year old Curtis Williamson and his cousin were reportedly involved in a fight at a parking lot near Mission Bay in San Diego. After the fight, Curtis and his cousin were chased into the bay, where they tried to swim to safety. Although his cousin was later rescued by police, Curtis’ later found dead, and investigators believe he drowned attempting to evade his pursuers. When police later contacted Patricia Ward, Curtis’ mother, they told her that Curtis drowned accidentally because he could not swim. Ms. Ward found this dubious, as she had taught all of her children how to swim. Over the next several years, Ms. Ward worked to gather evidence regarding the circumstances of Curtis’ death, while reportedly being stonewalled by law enforcement and county medical examiners.<sup>1</sup> Though the Medical Examiner’s office ultimately changed the manner of death to a homicide, to this day, no arrests have been made in connection with the murder.

This incident prompted Ms. Ward to pursue what has been dubbed “Curtis’ Law,” a proposal that would allow families of murder victims under 18 to receive information from law enforcement regarding the underlying criminal investigation. After an online petition garnered over 77,000 signatures, a representative from the Florida Legislature introduced the measure in 2017, but it did not advance after failing to meet certain legislative deadlines.<sup>2</sup> The only other efforts to pass

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<sup>1</sup> “Our Story.” *Curtis’s & Co for Children Gone Too Soon, Inc.* <https://justice4curtis.org/our-story/>; “Mom of murdered teen returns to San Diego to champion ‘Curtis Law.’” *ABC 10 News San Diego*. 3 November 2021. <https://www.10news.com/news/local-news/mom-of-murdered-teen-returns-to-san-diego-to-champion-curtis-law>

<sup>2</sup> “Proposed Curtis Law would give families of murdered children information about their child’s case.” *Action News Jax*. 14 March 2017. <https://www.actionnewsjax.com/news/local/proposed-curtis-law-would-give-families-of-murdered-children-information-about-their-childs-case/502708049/>

‘Curtis’ Law’ or related legislation are HB 5349 in Connecticut – which generally requires the timely reporting by the police of a death to the next of kin – and this bill.<sup>3</sup>

### 3. Communications with Families of Deceased Victims

Under existing law, when a person dies due to suspected criminal behavior, it is generally the duty of the county coroner (and his or her deputies) to make a reasonable attempt to locate the family of a deceased person within 24 hours of taking custody of the body.<sup>4</sup> This is an affirmative and mandatory duty of the coroner, and applies to both minors and adults.<sup>5</sup> Most county coroners’ websites include information for families regarding this and other associated duties, including obtaining the personal property of the deceased, authorizing an autopsy, and transferring possession of the body for interment.<sup>6</sup> However, once these duties related to the deceased’s body are discharged, the coroner bears no legal or statutory responsibility for maintaining contact with the next of kin regarding any criminal investigation.

Although it is customary for law enforcement to attempt to maintain regular communication with the families of victims while investigating a case, the complexities and exigencies involved in those investigations often make such communication difficult. According to the author, “existing law fails to ensure that families have the right to adequate information pertaining to the death of their child and the investigation; including the contact information of the investigation officers, and access to personal effects.” While existing law mandates some communication with the family of victims, such requirements only take effect when a case has reached the prosecuting agency.<sup>7</sup> Beyond the duties of the coroner outlined above, current law does not require law enforcement to provide any information to the families of victims during the investigatory phase of a criminal case.

This bill imposes new requirements on law enforcement agencies investigating the death of a minor. Specifically, it requires law enforcement to provide, upon the request of the victim’s family, contact information for the agencies involved and the name of a primary contact, a case number, a list of personal effects found on the victim, and information regarding the status of the investigation. However, these requirements are subject to several limitations, discussed below.

### 4. Investigation Integrity

#### a. Related Provisions

At the core of this measure is the notion that families of child victims deserve certain information regarding the facts and circumstances surrounding the death of their loved ones. Because law enforcement possesses unique investigatory tools that most individuals do not, requiring them to share the details they uncover can bring a greater semblance of peace and closure to families that have experienced immense loss. There is, however, a competing interest at play: ensuring the integrity of the criminal investigation to ensure that the perpetrator is brought to justice. Maintaining the strict confidentiality of investigations is often the key to building a prosecutable case. This bill acknowledges

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<sup>3</sup> CT HB05349, 2022 General Assembly. <https://legiscan.com/CT/bill/HB05349/2022>

<sup>4</sup> Government Code §27471; Health and Safety Code §§7104, 7104.1

<sup>5</sup> *Davila v. County of Los Angeles*, 50 Cal. App. 4th 137 (1996); Government Code §815.6

<sup>6</sup> For example, see <https://coroner.saccounty.gov/Pages/FAQ.aspx>

<sup>7</sup> Cal. Const. Art.1 §28(b)(6)

that reality by incorporating several limits on the information that law enforcement is required to share under its provisions.

First, although this bill requires a law enforcement agency to disclose to the family a list of personal effects found on the deceased, that list may be withheld if providing it would interfere with the underlying investigation. Second, while the bill requires law enforcement to provide information to the family regarding the status of the investigation, it specifies that that information may be provided at the discretion of the law enforcement agency. Third, the bill contains an explicit exemption for any information that would jeopardize or allow an individual to interfere in the investigation. Finally, the bill specifies that it does not apply when a member of the immediate family is a suspect or person of interest in the investigation. Taken together, these limitations on the bill's information sharing requirements appear to provide adequate safeguards for the integrity of investigations into the death of a minor. However, issues may arise with regard to some of the terms used in the bill.

**b. “Person of Interest”**

This bill specifies that its information sharing requirements do not apply when a member of the victim's immediate family is a suspect, or person of interest, in an investigation involving the death of a minor. According to the Merriam-Webster dictionary, a “person of interest” is a person who is believed to be possibly involved in a crime but has not been charged or arrested.”<sup>8</sup> However, no legal or statutory definition for the term exists in current law, and many critics contend that the ambiguity associated with the phrase can have a deleterious effects on people to whom it is applied but are later determined to be innocent.<sup>9</sup> In the context of this bill, that ambiguity might give law enforcement broader-than-intended discretion to withhold information about an investigation. The Author may wish to clarify what constitutes a “person of interest” for the purposes of this measure.

**c. “Immediate Family”**

This bill defines “immediate family” as the victim's spouse, parent, guardian, grandparent, aunt, uncle, brother, sister, and children or grandchildren who are related by blood, marriage, or adoption. Under this bill, all individuals that fall into this category are entitled to request and receive information regarding the investigation into the death of a minor child. Given the scope of what constitutes “immediate family,” it may be difficult for law enforcement to verify who is indeed related to the minor victim. In addition, the broad scope of “immediate family” may result in the investigating agency being inundated with multiple separate requests for information, possibly causing delays in the investigation. The Author may wish to consider an amendment requiring the designation of a single point of contact for the victim's immediate family to whom all information can be directed.

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<sup>8</sup> Merriam-Webster Online Dictionary. Definition of “person of interest.” <https://www.merriam-webster.com/dictionary/person%20of%20interest>

<sup>9</sup> “In a Trap: What it means to be a ‘person of interest.’” *American Public Media*. 27 September 2016. <https://www.apmreports.org/story/2016/09/27/what-it-means-to-be-a-person-of-interest>

**5. Argument in Support**

According to the Ella Baker Center for Human Rights:

“Police investigations typically involve various entities including detectives, medical examiners, and morgues, and can involve multiple police departments. This complexity can lead to lack of communication between the agencies involved and consequently, create confusion, anxiety, and anger for families that are already traumatized due to the death of their family member. SB 1268 (Caballero) would ensure that families have the right to adequate information pertaining to the death of their child and the investigation.”

**-- END --**