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 Introduced and read first time: February 2, 1996
 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Victims' Rights - Notification Procedures**

3 FOR the purpose of establishing procedures for notifying certain victims of their rights
 4 during the criminal justice process; requiring the State Board of Victim Services to
 5 create and develop certain informational pamphlets notifying victims of certain
 6 rights, services, and procedures provided by law; requiring the Board, in
 7 consultation with the Administrative Office of the Courts, to develop a notification
 8 request form through which a victim may request to be notified under this Act;
 9 providing for the distribution of the pamphlets to certain victims at certain stages of
 10 a criminal case; requiring the State's Attorney to mail or otherwise deliver to the
 11 victim a notification request form within a certain period of time after the filing or
 12 unsealing of an indictment or information in circuit court or on the filing of a
 13 petition alleging delinquency in certain cases; requiring the State's Attorney to
 14 certify certain information to the clerk of the circuit court; designating the State's
 15 Attorney to receive a completed notification request form from a victim; requiring
 16 the State's Attorney to send a copy of the completed notification request form to
 17 the clerk; providing for the effect of filing a notification request form by a victim;
 18 authorizing a victim to designate a person or organization to receive notice for the
 19 victim under certain circumstances; requiring the State's Attorney, under certain
 20 circumstances, to send to the victim prior notice of certain proceedings; authorizing
 21 the State's Attorney, under certain circumstances, to request the clerk to send the
 22 notice to the victim; requiring the State's Attorney, under certain circumstances, to
 23 advise the victim of certain proceedings; authorizing the State's Attorney, under
 24 certain circumstances, to give the victim certain information; requiring the clerk,
 25 under certain circumstances, to include certain information with a commitment

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1 order; requiring the clerk, under certain circumstances, to send certain information
2 to the Attorney General and a certain court; establishing procedures by which a
3 victim may elect not to receive notice under this Act; authorizing a victim to file a
4 notification request form with a department or facility to which the defendant has
5 been committed; repealing the termination date for certain court costs; defining
6 certain terms; making certain technical changes; and generally relating to victims'
7 rights notification procedures.

8 BY repealing and reenacting, with amendments,
9 Article 26A - Criminal Injuries Compensation Act
10 Section 17
11 Annotated Code of Maryland
12 (1994 Replacement Volume and 1995 Supplement)

13 BY adding to
14 Article 27 - Crimes and Punishments
15 Section 773
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - State Government
20 Section 9-1701 through 9-1703, 9-1705, and 9-1708
21 Annotated Code of Maryland
22 (1995 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Chapter 396 of the Acts of the General Assembly of 1995
25 Section 3

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article 26A - Criminal Injuries Compensation Act**

29 17.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) "Crime" means an act committed by a person in the State that is:

32 (i) A crime under Article 27 of the Code;

33 (ii) A violation of the Transportation Article which is punishable by
34 imprisonment; or

35 (iii) A crime at common law.

36 (3) "Offense" means an act committed by a person in the State that is a
37 violation of the Transportation Article and is not punishable by imprisonment.

3

1 (b) In addition to any other costs required by law, a circuit court shall impose on
2 a defendant convicted of a crime an additional cost of \$40 in the case.

3 (c) In addition to any other costs required by law, the District Court shall impose
4 on a defendant convicted of a crime an additional cost of \$30 in the case.

5 (d) In addition to any other costs required by law, a court shall impose on a
6 defendant convicted of an offense an additional cost of \$3 in the case, including cases in
7 which the defendant elects to waive the right to trial and pay the fine or penalty deposit
8 established by the Chief Judge of the District Court by administrative regulation.

9 (e) (1) All money collected under this section shall be paid to the Comptroller
10 of the State.

11 (2) The Comptroller shall deposit \$20 from each fee collected under
12 subsection (b) of this section from a circuit court and \$10 from each fee collected under
13 subsection (c) of this section from the District Court into the Maryland Victims of Crime
14 Fund established under Article 27, § 764(j) of the Code.

15 (3) The Comptroller shall deposit all other moneys collected under
16 subsections (b) and (c) of this section into the Criminal Injuries Compensation Fund
17 established under § 17A of this article.

18 (4) The Comptroller shall pay out moneys from the Maryland Victims of
19 Crime Fund as approved by the Board of Victim Services under §§ 9-1701 through 9-1708
20 of the State Government Article.

21 (f) (1) From the first \$500,000 in fees collected under subsection (d) of this
22 section IN EACH FISCAL YEAR, the Comptroller shall deposit one-half of each fee into
23 the Maryland Victims of Crime Fund and one-half of each fee into the Criminal Injuries
24 Compensation Fund.

25 (2) For fees collected under subsection (d) of this section in excess of
26 \$500,000 IN EACH FISCAL YEAR, the Comptroller shall deposit the entire fee into the
27 Criminal Injuries Compensation Fund.

28 (g) A political subdivision may not be held liable under any condition for the
29 payment of sums under this section.

30 **Article 27 - Crimes and Punishments**

31 773.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
33 INDICATED.

34 (2) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR
35 THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT
36 OF A CRIME OR DELINQUENT ACT, INCLUDING A FAMILY MEMBER OR GUARDIAN
37 OF A MINOR, INCOMPETENT, OR HOMICIDE VICTIM.

38 (3) "CLERK" MEANS THE CLERK OF A CIRCUIT COURT OR THE CLERK OF
39 A COURT SITTING AS THE JUVENILE COURT, AS THE CONTEXT REQUIRES.

4

1 (4) "STATE'S ATTORNEY" INCLUDES:

2 (I) THE STATE'S ATTORNEY'S DESIGNEE; AND

3 (II) AT THE TRIAL LEVEL, THE ATTORNEY GENERAL OR THE
4 ATTORNEY GENERAL'S DESIGNEE.

5 (B) ON FIRST CONTACT WITH A VICTIM, A LAW ENFORCEMENT OFFICER,
6 DISTRICT COURT COMMISSIONER, OR JUVENILE INTAKE OFFICER SHALL GIVE THE
7 VICTIM A COPY OF THE PAMPHLET DESCRIBED IN § 9-1705(8)(I) OF THE STATE
8 GOVERNMENT ARTICLE.

9 (C) (1) WITHIN 10 DAYS AFTER THE LATER OF THE FILING OR THE
10 UNSEALING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT, THE STATE'S
11 ATTORNEY SHALL:

12 (I) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
13 PAMPHLET DESCRIBED IN § 9-1705(8)(II) OF THE STATE GOVERNMENT ARTICLE;

14 (II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
15 NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE
16 GOVERNMENT ARTICLE; AND

17 (III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS
18 COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR
19 IS UNABLE TO IDENTIFY THE VICTIM.

20 (2) ON THE FILING OF A PETITION ALLEGING DELINQUENCY IN A CASE
21 IN WHICH THE CHILD IS ALLEGED TO HAVE COMMITTED AN ACT THAT COULD ONLY
22 BE TRIED IN THE CIRCUIT COURT IF COMMITTED BY AN ADULT, THE STATE'S
23 ATTORNEY SHALL:

24 (I) INFORM THE VICTIM OF THE RIGHT TO REQUEST RESTITUTION
25 UNDER § 3-829 OF THE COURTS ARTICLE;

26 (II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
27 NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE
28 GOVERNMENT ARTICLE; AND

29 (III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS
30 COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR
31 IS UNABLE TO IDENTIFY THE VICTIM.

32 (D) (1) ON COMPLETION OF A NOTIFICATION REQUEST FORM, THE VICTIM
33 MAY FILE THE FORM WITH THE STATE'S ATTORNEY.

34 (2) ON RECEIPT OF A COMPLETED NOTIFICATION REQUEST FORM BY
35 THE STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL SEND A COPY OF THE
36 FORM TO THE CLERK.

37 (3) THE FILING OF A NOTIFICATION REQUEST FORM BY A VICTIM
38 CONSTITUTES COMPLIANCE WITH ARTICLE 47 OF THE DECLARATION OF RIGHTS OR

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1 ANY OTHER PROVISION OF THE CODE THAT REQUIRES A VICTIM TO REQUEST
2 NOTIFICATION.

3 (4) A VICTIM WHO FILES A NOTIFICATION REQUEST FORM AND DOES
4 NOT WANT HIS OR HER ADDRESS TO BE MADE PUBLIC SHALL DESIGNATE IN A
5 NOTIFICATION REQUEST FORM A PERSON OR ORGANIZATION WHO HAS
6 CONSENTED TO RECEIVE NOTICE FOR THE VICTIM.

7 (E) (1) IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER
8 SUBSECTION (D) OF THIS SECTION, THE STATE'S ATTORNEY SHALL SEND TO THE
9 VICTIM PRIOR NOTICE, IF PRACTICABLE, OF ALL COURT PROCEEDINGS IN THE CASE.

10 (2) IF THE CASE IS IN A JURISDICTION IN WHICH THE OFFICE OF THE
11 CLERK IS EQUIPPED WITH AN AUTOMATED FILING SYSTEM, NOTHING IN THIS
12 SUBSECTION PRECLUDES THE STATE'S ATTORNEY FROM REQUESTING THE CLERK
13 TO SEND THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

14 (3) AFTER A VICTIM HAS FILED A NOTIFICATION REQUEST FORM
15 UNDER SUBSECTION (D) OF THIS SECTION, THE STATE'S ATTORNEY SHALL ADVISE
16 THE VICTIM OF ALL PROCEEDINGS THAT AFFECT THE VICTIM'S INTERESTS,
17 INCLUDING A BAIL HEARING OR CHANGE IN THE DEFENDANT'S PRETRIAL RELEASE
18 ORDER, DISMISSAL, NOL PROS OR STETTING OF CHARGES, TRIAL, DISPOSITION, OR
19 POST-SENTENCING COURT PROCEEDING.

20 (4) WHETHER OR NOT THE VICTIM HAS FILED A NOTIFICATION
21 REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, IF THE VICTIM
22 REQUESTS SUCH INFORMATION, NOTHING MAY PRECLUDE THE STATE'S ATTORNEY
23 FROM GIVING THE VICTIM INFORMATION CONCERNING THE CURRENT STATUS OF
24 THE CASE.

25 (F) IF A COMMITMENT ORDER IS ISSUED AFTER A VICTIM HAS FILED A
26 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE
27 CLERK SHALL INCLUDE A COPY OF THE NOTIFICATION REQUEST FORM WITH THE
28 COMMITMENT ORDER.

29 (G) IF AN APPEAL IS FILED IN A CASE IN WHICH A VICTIM HAS FILED A
30 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE
31 CLERK SHALL SEND A COPY OF THE NOTIFICATION REQUEST FORM TO THE
32 ATTORNEY GENERAL AND THE COURT TO WHICH THE CASE HAS BEEN APPEALED.

33 (H) AT ANY TIME AFTER FILING A NOTIFICATION REQUEST FORM UNDER
34 SUBSECTION (D) OF THIS SECTION, A VICTIM MAY ELECT NOT TO RECEIVE ANY
35 FURTHER NOTICES BY FILING A WRITTEN REQUEST WITH:

36 (1) IF THE CASE IS STILL IN THE CIRCUIT COURT OR THE JUVENILE
37 COURT, THE STATE'S ATTORNEY; OR

38 (2) IF A COMMITMENT ORDER HAS BEEN ISSUED IN THE CASE, THE
39 DEPARTMENT OR FACILITY SPECIFIED IN THE COMMITMENT ORDER TO WHICH THE
40 DEFENDANT HAS BEEN COMMITTED.

1 (I) THIS SECTION DOES NOT PROHIBIT A VICTIM FROM FILING A
2 NOTIFICATION REQUEST FORM WITH A DEPARTMENT OR FACILITY TO WHICH A
3 DEFENDANT HAS BEEN COMMITTED.

4 **Article - State Government**

5 9-1701.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) "Board" means the State Board of Victim Services.

8 (c) [(1)] "Crime" means an act that is committed by any person in the State that
9 would constitute a crime under Article 27 of the Code or at common law.

10 [(2) "Crime" does not include any act that involves the operation of a vessel
11 or motor vehicle that results in injury, unless the injuries were intentionally inflicted
12 through the use of the vessel or motor vehicle.]

13 (d) "Executive Director" means the Executive Director of the Governor's Office
14 of [Justice Administration] CRIME CONTROL AND PREVENTION.

15 (e) "Fund" means the Maryland Victims of Crime Fund established under Article
16 27, § 764 of the Code.

17 (f) "Victim" means an individual who suffers [personal injury or death] DIRECT
18 OR THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM as a direct result of a
19 crime, INCLUDING A FAMILY MEMBER OF A MINOR, INCOMPETENT, OR HOMICIDE
20 VICTIM.

21 (g) "Victim Services Coordinator" means the person who is appointed under the
22 provisions of § 9-1708 of this subtitle.

23 9-1702.

24 In recognition that State and local law, programs, and procedures must be
25 continually updated to meet the unique needs of crime victims, the General Assembly
26 finds that:

27 (1) there is a need for the State Board of Victim Services and the position of
28 "Victim Services Coordinator" for the purpose of monitoring, assessing, coordinating, and
29 making recommendations concerning State and local efforts to assist victims of crimes;

30 (2) the Victim Services Program should be transferred to be under the
31 authority of the Governor's Office of [Justice Administration] CRIME CONTROL AND
32 PREVENTION; and

33 (3) the administrative consolidation effected by this transfer will minimize
34 fragmentation of functions that the State government performs on behalf of crime victims
35 and assist in the coordination, efficiency, and greater effectiveness of State assistance to
36 victims of crime.

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1 9-1703.

2 There is in the Governor's Office of [Justice Administration,] CRIMECONTROL
3 AND PREVENTION, created by Executive Order [01.01.1992.02,] 01.01.1995.18, or in any
4 successor unit, a State Board of Victim Services.

5 9-1705.

6 Subject to the authority of the Executive Director, the Board shall have the
7 following powers and duties:

8 (1) to render each year to the Governor a written report of itsactivities,
9 including the administration of the Fund;

10 (2) to monitor service needs of victims;

11 (3) to advise the Governor on the needs of victims;

12 (4) (i) to recommend the appointment of the Victim Services Coordinator
13 to the Executive Director; and

14 (ii) to review and approve Victim Services Coordinator plans, annual
15 reports, and the implementation, operation, and revision of programs bythe Victim
16 Services Coordinator;

17 (5) to approve or disapprove the grant applications submitted by the Office
18 of [Justice Administration] CRIME CONTROL AND PREVENTION;

19 (6) to advise the State's Attorneys' Coordination Council on the adoption of
20 regulations governing the administration of the Victim and Witness Protection and
21 Relocation Program established under Article 27, § 770 of the Code; [and]

22 (7) to advise the State's Attorneys' Coordinator on the administration of the
23 Victim and Witness Protection and Relocation Program;

24 (8) TO CREATE AND DEVELOP AT LEAST TWO SEPARATE
25 INFORMATIONAL PAMPHLETS NOTIFYING VICTIMS OF THE RIGHTS, SERVICES, AND
26 PROCEDURES PROVIDED UNDER ARTICLE 47 OF THE DECLARATION OF RIGHTS OR
27 ANY OTHER PROVISION OF THE CODE AS FOLLOWS:

28 (I) ONE PAMPHLET SHALL CONCERN THE RIGHTS, SERVICES AND
29 PROCEDURES RELATING TO THE PERIOD OF TIME BEFORE AND AFTER THE FILING
30 OF A CHARGING DOCUMENT OTHER THAN AN INDICTMENT OR INFORMATION IN
31 CIRCUIT COURT; AND

32 (II) A SECOND PAMPHLET SHALL CONCERN THE RIGHTS,
33 SERVICES, AND PROCEDURES RELATING TO THE PERIOD OF TIME AFTER THE
34 FILING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT; AND

35 (9) IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE
36 COURTS, TO DEVELOP A NOTIFICATION REQUEST FORM THROUGH WHICH A VICTIM
37 MAY REQUEST TO BE NOTIFIED UNDER ARTICLE 27, § 773 OF THE CODE.

8

1 9-1708.

2 (a) The Office of [Justice Administration] CRIME CONTROL AND PREVENTION
3 shall adopt regulations that provide for the administration and award of grants under this
4 title.

5 (b) Grant applications that are approved by the Office of [Justice
6 Administration] CRIME CONTROL AND PREVENTION shall be submitted to the Board
7 for final approval before the release of any moneys from the Fund.

8 **Chapter 396 of the Acts of 1995**

9 SECTION 3. AND BE IT FURTHER ENACTED, That the changes made to
10 Article 26A, § 17 of the Code by Section 1 of this Act shall take effect October 1, 1995
11 [and shall remain effective for a period of one year and, at the end of September 30,
12 1996, with no further action required by the General Assembly, shall be abrogated and of
13 no further force and effect].

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1996.