
By: Senators Stone and Boozer (Committee to Revise Article 27) and Senator Middlebrooks

Introduced and read first time: February 1, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 Crime Victims and Witnesses - Nonsubstantive Reorganization of Laws

3 FOR the purpose of reorganizing and restating the laws concerning victims and witnesses
4 of crime, including provisions relating to influencing or intimidating victims and
5 witnesses, pretrial procedures, trial procedures, sentencing procedures,
6 postsentencing procedures, sexual offenses, domestic violence, restitution, criminal
7 injuries compensation, victims and witnesses - services, victims andwitnesses -
8 treatment and assistance, and certain other miscellaneous topics; updating obsolete
9 references; establishing cross-references in certain articles of theCode in
10 accordance with the reorganization in this Act; making certain stylistic changes;
11 providing for the termination of certain provisions of this Act; providing that there
12 is no intent by this Act or substantively change, revive, or otherwise affect any law
13 that is the subject of this Act or any other law in effect on or prior to the effective
14 date of this Act; requiring the publishers of the Annotated Code andthe
15 Department of Legislative Reference to propose and make certain corrections and
16 revisions to the Code; providing that drafter's notes and catchlinescontained in this
17 Act are not law; and generally relating to laws concerning victims and witnesses of
18 crime.

19 BY transferring

20 Article 10 - Legal Officials
21 Section 37 and 40A, respectively
22 Annotated Code of Maryland
23 (1994 Replacement Volume and 1995 Supplement)

24 to be

25 Article 27 - Crimes and Punishments
26 Section 766 and 784, respectively
27 Annotated Code of Maryland
28 (1992 Replacement Volume and 1995 Supplement)

29 BY transferring

30 Article 26A - Criminal Injuries Compensation Act
31 Section 2, 1, 3 through 8, and 10 through 18, respectively

2

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1995 Supplement)
3 to be
4 Article 27 - Crimes and Punishments
5 Section 815 through 832, respectively
6 Annotated Code of Maryland
7 (1992 Replacement Volume and 1995 Supplement)

8 BY transferring

9 Article 41 - Governor - Executive and Administrative Departments
10 Section 4-609(c)(2), (3), and (4)
11 Annotated Code of Maryland
12 (1993 Replacement Volume and 1995 Supplement)
13 to be
14 Article 27 - Crimes and Punishments
15 Section 781
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

18 BY transferring

19 Article 88A - Social Services Administration
20 Section 130
21 Annotated Code of Maryland
22 (1995 Replacement Volume)
23 to be
24 Article 27 - Crimes and Punishments
25 Section 793
26 Annotated Code of Maryland
27 (1992 Replacement Volume and 1995 Supplement)

28 BY transferring

29 Article - Courts and Judicial Proceedings
30 Section 9-501, 9-102, 9-103.1, 12-303.1, 3-829, 10-917, and 3-836, respectively
31 Annotated Code of Maryland
32 (1995 Replacement Volume and 1995 Supplement)
33 to be
34 Article 27 - Crimes and Punishments
35 Section 772, 774, 775, 776, 808, 809, and 851, respectively
36 Annotated Code of Maryland
37 (1992 Replacement Volume and 1995 Supplement)

38 BY transferring

39 Article - State Government

3

1 Section 9-1701 through 9-1708, respectively
2 Annotated Code of Maryland
3 (1995 Replacement Volume)
4 to be
5 Article 27 - Crimes and Punishments
6 Section 837 through 844, respectively
7 Annotated Code of Maryland
8 (1992 Replacement Volume and 1995 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 766, 772, 774, 775, 776, 781, 784, 808, 809, 815 through 830, 832, and 837
12 through 844
13 Annotated Code of Maryland
14 (1992 Replacement Volume and 1995 Supplement)
15 (As enacted by Section 1 of this Act)

16 BY repealing and reenacting, without amendments,
17 Article 27 - Crimes and Punishments
18 Section 793, 831, and 851
19 Annotated Code of Maryland
20 (1992 Replacement Volume and 1995 Supplement)
21 (As enacted by Section 1 of this Act)

22 BY repealing and reenacting, with amendments,
23 Article 27- Crimes and Punishments
24 Section 11F, 465 1/2, 620, 637, 640, 640A, 640B, 640C, 643D, 692B, 760, 761, 762,
25 763, 764, 765, 767, 768, 769, 770, 771, and 772
26 Annotated Code of Maryland
27 (1992 Replacement Volume and 1995 Supplement)

28 BY adding to
29 Article 27 - Crimes and Punishments
30 Section 767, 768, 769, 777, 785, 786, 787, 791, 794, 795, 801, 802, 803, and 856, and
31 various subheadings
32 Annotated Code of Maryland
33 (1992 Replacement Volume and 1995 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article 41 - Governor - Executive and Administrative Departments
36 Section 4-609
37 Annotated Code of Maryland
38 (1993 Replacement Volume and 1995 Supplement)

4

1 BY adding to

2 Article - Courts and Judicial Proceedings
3 Section 3-829, 3-836, and 10-917
4 Annotated Code of Maryland
5 (1995 Replacement Volume and 1995 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article 27 - Crimes and Punishments
8 Section 830
9 Annotated Code of Maryland
10 (1992 Replacement Volume and 1995 Supplement)
11 (As enacted by Chapter 396 of the Acts of the General Assembly of 1995 and
12 Section 1 of this Act)

13 BY adding to

14 Article 27 - Crimes and Punishments
15 Section 766
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)
18 (As enacted by Section 10 of this Act)

19 BY repealing

20 Article 88A - Social Services Administration
21 The subtitle designation "Rape Crisis Program"
22 Annotated Code of Maryland
23 (1995 Replacement Volume)

24 BY repealing

25 Article - Courts and Judicial Proceedings
26 The subtitle designation "Subtitle 5. Victims and Witnesses - Release of Addresses
27 and Telephone Numbers" in Title 9
28 Annotated Code of Maryland
29 (1995 Replacement Volume and 1995 Supplement)

30 BY repealing

31 Article - State Government
32 The subtitle designation "Subtitle 17. Victim Services" in Title 9
33 Annotated Code of Maryland
34 (1995 Replacement Volume)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
36 MARYLAND, That Section(s) 37 and 40A, respectively, of Article 10 - Legal Officials of
37 the Annotated Code of Maryland be transferred to be Section(s) 766 and 784,
38 respectively, of Article 27 - Crimes and Punishments of the Annotated Code of Maryland.

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2, 1, 3 through
2 8, and 10 through 18, respectively, of Article 26A - Criminal Injuries Compensation Act
3 of the Annotated Code of Maryland be transferred to be Section(s) 815 through 832,
4 respectively, of Article 27 - Crimes and Punishments of the Annotated Code of Maryland.

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 4-609(c)(2),
6 (3), and (4) of Article 41 - Governor - Executive and Administrative Departments of the
7 Annotated Code of Maryland be transferred to be Section(s) 781 of Article 27 - Crimes
8 and Punishments of the Annotated Code of Maryland.

9 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 130 of Article
10 88A - Social Services Administration of the Annotated Code of Maryland be transferred
11 to be Section(s) 793 of Article 27 - Crimes and Punishments of the Annotated Code of
12 Maryland.

13 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 9-501, 9-102,
14 9-103.1, 12-303.1, 3-829, 10-917, and 3-836, respectively, of Article -Courts and Judicial
15 Proceedings of the Annotated Code of Maryland be transferred to be Section(s) 772, 774,
16 775, 776, 808, 809, and 851, respectively, of Article 27 - Crimes and Punishments of the
17 Annotated Code of Maryland.

18 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 9-1701 through
19 9-1708, respectively, of Article - State Government of the Annotated Code of Maryland
20 be transferred to be Section(s) 837 through 844, respectively, of Article 27 - Crimes and
21 Punishments of the Annotated Code of Maryland.

22 SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article 27 - Crimes and Punishments**

25 VI. Crime Victims and Witnesses

26 INFLUENCING OR INTIMIDATING VICTIMS AND WITNESSES

27 [766.] 760. DEFINITIONS.

28 (a) In [§§ 766 through 769 of this part] THIS SUBHEADING the following terms
29 have the meanings indicated.

30 (b) "Official proceeding" includes a criminal trial, a hearing related to a criminal
31 trial, a grand jury proceeding, and any other proceeding that is part of a criminal action.

32 (c) "Victim" means any person against whom a crime has been committed or
33 attempted.

34 (d) "Witness" means any person who:

35 (1) Has knowledge of the existence of facts relating to a crime;

36 (2) Makes a declaration under oath that is received as evidence for any
37 purpose;

6

1 (3) Has reported a crime to a law enforcement officer, prosecutor,
2 correctional officer, or judicial officer; or

3 (4) Has been served with a subpoena issued under the authority of a court
4 of this State, of any other state, or of the United States.

5 DRAFTER'S NOTE: This section formerly was Art. 27, § 766 of the Code.
6 %The only change is in style.

7 [767.] 761. INDUCING FALSE TESTIMONY.

8 (a) A person may not harm or injure any person or damage or destroy any
9 property or threaten to harm or injure any person with the intent to:

10 (1) Influence a victim or witness to testify falsely or withhold testimony;

11 (2) Induce a victim or witness to avoid legal process summoning the victim
12 or witness to testify; or

13 (3) Induce a victim or witness to be absent from an official proceeding to
14 which the victim or witness has been legally summoned.

15 (b) A person who violates subsection (a) of this section is guilty of a misdemeanor
16 and upon conviction shall be sentenced to imprisonment for not more than 5 years.

17 DRAFTER'S NOTE: This section formerly was Art. 27, § 767 of the Code.
18 %There are no changes.

19 [768.] 762. RETALIATION FOR TESTIMONY.

20 (a) A person may not intentionally harm or injure any person or damage or
21 destroy any property with the intent of retaliating against a victim or witness for giving
22 testimony in an official proceeding or for reporting a crime.

23 (b) A person who violates this section is guilty of a misdemeanor and upon
24 conviction shall be sentenced to imprisonment for not more than 5 years.

25 DRAFTER'S NOTE: This section formerly was § 768 of this article.
26 %There are no changes.

27 [769.] 763. COURT TO PREVENT INTIMIDATION OF VICTIM OR WITNESS.

28 (a) In this section a finding of good cause may be based upon any relevant
29 evidence including credible hearsay.

30 (b) A court with jurisdiction over a criminal matter may, for good cause shown,
31 issue any order that is reasonably necessary to stop or prevent the intimidation of a victim
32 or witness or a violation of § 27 of this article or [§§ 767 through 769 of this part] § 761
33 OR § 762 OF THIS SUBHEADING. This authority includes the power to:

34 (1) Order any person not to violate the provisions of § 27 of this article or
35 [§§ 767 through 769 of this part] § 761 OR § 762 OF THIS SUBHEADING;

7

1 (2) Order any person to maintain a certain physical distance from any other
2 person specified by the court;

3 (3) Prohibit any person from communicating with any other person specified
4 by the court, except through an attorney or other individual specified by the court; and

5 (4) Hold a hearing to determine if an order should be issued under this
6 section.

7 (c) (1) The court may use its contempt power to enforce an order issued under
8 this section.

9 (2) If a defendant violates an order issued under this section the court may
10 revoke the defendant's pretrial release in order to ensure the safety of a victim or witness
11 or the integrity of the judicial process.

12 DRAFTER'S NOTE: This section formerly was Art. 27, § 769 of the Code.
13 %The references to "§ 761 or § 762 of this subheading" are substituted for the
14 former, obsolete references to "§§ 767 through 769 of this part". However,
15 because the inclusion of § 769 in the former reference to § 769 was a technical
16 error, the corresponding reference to § 763, now this section, is omitted.

17 764. RESERVED.

18 765. RESERVED.

19 PRETRIAL PROCEDURES

20 766. DISMISSAL OF ASSAULT AND BATTERY CHARGES.

21 [In cases where recognizance to prosecute have been entered into, and before
22 presentment or indictment found, the several courts of this State having jurisdiction of
23 crimes and offenses, upon the motion of the State's Attorney, with the consent of the
24 parties injured and accused, may compromise any assault and battery, the party accused
25 paying the same costs as would have been incurred by the finding a truebill and plea of
26 guilty; provided, such court shall consider it proper in reference to the peace of the State
27 so to do.]

28 (A) ON MOTION OF THE STATE'S ATTORNEY, A COURT MAY DISMISS A
29 CHARGE OF ASSAULT AND BATTERY IF:

30 (1) THE VICTIM AND THE ACCUSED AGREE TO THE DISMISSAL; AND

31 (2) THE COURT CONSIDERS THE DISMISSAL PROPER.

32 (B) THE ACCUSED SHALL PAY THE SAME COSTS AS WOULD HAVE BEEN
33 INCURRED IF THE ACCUSED HAD BEEN FOUND GUILTY.

34 DRAFTER'S NOTE: This section is transferred from Art. 10, § 37 of the Code.
35 %In subsection (a) of this section, the former phrase "In cases where
36 recognizance to prosecute have been entered into, and before presentment or
37 indictment found," is deleted as unnecessary and inaccurate concerning

8

1 assault and battery charges.
2 Also in subsection (a) of this section, the former phrase, "theseveral courts of
3 this State having jurisdiction of crimes and offenses" is deleted as surplusage.
4 In subsection (a)(1) of this section, the word "victim" is substituted for the
5 former word "parties injured" to conform to the terminology of the rest of this
6 subtitle.

7 767. NOTICE OF FILINGS AND APPEALS TO VICTIM OF DELINQUENT ACT.

8 A VICTIM OF A DELINQUENT ACT COMMITTED BY A JUVENILE HAS THE RIGHTS
9 PROVIDED UNDER § 3-810 OF THE COURTS ARTICLE.

10 DRAFTER'S NOTE: This section merely provides a cross-reference to CJ § 3-810
11 for informational purposes.
12 No change in the law is intended.
13 As to the definition of "victim" and "delinquent act", see CJ §3-801.

14 768. PROTECTION FOR STALKING VICTIM IF DEFENDANT IS RELEASED PRETRIAL.

15 AS PROVIDED UNDER § 616 1/2 OF THIS ARTICLE THE COURT OR DISTRICT
16 COURT COMMISSIONER SHALL CONSIDER THE SAFETY OF THE ALLEGED VICTIM AS
17 A CONDITION OF THE PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH
18 STALKING.

19 DRAFTER'S NOTE: This section merely provides a cross-reference to §616 1/2
20 of this article.
21 No change in the law is intended.

22 769. NOTICE OF COMPETENCE EXAMINATION TO VICTIM.

23 AS PROVIDED UNDER § 12-122 OF THE HEALTH - GENERAL ARTICLE, A VICTIM
24 OF A CRIME OF VIOLENCE SHALL BE NOTIFIED BY THE DEPARTMENT OF HEALTH
25 AND MENTAL HYGIENE WHEN THE DEPARTMENT RECEIVES A COURT ORDER TO
26 EXAMINE A DEFENDANT TO DETERMINE WHETHER THE DEFENDANT WAS NOT
27 CRIMINALLY RESPONSIBLE AND WHETHER THE DEFENDANT IS COMPETENT TO
28 STAND TRIAL.

29 DRAFTER'S NOTE: This section merely provides a cross-reference to HG §
30 12-122.
31 No change in the law is intended.

9

1 770. RESERVED.

2 771. RESERVED.

3 TRIAL PROCEDURES

4 772. RELEASE OF ADDRESS OR PHONE NUMBER OF VICTIM OR WITNESS.

5 On motion of either party OR ON REQUEST OF A WITNESS, during a criminal trial,
6 a judge may prohibit the release of the address or telephone number of the victim or
7 witness unless the judge determines that, under the particular circumstances, the
8 information is necessary and relevant.

9 DRAFTER'S NOTE: This section is transferred from CJ § 9-501.

10 %The phrase "or on request of a witness" is added to provide witnesses with a
11 procedure to prohibit the release of their addresses or telephone numbers.

12 There are no other changes.

13 [620.] 773. PRESENCE OF VICTIMS OR THEIR REPRESENTATIVES AT TRIAL.

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

15 (2) "Victim" means a person who:

16 (i) Has testified as a witness; and

17 (ii) Is the victim of a crime of violence under § 643B of this article or
18 a crime involving, causing, or resulting in death or serious bodily harm for which the
19 defendant is being tried.

20 (3) "Representative" means a person who is:

21 (i) 1. Subpoenaed or has testified; and

22 2. Selected by the next of kin or guardian of a person who is
23 deceased or disabled as a result of a crime of violence under § 643B of this article or a
24 crime involving, causing, or resulting in death or serious bodily harm; or

25 (ii) Designated by the court in the event of a dispute over the
26 representative.

27 (b) A victim or representative shall be presumed to have the right to be present at
28 the trial.

29 (c) The judge may sequester a victim or representative from any part of the trial
30 at the request of the defendant or the State only after a finding of good cause.

31 (d) A judge may remove a victim or representative from the trial for the same
32 causes and in the same manner as the laws or rules of court provide for the exclusion or
33 removal of the defendant.

34 DRAFTER'S NOTE: This section formerly was Art. 27, § 620 of the Code.

35 %There are no changes.

10

1 774. TESTIMONY OF CHILD ABUSE VICTIM BY CLOSED CIRCUIT TELEVISION.

2 (a) In a case of abuse of a child as defined in § 5-701 of the Family Law Article
3 or [Article 27, § 35A of the Code] § 35C OF THIS ARTICLE, a court may order that the
4 testimony of a child victim be taken outside the courtroom and shown inthe courtroom by
5 means of closed circuit television if:

6 (1) The testimony is taken during the proceeding; and

7 (2) The judge determines that testimony by the child victim in the
8 defendant's presence will result in the child suffering serious emotional distress such that
9 the child cannot reasonably communicate.

10 (b) (1) Only the following persons may be in the room with the childwhen the
11 child testifies by closed circuit television:

12 (i) The prosecuting attorney;

13 (ii) The attorney for the defendant;

14 (iii) The operators of the closed circuit television equipment; and

15 (iv) [Unless the defendant objects] SUBJECT TO THE MARYLAND
16 RULES, any person whose presence, in the opinion of the court, contributes to the
17 well-being of the child, including a person who has dealt with the child in a therapeutic
18 setting concerning the abuse.

19 (2) During the child's testimony by closed circuit television, the judge and
20 the defendant shall be in the courtroom.

21 (3) The judge and the defendant shall be allowed to communicatewith the
22 persons in the room where the child is testifying by any appropriate electronic method.

23 (4) Only the prosecuting attorney, the attorney for any defendant, and the
24 judge may question the child.

25 (c) (1) In determining whether testimony by the child victim in the defendant's
26 presence will result in the child suffering serious emotional distress such that the child
27 cannot reasonably communicate, the judge may observe and question the child either
28 inside or outside the courtroom and hear testimony of a parent or custodian of the child
29 or any other person, including a person who has dealt with the child ina therapeutic
30 setting.

31 (2) (i) Except as provided in subparagraph (ii)2 of this paragraph, any
32 defendant, any defendant's attorney, and the prosecutor shall have the right to be present
33 when the judge hears testimony on whether to allow a child victim to testify by closed
34 circuit television.

35 (ii) If the judge decides to observe or question the childin connection
36 with the determination to allow closed circuit television:

37 1. Any defendant's attorney and the prosecutor shall have the
38 right to be present; and

12

1 (iv) In a juvenile court proceeding, abuse or neglect as defined in §
2 5-701 of the Family Law Article.

3 (2) An out of court statement may be admissible under this section only if:

4 (i) The statement was made to and is offered by:

5 1. A licensed physician, as defined [under] IN § 14-101 of the
6 Health Occupations Article;

7 2. A licensed psychologist, as defined [under] IN § 18-101 of
8 the Health Occupations Article;

9 3. A licensed social worker, as defined [under] IN § 19-101 of
10 the Health Occupations Article; or

11 4. A teacher; and

12 (ii) The individual described under item (i) of this paragraph was
13 acting in the course of the individual's profession when the statement was made.

14 (3) An out of court statement may be admissible under this section only if
15 the statement possesses particularized guarantees of trustworthiness.

16 (c) (1) Under this section, an out of court statement by a child may come into
17 evidence to prove the truth of the matter asserted in the statement:

18 (i) If the child's statement is not admissible under any other hearsay
19 exception; and

20 (ii) Regardless of whether the child testifies.

21 (2) If the child does not testify, the child's out of court statement will be
22 admissible only if there is corroborative evidence that:

23 (i) The defendant in a criminal proceeding had the opportunity to
24 commit the alleged offense; or

25 (ii) The alleged offender in a juvenile court proceeding had the
26 opportunity to commit the alleged abuse or neglect.

27 (3) In order to provide the defendant with an opportunity to prepare a
28 response to the statement, the prosecutor shall serve on the defendant in a criminal
29 proceeding or on the alleged offender in a juvenile court proceeding and the alleged
30 offender's attorney, a reasonable time before the juvenile court proceeding and at least 20
31 days before the criminal proceeding in which the statement is to be offered into evidence,
32 notice of:

33 (i) The State's intention to introduce the statement; and

34 (ii) The content of the statement.

35 (4) (i) The alleged offender shall have the right to take the deposition of
36 a witness who will testify under this section;

13

1 (ii) Unless the State and the defendant or respondent agree, or the
2 court orders otherwise, the defendant in a criminal proceeding shall file a notice of
3 deposition at least 5 days before, or in a juvenile court proceeding within a reasonable
4 time before, the date of the deposition; and

5 (iii) Except where inconsistent with this paragraph, the provisions of
6 Maryland Rule 4-261 shall apply to a deposition taken under this paragraph.

7 (d) In order to determine if a child's statement possesses particularized
8 guarantees of trustworthiness under this section, the court shall consider, but is not
9 limited to, the following factors:

10 (1) The child's personal knowledge of the event;

11 (2) The certainty that the statement was made;

12 (3) Any apparent motive to fabricate or exhibit partiality by the child,
13 including interest, bias, corruption, or coercion;

14 (4) Whether the statement was spontaneous or directly responsive to
15 questions;

16 (5) The timing of the statement;

17 (6) Whether the child's young age makes it unlikely that the child fabricated
18 the statement that represents a graphic, detailed account beyond the child's knowledge
19 and experience and the appropriateness of the terminology to the child's age;

20 (7) The nature and duration of the abuse;

21 (8) The inner consistency and coherence of the statement;

22 (9) Whether the child was suffering pain or distress when making the
23 statement;

24 (10) Whether extrinsic evidence exists to show the defendant's opportunity to
25 commit the act complained of in the child's statement;

26 (11) Whether the statement is suggestive due to the use of leading questions;
27 and

28 (12) The credibility of the person testifying about the statement.

29 (e) The court, in determining whether a statement is admissible under this
30 section, in a hearing outside the presence of the jury, or before the juvenile court
31 proceeding shall:

32 (1) Make a finding on the record as to the specific guarantees of
33 trustworthiness that are present in the statement; and

34 (2) Determine the admissibility of the statement.

35 (f) (1) In making a determination under subsection (e) of this section, the court
36 shall conduct an in camera examination of a child prior to determining the admissibility of
37 the statement, except where the child:

14

1 (i) Has died; or

2 (ii) Is absent from the jurisdiction for good cause shown or the State
3 has been unable to procure the child's presence by subpoena or other reasonable means.

4 (2) (i) Except as provided in subparagraph (ii)2 of this paragraph, any
5 defendant, any defendant's attorney, and the prosecutor shall have the right to be present
6 when the court hears testimony on whether to admit into evidence an outof court
7 statement of a child under this section.

8 (ii) If the court is required to observe or question the child in
9 connection with the determination to admit into evidence the out of court statement:

10 1. Any defendant's attorney and the prosecutor shall have the
11 right to be present at the in camera examination; and

12 2. The judge may not permit a defendant to be present at the in
13 camera examination.

14 (g) (1) This section may not be construed to limit the admissibility of a
15 statement under any other applicable hearsay exception or rule of evidence.

16 (2) This section may not be construed to prohibit the court in a juvenile
17 court proceeding from hearing testimony in the judge's chambers.

18 DRAFTER'S NOTE: This section is transferred from CJ § 9-103.1.
19 %In subsection (b)(1)(i) of this section, the reference to "§ 35C of this article"
20 is substituted for the former obsolete reference to "Article 27, § 35A of the
21 Code".
22 The only other changes are in style.
23 As to the definition of "court", see CJ § 1-101.

24 776. APPEALS BY VICTIMS OF VIOLENT CRIMES.

25 (a) (1) In this section, "victim of a violent crime" means a victim of:

26 (i) A crime of violence as defined under [Article 27,] § 643B of [the
27 Code] THIS ARTICLE; or

28 (ii) Except as provided in paragraph (2) of this subsection, a crime
29 involving, causing, or resulting in death or serious bodily injury.

30 (2) "Victim of a violent crime" does not include a victim of an offense that
31 is not punishable by imprisonment under the Maryland Vehicle Law or under Title 8,
32 Subtitle 7 of the Natural Resources Article ("State Boat Act").

33 (b) (1) In the event of the death or disability of a victim of a violent crime, the
34 term "victim of a violent crime" includes the victim's:

35 (i) Spouse or surviving spouse;

36 (ii) Parent or legal guardian;

15

1 (iii) Child; or

2 (iv) Sibling.

3 (2) If there is a dispute over who shall be the victim's representative, the
4 court shall select a representative for the victim.

5 (c) Although not a party to a criminal proceeding, the victim of the violent crime
6 for which the defendant is charged has the right to file an application for leave to appeal
7 to the Court of Special Appeals from an interlocutory or final order that denies or fails to
8 consider a right secured to that victim by [Article 27, § 620(b) or § 643D] § 773(B) OR §
9 780 OF THIS SUBTITLE or Article 41, § 4-609 of the Code.

10 (d) The filing of an application for leave to appeal under this section may not
11 result in the stay of other proceedings in a criminal case without the consent of all of the
12 parties.

13 DRAFTER'S NOTE: This section is transferred from CJ § 12-303.1.

14 %The only changes are in style.

15 As to the definition of "court", see CJ § 1-101.

16 777. WITNESS COMPENSATION.

17 A WITNESS ATTENDING COURT HAS THE RIGHT TO COMPENSATION AS
18 PROVIDED IN § 9-202 OF THE COURTS ARTICLE.

19 DRAFTER'S NOTE: This section merely provides a cross-reference to CJ §
20 9-202.

21 No change in the law is intended.

22 778. RESERVED.

23 779. RESERVED.

24 SENTENCING PROCEDURES

25 [643D.] 780. RIGHT OF VICTIM OR REPRESENTATIVE TO ADDRESS SENTENCING
26 JUDGE.

27 (a) In every case resulting in serious physical injury or death, the victim or a
28 member of the victim's immediate family, or if the victim is deceased, under a mental,
29 physical, or legal disability, or otherwise unable to provide the required information, the
30 personal representative, guardian, or committee, or other family member may, at the
31 request of the State's Attorney and in the discretion of the sentencing judge, address the
32 sentencing judge or jury under oath or affirmation before the imposition of sentence.

33 (b) (1) If the victim or the victim's representative is permitted to address the
34 judge or jury, the defendant may cross-examine the victim or the victim's representative.

35 (2) The cross-examination is limited to the factual statements made in the
36 address to the judge or jury.

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1 (c) (1) A victim or representative has the right not to address the court at
2 sentencing.

3 (2) A person may not attempt to coerce a victim or representative to address
4 the court at sentencing.

5 DRAFTER'S NOTE: This section formerly was Art. 27, § 643D of the Code.
6 %There are no changes.

7 781. VICTIM IMPACT STATEMENT IN PRESENTENCE INVESTIGATION.

8 [(2) (i)] (A) [The] A presentence investigation THAT IS COMPLETED
9 BY THE DIVISION OF PAROLE AND PROBATION UNDER ARTICLE 41, § 4-609 OF THE
10 CODE shall include a victim impact statement, if:

11 [1.] (1) The defendant, in committing a felony, caused physical,
12 psychological, or economic injury to the victim; or

13 [2.] (2) The defendant, in committing a misdemeanor, caused
14 serious physical injury or death to the victim.

15 [(ii)] (B) If the court does not order a presentence investigation, the
16 State's Attorney may prepare a victim impact statement to be submitted to the court and
17 the defendant in accordance with the Maryland Rules of Procedure pertaining to
18 presentence investigations.

19 [(iii)] (C) The court shall consider the victim impact statement in
20 determining the appropriate sentence, and in entering any order of restitution to the
21 victim under [Article 27, § 640(c) of the Code] § 807(C) OF THIS SUBTITLE.

22 [(3)] (D) A victim impact statement shall:

23 [(i)] (1) Identify the victim of the offense;

24 [(ii)] (2) Itemize any economic loss suffered by the victim as a result
25 of the offense;

26 [(iii)] (3) Identify any physical injury suffered by the victim as a result
27 of the offense along with its seriousness and permanence;

28 [(iv)] (4) Describe any change in the victim's personal welfare or
29 familial relationships as a result of the offense;

30 [(v)] (5) Identify any request for psychological services initiated by the
31 victim or the victim's family as a result of the offense; and

32 [(vi)] (6) Contain any other information related to the impact of the
33 offense upon the victim or the victim's family that the court requires.

34 [(4)] (E) If the victim is deceased, under a mental, physical, or legal
35 disability, or otherwise unable to provide the information required under this section, the
36 information may be obtained from the personal representative, guardian, or committee,
37 or such family members as may be necessary.

17

1 DRAFTER'S NOTE: This section is transferred from Art. 41, § 4-609(c)(2), (3),
2 and (4) of the Code.
3 In subsection (a) of this section, the reference to a presentence investigation
4 "that is completed by the Division of Parole and Probation under Article 41, §
5 4-609 of the Code" is added for clarity.
6 The only other changes are in style.

7 782. RESERVED.

8 783. RESERVED.

9 POSTSENTENCING PROCEDURES

10 784. NOTICE OF SUBSEQUENT PROCEEDINGS TO VICTIMS OF CRIMES OF VIOLENCE.

11 (a) In this section, "subsequent proceeding" includes:

12 (1) A review of sentence under [Article 27,] § 645JA of [the Code] THIS
13 ARTICLE;

14 (2) A hearing on a request to have a sentence modified or vacated under the
15 Maryland Rules;

16 (3) An appeal to the Court of Special Appeals; or

17 (4) An appeal to the Court of Appeals.

18 (b) Following conviction and sentencing of a criminal defendant for a crime of
19 violence as defined in [Article 27,] § 643B of [the Code] THIS ARTICLE, the State's
20 Attorney shall send advance notice, in writing, of a subsequent proceeding to the victim of
21 that crime of violence, or in the case of a homicide, to a designated family member, if the
22 victim or designated family member:

23 (1) In a timely manner, requests of the State's Attorney, in writing, to be
24 notified of subsequent proceedings; and

25 (2) Maintains with the State's Attorney a current address in the State.

26 (c) (1) The State's Attorney's office shall:

27 (i) Notify the victim or designated family member of all appeals to the
28 Court of Special Appeals and the Court of Appeals filed by the defendant; and

29 (ii) Send an information copy of the victim's notification to the office
30 of the Attorney General.

31 (2) Following the initial notification to the victim, the office of the Attorney
32 General shall:

33 (i) Notify the victim or designated family member of all subsequent
34 dates pertinent to the appeal, including hearings, postponements, and the decisions of the
35 appellate courts; and

18

1 (ii) Send an information copy of the victim's notification to the State's
2 Attorney's office.

3 (d) A notice sent under this section shall contain, at a minimum:

4 (1) The date and time of the subsequent proceeding;

5 (2) The location of the subsequent proceeding; and

6 (3) A brief description of the subsequent proceeding.

7 DRAFTER'S NOTE: This section is transferred from Art. 10, § 40A of the Code.

8 %The only changes are in style.

9 785. PROCEEDINGS AT PATUXENT INSTITUTION -- NOTICE AND COMMENT.

10 (A) WORK RELEASE AND LEAVE OF ABSENCE.

11 BEFORE THE BOARD OF REVIEW FOR PATUXENT INSTITUTION GRANTS TO AN
12 ELIGIBLE PERSON WORK RELEASE OR LEAVE OF ABSENCE FROM PATUXENT
13 INSTITUTION, THE BOARD MUST GIVE THE VICTIM NOTICE AND THE OPPORTUNITY
14 FOR COMMENT AS PROVIDED UNDER ARTICLE 31B, § 10(B) OF THE CODE.

15 (B) RELEASE.

16 (1) BEFORE THE BOARD OF REVIEW FOR PATUXENT INSTITUTION
17 DECIDES WHETHER TO GRANT PAROLE TO AN ELIGIBLE PERSON, THE BOARD MUST
18 GIVE THE VICTIM NOTICE AND THE OPPORTUNITY FOR COMMENT AS PROVIDED
19 UNDER ARTICLE 31B, § 11(C) OF THE CODE.

20 (2) IF THE BOARD OF REVIEW FOR PATUXENT INSTITUTION PETITIONS
21 A COURT TO SUSPEND OR VACATE THE SENTENCE OF A PERSON WHO HAS
22 SUCCESSFULLY COMPLETED 3 YEARS ON PAROLE WITHOUT VIOLATION AND WHOM
23 THE BOARD CONCLUDES IS SAFE TO BE PERMANENTLY RELEASED, THE BOARD
24 MUST NOTIFY THE VICTIM AS PROVIDED UNDER ARTICLE 31B, § 11(E) OF THE CODE.

25 DRAFTER'S NOTE: This section merely provides cross-references to Art. 31B,

26 §§ 10(b) and 11(c) and (e) of the Code for informational purposes.

27 No change in the law is intended.

28 As to the definitions of "Board of Review", "eligible person", and "victim",

29 see Art. 31B, § 1 of the Code.

30 786. PROCEEDINGS OF MARYLAND PAROLE COMMISSION -- NOTICE AND COMMENT.

31 (A) SCOPE OF SECTION.

32 THIS SECTION APPLIES TO A VICTIM WHO HAS MADE A WRITTEN REQUEST TO
33 THE MARYLAND PAROLE COMMISSION FOR NOTIFICATION.

34 (B) PAROLE RELEASE HEARING.

35 (1) IF A PAROLE RELEASE HEARING IS SCHEDULED FOR A PERSON WHO
36 HAS BEEN CONVICTED AND SENTENCED TO THE DIVISION OF CORRECTION FOR A

19

1 VIOLENT CRIME, THE MARYLAND PAROLE COMMISSION MUST GIVE THE VICTIM
2 NOTICE AS PROVIDED UNDER ARTICLE 41, § 4-504(D) OF THE CODE.

3 (2) AT A PAROLE RELEASE HEARING, A VICTIM HAS THE RIGHTS
4 PROVIDED UNDER ARTICLE 41, § 4-507(C) AND (D) OF THE CODE.

5 (C) REVOCATION OF PAROLE.

6 IF A PERSON WHO WAS CONVICTED OF A VIOLENT CRIME IS FOUND GUILTY OF
7 VIOLATING A CONDITION OF PAROLE, THE MARYLAND PAROLE COMMISSION SHALL
8 NOTIFY THE VICTIM AS PROVIDED UNDER ARTICLE 41, § 4-511(F) OF THE CODE.

9 (D) COMMUTATION, PARDON, OR REMISSION OF SENTENCE.

10 (1) IF A PERSON WHO IS SENTENCED TO THE DIVISION OF CORRECTION
11 IS BEING CONSIDERED FOR A COMMUTATION, PARDON, OR REMISSION OF
12 SENTENCE, THE MARYLAND PAROLE COMMISSION SHALL NOTIFY THE VICTIM AS
13 PROVIDED UNDER ARTICLE 41, § 4-511A(B)(1), (4), (5), AND (6) OF THE CODE.

14 (2) IN ADDITION TO THE RIGHT OF NOTIFICATION REFERRED TO IN
15 PARAGRAPH (1) OF THIS SUBSECTION, IF THE PERSON DESCRIBED IN PARAGRAPH (1)
16 OF THIS SUBSECTION WAS CONVICTED OF A VIOLENT CRIME, A VICTIM HAS THE
17 RIGHTS REGARDING SUBMISSION AND CONSIDERATION OF A VICTIM IMPACT
18 STATEMENT PROVIDED UNDER ARTICLE 41, § 4-511A(B)(2) AND (3) OF THE CODE.

19 (E) VIOLATION OF MANDATORY SUPERVISION.

20 IF A PERSON WHO WAS CONVICTED OF A CRIME OF VIOLENCE IS FOUND
21 GUILTY OF VIOLATING A CONDITION OF MANDATORY SUPERVISION, THE
22 MARYLAND PAROLE COMMISSION SHALL NOTIFY THE VICTIM AS PROVIDED UNDER
23 ARTICLE 41, § 4-612(I) OF THE CODE.

24 DRAFTER'S NOTE: This section merely provides cross-references to Art. 41, §§
25 4-501, 4-504(d), 4-507(c) and (d), 4-511(f), 4-511A(b), and 4-612(i) of the
26 Code for informational purposes.
27 No change in the law is intended. As to the definitions of "commutation",
28 "mandatory supervision", "pardon", "parole", and "violent crime", see Art. 41,
29 § 4-501 of the Code. As to the definition of "victim", see Art.41, §§
30 4-504(d)(1), and 4-511A(a) of the Code. As to the definition of "crime of
31 violence", see § 643B of this article.

32 787. NOTIFICATION OF VICTIM CONCERNING COMMITTED INDIVIDUALS.

33 IF A PERSON HAS BEEN COMMITTED UNDER § 12-111 OF THE HEALTH -
34 GENERAL ARTICLE FOR A CRIME OF VIOLENCE, AND A VICTIM OF THE CRIME HAS
35 MADE A WRITTEN REQUEST TO THE DEPARTMENT OF HEALTH AND MENTAL
36 HYGIENE FOR NOTIFICATION, THE VICTIM HAS THE RIGHTS PROVIDED UNDER §
37 12-122 OF THE HEALTH - GENERAL ARTICLE.

38 DRAFTER'S NOTE: This section merely provides cross-references to HG§
39 12-122 for informational purposes.
40 No change in the law is intended.

20

1 As to the definition of "crime of violence", see § 643B of this article.

2 788. RESERVED.

3 789. RESERVED.

4 SEXUAL OFFENSES

5 [465 1/2.] 790. TRANSPORTATION OF ALLEGED RAPE VICTIM TO APPROVED
6 FACILITY.

7 Every police officer, sheriff, or deputy sheriff who receives a report of an alleged
8 rape or sexual offense in any degree, shall [offer] OFFER, without regard for the place of
9 alleged rape or sexual offense or where it is reported, the alleged victim the opportunity
10 to be taken immediately to the nearest facility designated by the Department of Health
11 and Mental Hygiene in cooperation with the Medical and Chirurgical Faculty of the State
12 of Maryland and the State's Attorney in the subdivision where the rape or sexual offense
13 in any degree occurred.

14 DRAFTER'S NOTE: This section formerly was Art. 27, § 465 1/2 of the Code.
15 %The only changes are in style.

16 791. ADMISSIBILITY OF EVIDENCE IN RAPE CASES.

17 EVIDENCE RELATING TO A VICTIM'S CHASTITY OR PRIOR SEXUAL CONDUCT
18 MAY BE ADMITTED IN A PROSECUTION FOR RAPE OR SEXUAL OFFENSE IN THE
19 FIRST OR SECOND DEGREE ONLY IN THE MANNER PROVIDED UNDER § 461A OF THIS
20 ARTICLE.

21 DRAFTER'S NOTE: This section merely provides a cross-reference to Art. 27, §
22 461A of the Code for informational purposes.
23 No change in the law is intended.

24 [692B.] 792. CHILD SEXUAL OFFENDERS - RELEASE OR ESCAPE FROM
25 CONFINEMENT.

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

27 (2) "Child sexual offender" means a person who:

28 (i) Has been convicted of violating § 35C of this article for an offense
29 involving sexual abuse;

30 (ii) Has been convicted of violating any of the provisions of §§ 462
31 through 464B of this article for an offense involving an individual under the age of 15
32 years;

33 (iii) Has been granted probation before judgement after being found
34 guilty of any of the offenses listed in items (i) and (ii) of this paragraph and has been
35 ordered by the court, as a condition of probation, to comply with the requirements of this
36 section;

21

1 (iv) Has been convicted of, or granted probation before judgement
2 after being found guilty of, violating § 464C of this article and has been ordered by the
3 court, as a part of a sentence or condition of probation, to comply with the requirements
4 of this section;

5 (v) Has been found not criminally responsible for any of the offenses
6 listed in items (i) and (ii) of this section; or

7 (vi) Has been convicted in another state of an offense that, if
8 committed in this State, would constitute one of the offenses listed in items (i) and (ii) of
9 this paragraph.

10 (3) "Local law enforcement agency" means the law enforcement agency in a
11 county that has been designated by resolution of the county governing body as the
12 primary law enforcement unit in the county.

13 (4) (i) "Release" means any type of release from the custody of a
14 supervising authority.

15 (ii) "Release" includes release on parole, mandatory supervision, work
16 release, and any type of temporary leave other than leave that is granted on an emergency
17 basis.

18 (iii) "Release" does not include an escape.

19 (5) "Supervising authority" means:

20 (i) If the child sexual offender is in the custody of a facility operated
21 by the Department of Public Safety and Correctional Services, the Secretary of Public
22 Safety and Correctional Services;

23 (ii) If the child sexual offender is in the custody of a local or regional
24 detention center, including an offender who is participating in a home detention program,
25 the administrator of the facility;

26 (iii) If the child sexual offender is granted probation before judgment,
27 probation after judgment, or a suspended sentence, the court that granted the probation
28 or suspended sentence;

29 (iv) If the child sexual offender is in the custody of the Patuxent
30 Institution, the Director of the Patuxent Institution;

31 (v) If the child sexual offender is in the custody of a facility operated
32 by the Department of Health and Mental Hygiene, the Secretary of Health and Mental
33 Hygiene; or

34 (vi) If the child sexual offender's sentence does not include a term of
35 imprisonment, the court in which the offender was convicted.

36 (b) (1) Subject to paragraph (2) of this subsection, on the earlier of the date
37 that the child sexual offender is released, is granted probation before judgment, is
38 granted probation after judgment, is granted a suspended sentence, or receives a sentence
39 that does not include a term of imprisonment the supervising authority shall send written

22

1 notice of the release of the child sexual offender to the local law enforcement agency in
2 the county where the offender will reside.

3 (2) A written notice required under paragraph (1) of this subsection shall
4 include:

5 (i) The full name of the child sexual offender;

6 (ii) The child sexual offender's address, if available;

7 (iii) The child sexual offender's Social Security number;

8 (iv) A recent photograph of the child sexual offender; and

9 (v) A brief description of the crime for which the child sexual offender
10 was convicted, granted probation before judgment, or found not criminally responsible.

11 (3) The same notice as required under paragraph (1) of this subsection shall
12 be sent to the following persons if such notice has been requested in writing about a
13 specific child sexual offender:

14 (i) The victim of the crime for which the child sexual offender was
15 convicted or, if the victim is a minor, the parents or legal guardian of the victim;

16 (ii) Any witness who testified against the child sexual offender in any
17 court proceedings involving the offense; and

18 (iii) Any person specified in writing by the State's Attorney.

19 (4) Information regarding any person who receives notice under paragraph
20 (3) of this subsection is confidential and may not be disclosed to the child sexual offender
21 or any other person, agency, or entity.

22 (5) If a child sexual offender escapes from a facility, the supervising
23 authority of the facility shall immediately notify, by the most reasonable and expedient
24 means available:

25 (i) The local law enforcement agency in the jurisdiction in which the
26 offender resided before the offender was committed to the custody of the supervising
27 authority; and

28 (ii) Any person who is entitled to receive notice under paragraph (3)
29 of this subsection.

30 (6) If the offender is recaptured, the supervising authority shall send notice,
31 as soon as possible and in no event later than 2 working days after the supervising
32 authority learns of the recapture, to:

33 (i) The local law enforcement agency in the jurisdiction in which the
34 offender resided before the offender was committed to the custody of the supervising
35 authority; and

36 (ii) Any person who is entitled to receive notice under paragraph (3)
37 of this subsection.

1 (7) A supervising authority shall send any notice required under paragraph
2 (3), (5)(ii), and (6)(ii) of this subsection to the last address provided to the supervising
3 authority for a person who is entitled to notice under paragraph (3) of this subsection.

4 (8) If a child sexual offender will reside after release in a municipal
5 corporation that has a police department, or, in the case where a child sexual offender
6 escapes from a facility and the offender resided, before the offender was committed to
7 the custody of a supervising authority, in a municipal corporation that has a police
8 department, a local law enforcement agency that receives a notice from a supervising
9 authority under this subsection shall send a copy of the notice to the police department of
10 the municipal corporation.

11 (c) (1) In this subsection, "resident" means a person who lives in this State at
12 the time the person:

- 13 (i) Is released;
- 14 (ii) Is granted probation before judgment;
- 15 (iii) Is granted probation after judgment;
- 16 (iv) Is granted a suspended sentence; or
- 17 (v) Receives a sentence that does not include a term of imprisonment.

18 (2) A child sexual offender shall register with the local law enforcement
19 agency:

- 20 (i) If the child sexual offender is a resident, within 7 days after:
 - 21 1. Being released;
 - 22 2. Being granted probation before judgment;
 - 23 3. Being granted probation after judgment;
 - 24 4. Being granted a suspended sentence; or
 - 25 5. Receiving a sentence that does not include a term of
26 imprisonment; or
- 27 (ii) If the child sexual offender is not a resident, within 7 days after the
28 earlier of:
 - 29 1. Establishing a temporary or permanent residence in this
30 State; or
 - 31 2. Applying for a driver's license in this State.

32 (d) (1) Subject to paragraph (3) of this subsection, as soon as possible and in no
33 event later than 5 working days after receiving a registration statement, a local law
34 enforcement agency shall send written notice of the registration statement to the county
35 superintendent, as defined in § 1-101 of the Education Article, in the county where the
36 child sexual offender will reside.

1 (2) As soon as possible and in no event later than 5 working days after
2 receiving notice from the local law enforcement agency under paragraph (1) of this
3 subsection, a county superintendent shall send written notice of the registration
4 statement to the principals of the schools within the supervision of the superintendent.

5 (3) In addition to the notice required under paragraph (1) of this
6 subsection, a local law enforcement agency may provide notice of a registration statement
7 to the following organizations if the agency determines that such notice is necessary to
8 protect the public interest:

9 (i) A community organization;

10 (ii) A religious organization; and

11 (iii) Any other organization that relates to children or youth.

12 (4) A local law enforcement agency shall establish procedures for carrying
13 out the notification requirements of paragraph (3) of this subsection, including the
14 circumstances under and manner in which notification shall be provided.

15 (5) An elected public official, public employee, or public agency is immune
16 from civil liability for damages arising out of any action relating to the provisions of this
17 subsection, unless it is shown that the official, employee, or agency acted with gross
18 negligence or in bad faith.

19 (e) On the earlier of the date that the child sexual offender is released, is granted
20 probation before judgment, is granted probation after judgment, is granted a suspended
21 sentence, or receives a sentence that does not include a term of imprisonment, the
22 supervising authority shall:

23 (1) Give written notice to a child sexual offender of the registration
24 requirements of this section; and

25 (2) Obtain a statement signed by the child sexual offender acknowledging
26 the receipt of the written notice.

27 (f) If the supervising authority accepts supervision of and has legal authority over
28 a child sexual offender from another state under the terms and conditions of the
29 interstate compact agreement established under Article 41, § 4-801 or §§ 4-1201 through
30 4-1211 of the Code, the supervising authority shall:

31 (1) Give the child sexual offender written notice of the registration
32 requirements of this section; and

33 (2) Obtain a statement signed by the child sexual offender acknowledging
34 the receipt of the written notice.

35 (g) (1) Registration shall consist of a statement signed by a child sexual
36 offender which shall include:

37 (i) The child sexual offender's name, address, and place of
38 employment;

25

1 (ii) A description of the crime for which the child sexualoffender was
2 convicted, granted probation before judgment, or found not criminally responsible;

3 (iii) The date that the child sexual offender was convicted, granted
4 probation before judgment, or found not criminally responsible;

5 (iv) The jurisdiction in which the child sexual offender was convicted,
6 granted probation before judgment, or found not criminally responsible;

7 (v) A list of any aliases that have been used by the childsexual
8 offender; and

9 (vi) The child sexual offender's Social Security number.

10 (2) The local law enforcement agency shall obtain a photograph and
11 fingerprints of the child sexual offender and include copies of the photograph and
12 fingerprints in the registration statement.

13 (3) (i) As soon as possible and in no event later than 3 working days after
14 registration is completed, the local law enforcement agency shall send a copy of the
15 registration statement to the Department of Public Safety and Correctional Services.

16 (ii) The Department of Public Safety and Correctional Services shall
17 maintain a central registry of child sexual offenders.

18 (iii) The Department of Public Safety and Correctional Services shall
19 reimburse the local law enforcement agencies for the cost of processingthe registration
20 statements of child sexual offenders, including the taking of fingerprints and photographs.

21 (4) (i) Subject to subparagraph (ii) of this paragraph, upon written
22 request to a local law enforcement agency, the agency shall send a copyof a registration
23 statement to the person who submitted the request.

24 (ii) A request for a copy of a registration statement under
25 subparagraph (i) of this paragraph shall contain:

26 1. The name and address of the person submitting the request;
27 and

28 2. The reason for requesting the information.

29 (iii) A local law enforcement agency shall keep records ofall written
30 requests received under subparagraph (i) of this paragraph.

31 (5) An elected public official, public employee, or public agency is immune
32 from civil liability for damages arising out of any action relating to the provisions of this
33 subsection, unless it is shown that the official, employee, or agency acted with gross
34 negligence or in bad faith.

35 (h) (1) If a child sexual offender changes residences, the offender shall send
36 written notice of the change within 7 days after the change occurs to the local law
37 enforcement agency with whom the offender last registered.

26

1 (2) As soon as possible and in no event later than 3 working days after
2 receipt of the notice, the local law enforcement agency shall give notice of the change to
3 the Department of Public Safety and Correctional Services, and if the new residence is in
4 a different jurisdiction, to the local law enforcement agency in whose jurisdiction the new
5 residence is located.

6 (i) A child sexual offender shall register with a local law enforcement agency
7 annually for 10 years after:

8 (1) The last date of release;

9 (2) The offender is granted probation before judgment, probation after
10 judgment, or a suspended sentence; or

11 (3) Receives a sentence that does not include a term of imprisonment.

12 (j) If a child sexual offender will reside after release in a municipal corporation
13 that has a police department, or, in the case where a child sexual offender escapes from
14 a facility and the offender resided, before the offender was committed to the custody of
15 a supervising authority, in a municipal corporation that has a police department, a local
16 law enforcement agency with which a child sexual offender registers or sends a change in
17 registration under this section shall send a copy of the registration statement or change in
18 registration to the police department of the municipal corporation.

19 (k) A child sexual offender who knowingly fails to register as required by this
20 section is guilty of a misdemeanor and on conviction is subject to imprisonment in the
21 penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.

22 DRAFTER'S NOTE: This section formerly was Art. 27, § 692B of the Code.

23 %There are no changes.

24 793. RAPE CRISIS PROGRAMS.

25 (a) (1) The General Assembly finds and declares that an increasing number of
26 rape and sexual offense victims in Maryland do not have access to necessary counseling
27 and follow-up services. The General Assembly further finds that several areas of the
28 State have extremely limited support services to assist an alleged victim of rape and other
29 sexual offenses.

30 (2) The intention of this section is to provide for rape crisis programs which
31 will serve to address the special needs of a rape victim.

32 (b) (1) The Department of Human Resources shall assist in the establishment
33 of rape crisis programs in this State.

34 (2) The programs shall be developed and located in areas of the State to
35 facilitate the use of the program by alleged victims residing in the surrounding area.

36 (3) The programs shall provide specialized support services to the alleged
37 victims, both adults and children, of rape and sexual offenses.

38 (4) The programs shall include a hotline and counseling service.

27

1 (c) The Department of Human Resources may enter into a contract with public
2 or private nonprofit organizations to operate the programs.

3 (d) Funds for the programs shall be as provided in the annual State budget and
4 shall be used to supplement, but not supplant, funds that the programs receive from other
5 sources.

6 (e) The annual report of the Secretary to the General Assembly shall include a
7 report on the rape crisis program.

8 DRAFTER'S NOTE: This section is transferred from Art. 88A, § 130 of the Code.
9 %There are no changes.

10 794. INSTITUTIONS OF HIGHER EDUCATION -- SEXUAL ASSAULT POLICIES.

11 EACH INSTITUTION OF HIGHER EDUCATION SHALL ADOPT A WRITTEN POLICY
12 ON SEXUAL ASSAULT AS REQUIRED UNDER § 11-701 OF THE EDUCATION ARTICLE.

13 DRAFTER'S NOTE: This section merely provides a cross-reference to ED §
14 11-701 for informational purposes.
15 No change in the law is intended.
16 As to the definition of "institution of higher education", see ED § 10-101.

17 795. HEALTH CARE SERVICES FOR VICTIMS OF SEXUAL ABUSE.

18 APPLICABLE HEALTH CARE SERVICES SHALL BE GIVEN TO A VICTIM OF
19 SEXUAL ABUSE IN THE MANNER PROVIDED UNDER § 15-127 OF THE HEALTH -
20 GENERAL ARTICLE.

21 DRAFTER'S NOTE: This section merely provides a cross-reference to HG §
22 15-127.
23 No change in the law is intended.
24 As to the definition of "sexual abuse", see HG § 15-127.

25 796. RESERVED.

26 797. RESERVED.

27 DOMESTIC VIOLENCE

28 [11F.] 798. DUTIES OF LAW ENFORCEMENT OFFICERS -- DOMESTIC ABUSE.

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

30 (2) "Abuse" has the meaning stated in § 4-501 of the Family Law Article.

31 (3) "Victim" includes a "person eligible for relief" as described in § 4-501 of
32 the Family Law Article.

28

1 (b) (1) Any person who alleges to have been a victim of abuse and who believes
2 there is a danger of serious and immediate injury to himself or herself may request the
3 assistance of a local law enforcement agency.

4 (2) A local law enforcement officer responding to the request for assistance
5 shall:

6 (i) Protect the complainant from harm when responding to the
7 request; and

8 (ii) Accompany the complainant to the family home so that the
9 complainant may remove:

10 1. The personal clothing of the complainant and of any child in
11 the care of the complainant; and

12 2. The personal effects of the complainant and of any child in
13 the care of the complainant that are required for the immediate needs of the complainant
14 or the child.

15 (c) Any law enforcement officer responding to such a request shall have the
16 immunity from liability described under § 5-326 of the Courts [and Judicial Proceedings]
17 Article.

18 DRAFTER'S NOTE: This section formerly was Art. 27, § 11F of the Code.

19 %The only changes are in style.

20 [771.] 799. SAME -- NOTICE OF VICTIM'S RIGHTS WHEN RESPONDING TO DOMESTIC
21 ABUSE.

22 (a) When a law enforcement officer responds to a request for assistance under [§
23 11F] § 798 of this [article] SUBHEADING, the officer shall give the victim a copy of a
24 written notice that:

25 (1) States that the victim may:

26 (i) Request that a District Court commissioner file a criminal
27 charging document against the alleged abuser;

28 (ii) If the commissioner declines to charge the alleged abuser, request
29 that the State's Attorney file a criminal charging document against the alleged abuser;
30 and

31 (iii) File a petition for relief from abuse in the District Court or circuit
32 court under Title 4, Subtitle 5 of the Family Law Article; and

33 (2) Includes the telephone number of any local domestic violence program
34 that receives funding from the Department of Human Resources.

35 (b) A law enforcement officer may not be held liable in any civil action arising
36 from the officer's failure to provide the notice required under subsection (a) of this
37 section.

38 DRAFTER'S NOTE: This section formerly was Art. 27, § 771 of the Code.

29

1 The only changes are in style.

2 [772.] 800. SAME -- REPORT OF DOMESTIC ABUSE TO STATE POLICE AND VICTIM.

3 When a law enforcement officer responds to a request for assistance under [§ 11F
4 of this article] § 798 OF THIS SUBHEADING and an incident report is filed, the law
5 enforcement agency shall provide a copy of the report to the Department of State Police
6 and, on request, to the victim without a subpoena.

7 DRAFTER'S NOTE: This section formerly was Art. 27, § 772 of the Code.

8 %The only changes are in style.

9 801. CIVIL PROTECTIVE ORDERS.

10 A VICTIM OF ABUSE HAS THE RIGHT TO SEEK RELIEF PROVIDED BY CIVIL
11 PROTECTIVE ORDERS AND OTHER REMEDIES PROVIDED UNDER §§ 4-501 THROUGH
12 4-507 OF THE FAMILY LAW ARTICLE.

13 DRAFTER'S NOTE: This section merely provides a cross-reference to FL §§

14 4-501 through 4-507 for informational purposes.

15 No change in the law is intended.

16 As to the definitions of "abuse", "court", and "victim", see FL § 4-501.

17 802. DOMESTIC VIOLENCE PROGRAM.

18 THE DEPARTMENT OF HUMAN RESOURCES SHALL ESTABLISH AND
19 ADMINISTER A DOMESTIC VIOLENCE PROGRAM FOR VICTIMS OF DOMESTIC
20 VIOLENCE AS PROVIDED UNDER §§ 4-513 THROUGH 4-516 OF THE FAMILY LAW
21 ARTICLE.

22 DRAFTER'S NOTE: This section merely provides a cross-reference to FL §§

23 4-513 through 4-516 for informational purposes.

24 No change in the law is intended.

25 As to the definition of "victim of domestic violence", see FL §4-513.

26 803. PILOT DOMESTIC VIOLENCE PROTOCOL PROGRAM.

27 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL DEVELOP,
28 IMPLEMENT, AND ADMINISTER A PILOT DOMESTIC VIOLENCE PROTOCOL PROGRAM,
29 AS PROVIDED UNDER §§ 19-1701 THROUGH 19-1705 OF THE HEALTH - GENERAL
30 ARTICLE.

31 DRAFTER'S NOTE: This section merely provides a cross-reference to HG §§

32 19-1701 through 19-1705 for informational purposes.

33 No change in the law is intended.

34 For the termination date of these provisions on October 1, 1998, see HG §

35 19-1705.

30

1 804. RESERVED.

2 805. RESERVED.

3 RESTITUTION

4 [637.] 806. EXECUTION AGAINST CONVICT'S PROPERTY.

5 (A) In all cases where restitution or reparation is adjudged to be made to the party
6 injured and immediate restitution or reparation is not fully made, the court before whom
7 the offender is convicted shall either issue execution against the property of the convicted
8 person in the name of the person injured for the value of the property taken, or so much
9 [thereof] OF THE PROPERTY as is not restored, the value to be estimated by the court,
10 or order restitution in an amount not to exceed 20 percent of any earnings less other
11 deductions required by law to be paid out of any funds earned by the defendant under a
12 "work release" plan.

13 (B) The provisions of this section may not deprive the party injured from having
14 and maintaining a civil action against the offender, either before or after conviction, or
15 against any other person, for the recovery of the money received or property taken, or the
16 value [thereof] OF THE PROPERTY.

17 DRAFTER'S NOTE: This section formerly was Art. 27, § 637 of the Code.
18 %The only changes are in style.

19 [640.] 807. RESTITUTION FOR CRIMES.

20 (a) (1) In this [sub]SECTION, the following words have the meanings
21 indicated, unless the context of their use indicates otherwise.

22 (2) "Abandoned vehicle" has the same meaning as stated in § 25-201 of the
23 Transportation Article.

24 (3) "Child" means a person under the age of 18 years.

25 (4) "Court" means the Court of Appeals, Court of Special Appeals, circuit
26 court, and District Court of Maryland, or any of them, unless the context clearly requires
27 a contrary meaning.

28 (5) "Crime" means an act committed by any person in the State [of
29 Maryland] which would constitute a crime as defined in this article or at common law, or
30 a violation under § 25-202 of the Transportation Article. However, an act involving the
31 operation of a motor vehicle which results in injury does not constitute a crime for the
32 purpose of this [article] SECTION unless the injuries were intentionally inflicted through
33 the use of a vehicle.

34 (6) "Defendant" means any person who has been found guilty of a crime or
35 any person whose plea of nolo contendere to a crime has been accepted by the court.

36 (7) "Division" means Division of Parole and Probation.

37 (8) "Judge" means a judge of a court.

31

1 (9) "Order of restitution" means either a direct order for payment of
2 restitution or an order for payment of restitution that is a condition of probation in an
3 order of probation.

4 (10) "Property" means both real and personal property.

5 (11) "Victim":

6 (i) Means a person who suffers personal injury, death, or property loss
7 as a direct result of crime; and

8 (ii) Includes, in the event of the death of a victim, the victim's estate.

9 (b) (1) On conviction of a crime, acceptance of a plea of nolo contendere, or
10 imposition of probation before judgment under § 641 of this article, the court may issue
11 an order of restitution directing the defendant to make restitution in addition to any
12 other penalty for the commission of the crime, if:

13 (i) Property of the victim was stolen, converted, unlawfully obtained,
14 or its value substantially decreased as a direct result of the crime;

15 (ii) The victim suffered actual medical expenses, direct out-of-pocket
16 losses, or loss of earnings as a direct result of the crime;

17 (iii) The victim incurred medical expenses that were paid by the
18 Department of Health and Mental Hygiene or any other governmental entity;

19 (iv) A governmental entity incurred expenses in the removal, towing,
20 transporting, preserving, storage, sale, or destruction of an abandoned vehicle;

21 (v) The Criminal Injuries Compensation Board paid benefits to a
22 victim of the crime; or

23 (vi) The Department of Health and Mental Hygiene or other
24 governmental entity paid expenses incurred under [§ 765 of this article] § 855 OF THIS
25 SUBTITLE.

26 (2) A victim is presumed to have a right to restitution under paragraph (1)
27 of this subsection if:

28 (i) The victim or the State requests restitution;

29 (ii) The court is presented with competent evidence of any of items (i)
30 through (vi) of paragraph (1) of this subsection; and

31 (iii) The defendant has the ability to pay the restitution order.

32 (3) A court need not issue an order of restitution under this section if the
33 court finds good cause to establish extenuating circumstances as to why an order of
34 restitution is inappropriate in a case.

35 (4) The court may order that restitution be made to:

36 (i) The victim;

32

1 (ii) The Department of Health and Mental Hygiene, the Criminal
2 Injuries Compensation Board, or any other governmental entity; or

3 (iii) A third-party payor, including an insurer, which has made
4 payment to the victim to compensate the victim for a property loss or pecuniary loss under
5 this subsection.

6 (5) If the victim has been fully compensated for the victim's loss by a
7 third-party payor, the court may issue an order of restitution directing the defendant to
8 pay restitution to the third-party payor. Otherwise, payment of restitution to the victim
9 has priority over payment of restitution to the third-party payor.

10 (6) Payment of restitution to the victim under this subsection has priority
11 over payment of restitution to the Department of Health and Mental Hygiene or other
12 governmental entity.

13 (7) If restitution is requested under this subsection and the court does not
14 order restitution, the court shall state, on the record, the court's reasons for not ordering
15 restitution.

16 (c) When an order of restitution has been entered [pursuant to] UNDER
17 subsection (b) of this section:

18 (1) Compliance with the order:

19 (i) May be made as a sentence; and

20 (ii) Shall be a condition of probation, in addition to a sentence, if
21 probation is ordered; and

22 (2) Subject to federal law, the Department of Public Safety and Correctional
23 Services shall obtain the Social Security number of the defendant to facilitate the
24 collection of restitution.

25 (d) (1) Restitution shall be made by the defendant to the Division of Parole and
26 Probation under the terms and conditions of the order of restitution.

27 (2) The Division shall keep records of any payments or return of property in
28 satisfaction of the order of restitution.

29 (3) The Division shall forward any property or payments in accordance with
30 the court's order of restitution and the provisions of this section to:

31 (i) The victim;

32 (ii) The Department of Health and Mental Hygiene or other
33 governmental entity; or

34 (iii) The third-party payor.

35 (4) The Division may assess additional fees not to exceed 2 percent of the
36 amount of the order of restitution to pay for administrative costs of collecting payments
37 or property. These fees shall be paid by the defendant.

1 (e) (1) When a defendant fails to make restitution as ordered, the Division shall
2 notify the court.

3 (2) The court may hold a hearing to determine if the defendant is in
4 contempt of court or has violated the terms of the probation [or parole].

5 (3) If the court finds that the defendant intentionally became impoverished
6 to avoid payment of the restitution, the court may find the defendant in violation of
7 probation [or parole].

8 (f) An order of restitution may not preclude the owner of the property or the
9 victim who suffered personal physical or mental injury or out-of-pocket loss of earnings
10 or support from proceeding in a civil action to recover damages from the defendant. A
11 civil verdict shall be reduced by the amount paid under the criminal restitution order.

12 (g) If an order of restitution requiring the payment of money is recorded and
13 indexed in the civil judgment index under subsection (h) or subsection (i) of this section:

14 (1) The order of restitution shall constitute a money judgment in favor of
15 the individual, governmental entity, or third-party payor to whom the defendant has been
16 ordered to pay restitution;

17 (2) The order of restitution may be enforced by the individual,
18 governmental entity, or third-party payor to whom the defendant has been ordered to pay
19 restitution in the same manner as a money judgment in a civil action; and

20 (3) Except as otherwise expressly provided by this section, an individual,
21 governmental entity, or third-party payor to whom a defendant has been ordered to pay
22 restitution shall have all the rights and obligations of a money judgment creditor under
23 the Maryland Rules, including the obligation to file a statement that the judgment has
24 been satisfied under Rule 2-626 or Rule 3-626 on receiving all amounts due under the
25 judgment.

26 (h) (1) An order of restitution that is issued by a circuit court under this section
27 shall be recorded and indexed in the civil judgment index by the clerk of the circuit court
28 as a money judgment as prescribed by the Maryland Rules.

29 (2) An order of restitution that is recorded and indexed in the civil
30 judgment index as a money judgment under paragraph (1) of this subsection:

31 (i) In the county of entry of the judgment, shall constitute a lien from
32 the date of entry in the amount of the judgment on the defendant's interest in land
33 located in the county of the entry of the judgment; but

34 (ii) In a county other than the county of entry of the judgment, shall
35 constitute a lien from the date of recording in the amount of the judgment on the
36 defendant's interest in land located in that county.

37 (i) (1) An order of restitution that is issued by the District Court under this
38 section may not be recorded and indexed as a money judgment in the District Court until
39 the individual, governmental entity, or third-party payor to whom the defendant has been
40 ordered to pay restitution files a written statement with the clerk of the District Court
41 that requests the order of restitution be recorded and indexed as a money judgment.

34

1 (2) If an order of restitution issued by the District Court is recorded and
2 indexed as a money judgment as permitted under paragraph (1) of this subsection, the
3 clerk of the District Court shall:

4 (i) Immediately forward a notice of lien of judgment to the circuit
5 court of that county; and

6 (ii) On the receipt of the written statement from the individual,
7 governmental entity, or third-party payor to whom a defendant has been ordered to pay
8 restitution, forward a notice of lien of judgment to the circuit court of any other county as
9 prescribed by the Maryland Rules.

10 (3) When the clerk of the District Court forwards a notice of lien under
11 paragraph (2) of this subsection to a circuit court, the clerk of the circuit court shall
12 record and index the notice of lien as prescribed by the Maryland Rules.

13 (4) An order of restitution that is issued by the District Court and is
14 recorded and indexed as a money judgment as permitted by paragraph (1) of this
15 subsection shall constitute a lien in the amount of the judgment of the defendant's
16 interest in land in a county from the date that a notice of lien is recorded and indexed in
17 the circuit court of that county.

18 (5) If the District Court issues an order of restitution under this section, the
19 clerk of the District Court shall forward a written notice to the individual, governmental
20 entity, or third-party payor to whom a defendant has been ordered to pay restitution that
21 states:

22 (i) The order of restitution does not constitute a money judgment
23 until it is recorded and indexed in the civil judgment records in the District Court;

24 (ii) The order of restitution shall be recorded and indexed as a money
25 judgment in the District Court and a notice of lien shall be forwarded to the circuit court
26 of that county by the clerk of the District Court on the receipt of a written statement from
27 the individual, governmental entity, or third-party payor that requests the order of
28 restitution be recorded and indexed as a money judgment;

29 (iii) A notice of lien shall be forwarded by the clerk of the District
30 Court to any other circuit court on the receipt of a written statement from the individual,
31 governmental entity, or third-party payor that requests the notice of lien be forwarded to
32 a specific circuit court; and

33 (iv) There shall be no fee for recording and indexing the order of
34 restitution as a money judgment in the District Court or for recording and indexing a
35 notice of lien in the circuit court of that county.

36 (j) A court may not assess any costs on an individual, governmental entity, or
37 third-party payor to whom a defendant has been ordered to pay restitution:

38 (1) For recording and indexing an order of restitution as a money judgment
39 in the court in which the order of restitution was issued; or

40 (2) For recording and indexing a notice of lien forwarded by the District
41 Court to a circuit court.

1 (k) (1) Subject to the Maryland Rules, unless complete restitution is paid by a
 2 defendant, termination of an order of restitution or probation by a court does not affect
 3 a money judgment that has been recorded and indexed under this section.

4 (2) If a District Court decides to terminate an order of restitution that has
 5 not been recorded and indexed as a money judgment under subsection (i) of this section
 6 or to terminate a probation before an order of restitution has been recorded and indexed
 7 as a money judgment under subsection (i) of this section, the court shall direct the clerk
 8 of the court to:

9 (i) Record and index the order of restitution as a money judgment
 10 and forward a notice of lien to the circuit court of that county prior to terminating the
 11 order of restitution and probation; and

12 (ii) Forward a written notice to the individual, governmental entity, or
 13 third-party payor to whom the defendant was ordered to pay restitution which states that
 14 the order of restitution has been recorded and indexed as a money judgment in the
 15 District Court and that a notice of lien has been forwarded to the circuit court of that
 16 county.

17 (l) (1) Notwithstanding any other provision of this section and except as
 18 provided in paragraph (2) of this subsection, a victim or other person may not execute on
 19 a judgment recorded and indexed under this section if the defendant files a motion under
 20 the Maryland Rules to stay execution of sentence or the order of restitution and
 21 challenges the conviction, sentence, or order of restitution by:

22 (i) Filing an appeal in a State court or in federal court;

23 (ii) Applying for leave to appeal following a plea of guilty in a circuit
 24 court;

25 (iii) Filing a motion for exercise of revisory power by the sentencing
 26 court under the Maryland Rules;

27 (iv) Filing an application for review of criminal sentence under §§
 28 645JA through 645JG of this article; or

29 (v) Filing a notice for in banc review under the Maryland Rules.

30 (2) If a defendant files an action described in paragraph (1) of this
 31 subsection, an individual, governmental entity, or third-party payor may not execute on a
 32 judgment recorded and indexed under this section until a court issues a final judgment
 33 upholding the conviction, sentence, or order of restitution.

34 (3) An individual, governmental entity, or third-party payor may not
 35 execute on a judgment recorded and indexed under this section until the time period has
 36 expired in which a defendant may file any of the actions listed under items (1)(i) through
 37 (v) of this subsection.

38 (m) (1) Notwithstanding any other provision of law, if the defendant is a child
 39 who has been charged as an adult, the court may order the child, the child's parent, or
 40 both to pay restitution to a victim.

36

1 (2) As an absolute limit against any one child, the child's parent, or both, an
2 order of restitution issued under this section may not exceed \$10,000 for all acts arising
3 out of a single incident.

4 (3) A court may not issue an order of restitution against a parent under this
5 section unless the parent has been afforded a reasonable opportunity to be heard and to
6 present appropriate evidence on the parent's behalf. A hearing under this section may be
7 held as part of the criminal proceeding against the child.

8 (n) The State's Attorney should, if practicable, notify any eligible victim of the
9 right to request restitution and provide assistance in the preparation of the request and
10 advice as to the steps that a victim may take to collect any restitution that is awarded.

11 DRAFTER'S NOTE: This section formerly was Art. 27, § 640 of the Code.
12 %In subsection (a)(1) and (5) of this section, the reference to "section" is
13 substituted for the former, overly broad references to "subtitle" and "article"
14 for clarity.
15 In subsection (e)(2) and (3) of this section, the references to parole are
16 deleted because absent statutory authority, a court may not make decisions
17 concerning parole, which is a function of the executive branch. See State v.
18 Parker, 334 Md. 576, 640 A.2d. 1104 (1994) and Patuxent Board of Review v.
19 Hancock, 329 Md. 445, 620 A.2d 917 (1993).
20 The only other changes are in style.

21 808. LIABILITY FOR ACTS OF CHILD.

22 (a) (1) The JUVENILE court may enter a judgment of restitution against the
23 parent of a child, the child, or both in any case in which the court finds a child has
24 committed a delinquent act and during or as a result of the commission of that delinquent
25 act has:

26 (i) Stolen, damaged, destroyed, converted, unlawfully obtained, or
27 substantially decreased the value of the property of another; or

28 (ii) Inflicted personal injury on another, requiring the injured person
29 to incur medical, dental, hospital, funeral, or burial expenses; or

30 (iii) Caused the victim of the delinquent act to incur reasonable
31 counseling expenses from a licensed health care provider, if the delinquent act involved:

32 1. Personal injury;

33 2. Child abuse under [Article 27, § 35A of the Code] § 35C OF
34 THIS ARTICLE;

35 3. Abuse or neglect of vulnerable persons under [Article 27, §
36 35B of the Code] § 35D OF THIS ARTICLE;

37 4. Incest, rape, or sexual offense in any degree;

38

1 appropriate evidence in [his] THE PARENT'S behalf. A hearing under this section may be
2 held as part of an adjudicatory or disposition hearing for the child.

3 (f) The judgment may be enforced in the same manner as enforcing monetary
4 judgments.

5 (g) The Department of Juvenile Justice is responsible for the collection of
6 restitution payments when the restitution order provides that restitution is to be made in
7 periodic or installment payments, as part of probation, or pursuant to a work plan.

8 DRAFTER'S NOTE: This section is transferred from CJ § 3-829.

9 %In subsections (a)(1), (2), (3)(iii), (b), and (d) of this section, the word
10 "juvenile" is added before the word "court" to clarify that this section applies
11 only to proceedings in the juvenile court.

12 In subsection (a)(1)(iii) 2. and 3. of this section, the references to "§ 35C of
13 this article" and "§ 35D of this article" are substituted for the former obsolete
14 references to "Article 27, § 35A of the Code" and "Article 27, § 35B of the
15 Code" respectively.

16 The only other changes are in style.

17 As to the definitions of "adjudicatory hearing", "child", "court", "delinquent
18 act", "disposition hearing", and "victim", see CJ § 3-801.

19 809. EVIDENCE OF EXPENSES AT HEARING.

20 (a) In a restitution hearing held under [§ 3-829 of this article or Article 27, § 640
21 of the Code] § 807 OR § 808 OF THIS SUBHEADING, a written statement or bill for
22 medical, dental, hospital, funeral, or burial expenses shall be prima facie evidence that
23 the amount indicated on the written statement or bill represents a fair and reasonable
24 charge for the services or materials provided.

25 (b) The burden of proving that the amount indicated on the written statement or
26 bill is not fair and reasonable shall be on the person challenging the fairness and
27 reasonableness of the amount.

28 DRAFTER'S NOTE: This section is transferred from CJ § 10-917.

29 %The only changes are in style.

30 [640A.] 810. DELINQUENT RESTITUTION.

31 (a) In addition to taking any action authorized under [§ 640 of this article] § 807
32 OF THIS SUBHEADING, the Division of Parole and Probation may refer a delinquent
33 restitution account to the Central Collection Unit in the Department of Budget and
34 Fiscal Planning for collection.

35 (b) Subject to the provisions of subsection (c) of this section, the Central
36 Collection Unit may:

37 (1) Collect any delinquent restitution in accordance with Title 3, Subtitle 3
38 of the State Finance and Procurement Article; and

39

1 (2) Certify any defendant who is in arrears on restitution payments
2 amounting to more than \$30 under the order of restitution:

3 (i) To the Comptroller for income tax refund interception in
4 accordance with Article 19, §§ 43 through 46 of the Code; and

5 (ii) To the State Lottery Agency for State lottery prize interception in
6 accordance with [§ 640B of this article] § 811 OF THIS SUBHEADING.

7 (c) (1) The Central Collection Unit may not compromise and settle an order of
8 restitution unless the Division of Parole and Probation obtains the consent of the victim.

9 (2) The Division of Parole and Probation shall contact the victim to see if
10 the victim consents to compromise and settle an order of restitution.

11 (d) If complete restitution and interest have been paid or an order of restitution
12 has been compromised and settled as provided in subsection (c) of this section, the
13 Division or the Central Collection Unit immediately shall notify:

14 (1) The court that issued the order by filing the statement as provided under
15 [§ 640(g)(3) of this article] § 807(G)(3) OF THIS SUBHEADING that the judgment has
16 been satisfied; and

17 (2) The last known employer of a defendant in order to terminate an
18 earnings withholding order issued under [§ 640C of this article] § 812 OF THIS
19 SUBHEADING.

20 (e) (1) Restitution may be considered delinquent if the restitution or a
21 restitution payment is not paid:

22 (i) By the date ordered by the court; or

23 (ii) If no date was ordered, the latter of:

24 1. The date the Division directed the defendant to pay
25 restitution or make a restitution payment; or

26 2. 30 days after the court issued an order of restitution.

27 (2) If restitution is considered delinquent, the amount of the arrearage is
28 the amount of restitution ordered plus any interest as allowed by law reduced by any
29 amount previously paid or received under the order.

30 DRAFTER'S NOTE: This section formerly was Art. 27, § 640A of the Code.
31 %The only changes are in style.

32 [640B.] 811. STATE LOTTERY INTERCEPTION FOR RESTITUTION ARREARAGE.

33 (a) In this section, "Unit" means the Central Collection Unit in the Department
34 of Budget and Fiscal Planning.

35 (b) A certification to the State Lottery Agency under [§ 640A(c)(2)]§
36 810(B)(2)(II) OF THIS SUBHEADING shall contain:

40

1 (1) The full name of the defendant and any other name known to be used by
2 the defendant;

3 (2) The Social Security number of the defendant; and

4 (3) The amount of the arrearage.

5 (c) If a defendant who is delinquent in restitution payments wins a lottery prize to
6 be paid by check directly by the State Lottery Agency, the State Lottery Agency shall send
7 a notice to the defendant that:

8 (1) The defendant has won a prize to be paid by the State Lottery Agency;

9 (2) The Lottery Agency has received notice from the Central Collection
10 Unit of the defendant's restitution arrearage in the amount specified;

11 (3) State law requires the Lottery Agency to withhold the prize to pay it
12 towards the defendant's restitution arrearage;

13 (4) The Lottery Agency proposes to transfer the prize, or that part of it
14 which is equal to the restitution arrearage, to the Unit if no appeal is filed within 15 days;

15 (5) The defendant may appeal to the Unit if the defendant disputes the
16 existence or the amount of the arrearage; and

17 (6) If no appeal is filed within 15 days, the prize, or that part of it that is
18 equal to the restitution arrearage, shall be transferred to the Unit.

19 (d) The State Lottery Agency shall withhold any part of the prize up to the
20 amount of the arrearage until the Unit notifies the Agency as to whom the withheld prize
21 money shall be paid.

22 (e) Upon receipt of a notice from the State Lottery Agency, any defendant who
23 disputes the existence or amount of the arrearage may appeal the proposed transfer
24 within 15 days after the date of the notice.

25 (f) If no appeal is filed within 15 days, the State Lottery Agency shall transfer the
26 amount of the prize withheld to the Unit.

27 (g) If the defendant appeals the proposed transfer, after a hearing the Unit shall
28 notify the State Lottery Agency that the withheld prize shall be:

29 (1) Paid to the defendant;

30 (2) Transferred to the Unit; or

31 (3) Partly paid to the defendant and partly transferred to the Unit, in the
32 amounts specified.

33 (h) The State Lottery Agency shall honor lottery prize interception requests in the
34 following order:

35 (1) An interception request under § 10-113.1 of the Family Law Article; and

36 (2) An interception request under this section.

41

1 (i) The Secretary of Budget and Fiscal Planning and the Director of the State
2 Lottery Agency may jointly adopt regulations to implement this section.

3 DRAFTER'S NOTE: This section formerly was Art. 27, § 640B of the Code.
4 %In subsection (b) of this section, the cross-reference to "§ 820(b)(2)(ii) of this
5 subheading" is substituted for the former erroneous cross-reference to "§
6 640A(c)(2)".
7 There are no other changes.

8 [640C.] 812. EARNINGS WITHHOLDING ORDERS.

9 (a) If a court issues an order of restitution under [§ 640 of this article] § 807 OF
10 THIS SUBHEADING, the court may issue an immediate and continuing earnings
11 withholding order in an amount sufficient to pay the restitution:

- 12 (1) At sentencing;
- 13 (2) When the defendant is placed on work release or probation; or
- 14 (3) When the payment of restitution is delinquent.

15 (b) Subject to federal law, the order of priority of execution of an earnings
16 withholding order shall be as follows:

- 17 (1) An earnings withholding order issued under § 10-126 of the Family Law
18 Article;
- 19 (2) An earnings withholding order issued under this section; and
- 20 (3) Any other lien or legal process.

21 (c) (1) If a court orders an earnings withholding order under this section:

- 22 (i) The clerk of the court immediately shall:
- 23 1. Serve a copy of the earnings withholding order on any
24 current or subsequent employers of the defendant, if known; and
- 25 2. Mail a copy of the earnings withholding order to the
26 defendant at the last known address or place of incarceration of the defendant, if known;
- 27 (ii) A defendant immediately shall notify the court and the Division of:
- 28 1. Any objection to an earnings withholding order; and
- 29 2. The current address of the residence of the defendant, the
30 name of the employer, and the work address of the defendant, or any change of employer,
31 residence, or work address of the defendant;
- 32 (iii) An employer who is served with an earnings withholding order
33 under this section immediately shall notify the court and the Division of the following
34 information:

42

1 1. Any justification for an employer's inability to comply with
2 the earnings withholding order;

3 2. The address of the residence of the defendant on the
4 termination of employment;

5 3. Information regarding the new place of employment of the
6 defendant; or

7 4. That the defendant has been reemployed by the employer;
8 and

9 (iv) Unless the information has previously been provided to the court,
10 the Division or the Central Collection Unit shall notify the court of any current or
11 subsequent address of the residence of the defendant and the employer and work address
12 of the defendant.

13 (2) An earnings withholding order is binding on each present and future
14 employer of the defendant who has been served with the order.

15 (3) Except as otherwise provided in this section, an earnings withholding
16 order issued under this section shall:

17 (i) Comply with the requirements of § 10-126(a) of the Family Law
18 Article; and

19 (ii) Set forth the obligations and responsibilities of an employer and a
20 defendant under an earnings withholding order and the consequences of violating a
21 provision of this section.

22 (4) Each amount withheld in an earnings withholding order under this
23 section shall be payable to the Division.

24 (5) The provisions of § 10-127(a) through (c) of the Family Law Article
25 shall apply to an earnings withholding order under this section.

26 (6) (i) Subject to the provisions of paragraphs (ii) and (iii) of this
27 subsection, the payment amount under an earnings withholding order under this section
28 shall be 20 percent of the earnings of a defendant as determined under [§ 637 of this
29 article] § 806 OF THIS SUBHEADING.

30 (ii) If the restitution obligation of the defendant is considered to be
31 delinquent, the court may impose a payment amount in excess of the amount allowed in
32 subparagraph (i) of this paragraph.

33 (iii) Any amount of an earnings withholding order issued under this
34 section may not exceed the requirements of the federal Consumer Credit Protection Act.

35 (iv) If a court determines that the amount of an earnings withholding
36 order issued under this section exceeds the requirements of the federal Consumer Credit
37 Protection Act, the court shall alter the amount of the order to the maximum allowed
38 under the federal Consumer Credit Protection Act.

43

1 (7) (i) A defendant or employer of a defendant who violates the
2 provisions of this section is subject to a fine not to exceed \$250.

3 (ii) A fine collected under this section shall be distributed in the same
4 manner as the distribution of costs under [Article 26A, § 17 of the Code] § 830 OF THIS
5 SUBTITLE.

6 (iii) In addition to any fine imposed under this paragraph, an employer
7 is liable for damages for the failure of the employer to deduct the earnings of a defendant
8 or failure to make a timely payment as required in the order.

9 DRAFTER'S NOTE: This section formerly was Art. 27, § 640C of the Code.
10 %The only changes are in style.

11 813. RESERVED.

12 814. RESERVED.

13 CRIMINAL INJURIES COMPENSATION

14 815. DEFINITIONS.

15 (A) [For the purpose of this article:] IN THIS SUBHEADING THE FOLLOWING
16 WORDS HAVE THE MEANINGS INDICATED.

17 [(a)] (B) "Board" means the Criminal Injuries Compensation Board.

18 [(b)] (C) "Claimant" means the person filing a claim pursuant to this article.

19 [(c)] (D) (1) Except as provided in paragraph (2) of this subsection, "crime"
20 means an act:

21 (i) Committed by any person in this State which is a criminal offense
22 under State, federal, or common law;

23 (ii) Committed in another state against a resident of thisState which is
24 a criminal offense under State, federal, or common law;

25 (iii) Of operating a motor vehicle in violation of § 21-902(a), (b), (c), or
26 (d) of the Transportation Article; or

27 (iv) Of operating a motor vehicle or vessel which results in injury which
28 was intentionally inflicted.

29 (2) Except as provided in paragraph (1)(iii) and (iv) of this subsection,
30 "crime" does not include an act involving the operation of a vessel or motor vehicle.

31 [(d)] (E) "Family" when used with reference to a person, means:

32 (1) Any person related to such person within the third degree of
33 consanguinity or affinity;

34 (2) Any person maintaining a sexual relationship with such person; or

35 (3) Any person residing in the same household with such person.

44

1 [(e)] (F) "Victim" means a person who suffers:

2 (1) Personal physical injury or death as a result of a crime; or

3 (2) Psychological injury as a direct result of:

4 (i) First or second degree rape; or

5 (ii) A first, second, third, or fourth degree sexual offense.

6 [(f)] (G) "Secretary" means the Secretary of [the Department of] Public Safety
7 and Correctional Services or the Secretary's designee.

8 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 2 of the Code.
9 %The only changes are in style.

10 816. DECLARATION OF POLICY AND LEGISLATIVE INTENT.

11 The legislature recognizes that many innocent persons suffer personal physical or
12 psychological injury or death as a result of criminal acts or in their efforts to prevent
13 crime or apprehend persons committing or attempting to commit crimes. [Such] THESE
14 persons or their dependents may thereby suffer disability, incur financial hardships or
15 become dependent upon public assistance. The legislature finds and determines that
16 there is a need for government financial assistance for [such] THESE victims of crime.
17 Accordingly, it is the legislature's intent that aid, care and support be provided by the
18 State, as a matter of moral responsibility, for [such] THESE victims of crime.

19 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 1 of the Code.
20 %The only changes are in style.

21 817. CRIMINAL INJURIES COMPENSATION BOARD.

22 (a) (1) There is [hereby created in the Department of Public Safety and
23 Correctional Services a Board, to be known as the] A Criminal Injuries Compensation
24 Board[, to consist] UNDER THE DEPARTMENT OF PUBLIC SAFETY AND
25 CORRECTIONAL SERVICES.

26 (2) THE BOARD CONSISTS of [5] FIVE members, no more than [4] FOUR
27 of whom shall belong to the same political party.

28 (3) The members of the Board shall be appointed by the Secretary [of
29 Public Safety and Correctional Services], with the approval of the Governor, and with the
30 advice and consent of the Senate.

31 (4) One member of the Board shall have been admitted to practice law in
32 the State [of Maryland] for not less than five years next preceding [his] THE
33 appointment.

34 (b) The term of office of each [such] member [shall be five] IS 5 years[, except
35 that the members first appointed shall serve for terms of five years, four years and three
36 years respectively]. Any member appointed to fill a vacancy occurring otherwise than by
37 expiration of a term shall be appointed for the remainder of the unexpired terms.

45

1 (c) The Secretary, with the approval of the Governor, shall designate one member
 2 of the Board as chairman, to serve at the pleasure of the Secretary.

3 (d) The members of the Board shall devote [such] time as is necessary to
 4 perform the duties imposed upon them. They shall receive an annual salary as may be
 5 provided in the [annual] STATE budget.

6 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 3 of the Code.
 7 %In subsection (b) of this section, the former phrase "except that the members
 8 first appointed shall serve for terms of five years, four years and three years
 9 respectively" is deleted as obsolete, because the phrase related only to the
 10 initial members of the Board who have since left office.
 11 The only other changes are in style.

12 818. POWERS AND DUTIES.

13 The Board, subject to the authority of the Secretary [of Public Safety and
 14 Correctional Services] as set forth in Article 41 of the Code, shall have the following
 15 powers and duties:

16 [(a)] (1) To establish and maintain an office and to appoint and prescribe the
 17 duties of a claims examiner, a secretary, clerks, and [such] ANY other employees and
 18 agents as may be necessary. Except as otherwise provided by law, these employees are
 19 subject to the provisions of the State Personnel and Pensions Article that govern
 20 classified service employees[.];

21 [(b)] (2) To adopt, promulgate, amend and rescind suitable rules and regulations
 22 to carry out the provisions and purposes of this [article] SUBHEADING, including rules
 23 for the approval of attorneys' fees for representation before the Board or before the court
 24 upon judicial review as [hereinafter] PROVIDED UNDER THIS SUBHEADING[.];

25 [(c)] (3) To request from the State's Attorney, Department of State Police,
 26 county or municipal police departments [such] ANY investigation and data as will enable
 27 the Board to determine if, in fact, a crime was committed or attempted, and the extent, if
 28 any, to which the victim or claimant was responsible for [his] THE CLAIMANT'S OR
 29 VICTIM'S own injury[.];

30 [(d)] (4) To hear and determine all claims for awards filed with the Board
 31 [pursuant to this article] UNDER THIS SUBHEADING, and to reinvestigate or reopen
 32 cases as the Board deems necessary[.];

33 [(e)] (5) To direct medical examination of victims[.];

34 [(f)] (6) To hold hearings, administer oaths or affirmations, examine any person
 35 under oath or affirmation and to issue summons requiring the attendance and giving of
 36 testimony of witnesses and require the production of any books, papers, documentary or
 37 other evidence. The powers provided in this subsection may be delegated by the Board to
 38 any member or employee [thereof] OF THE BOARD. A summons issued under this
 39 subsection shall be regulated by the Maryland Rules of Procedure[.];

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1 [(g)] (7) To take or cause to be taken affidavits or depositions within or without
2 the State[.]; AND

3 [(h)] (8) To render each year to the Governor, to the Secretary [of Public Safety
4 and Correctional Services], and, subject to § 2-1312 of the State Government Article, to
5 the General Assembly a written report of the activities of the Board.

6 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 4 of the Code.
7 %In subsections (b) and (d) of this section, the references to "subheading" is
8 substituted for the former overly broad references to "article"for accuracy.
9 The only other changes are in style.

10 819. ELIGIBILITY FOR AWARDS.

11 (a) Except as provided in subsection (b) of this section, the following persons shall
12 be eligible for awards [pursuant to this article] UNDER THIS SUBHEADING:

13 (1) A victim of a crime;

14 (2) A surviving spouse or child of a victim of a crime who diedas a direct
15 result of [such] A crime;

16 (3) Any other person dependent for principal support upon a victim of a
17 crime who died as a direct result of such crime;

18 (4) Any person who is injured or killed while trying to preventa crime or an
19 attempted crime from occurring in [his] THE PERSON'S presence or tryingto apprehend
20 a person who had committed a crime in [his] THE PERSON'S presence or had, in fact,
21 committed a felony;

22 (5) A surviving spouse or child of any person who dies as a direct result of
23 trying to prevent a crime or an attempted crime from occurring in [his]THE PERSON'S
24 presence or trying to apprehend a person who had committed a crime in [his] THE
25 PERSON'S presence or had, in fact, committed a felony;

26 (6) Any other person dependent for [his] principal support uponany
27 person who dies as a direct result of trying to prevent a crime or an attempted crime from
28 occurring in [his] THE PERSON'S presence or trying to apprehend a person who had
29 committed a crime in [his] THE PERSON'S presence or had, in fact, committed a felony;

30 (7) Any person who is injured or killed while giving aid and assistance to a
31 law-enforcement officer in the performance of [his] THE OFFICER'S lawful duties or to
32 a member of a fire department who is being obstructed from performing [his] THE
33 OFFICER'S lawful duties; and

34 (8) Any person who paid or assumed responsibility for the funeral expenses
35 of a victim who died as a result of a crime or an eligible person who is killed as a direct
36 result under paragraphs (4) and (7) of this subsection.

37 (b) (1) Except as provided in paragraph (2) of this subsection, a person who is
38 criminally responsible for the crime upon which a claim is based or an accomplice of

47

1 [such] THAT person shall not be eligible to receive an award with respect to [such] THE
2 claim.

3 (2) A victim or dependent may not be denied compensation solely because
4 the victim:

5 (i) Is a relative of the offender; or

6 (ii) Was living with the offender as a family member or household
7 member at the time of the injury or death.

8 (3) If the Board can reasonably determine that the offender will not receive
9 any economic benefit or undue enrichment from the compensation, the Board may award
10 compensation to a victim or a dependent who is a relative, family member, or household
11 member of the offender.

12 (c) Any resident of the State is eligible for an award if the resident:

13 (1) Meets the requirements of this [article] SUBHEADING; or

14 (2) Becomes a victim of a crime in a state other than Maryland that:

15 (i) Does not operate a criminal injuries compensation program; or

16 (ii) Operates a criminal injuries compensation program for which the
17 victim is ineligible.

18 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 5 of the Code.

19 %In subsections (a) and (c)(1) of this section, the references to "subheading" is
20 substituted for the former overly broad references to "article" for accuracy.

21 The only other changes are in style.

22 820. FILING OF CLAIMS.

23 (a) A claim may be filed by a person eligible to receive an award, as provided in
24 [§ 5 of this article] § 819 OF THIS SUBHEADING, or if [such] THE person is under
25 eighteen years of age, by [his] THE PERSON'S parent or guardian. In any case in which
26 the person entitled to make a claim is mentally incompetent, the claim may be filed on
27 [his] THE PERSON'S behalf by [his] THE PERSON'S guardian or [such] other individual
28 authorized to administer [his] THE PERSON'S estate.

29 (b) (1) A claim must be filed by the claimant not later than:

30 (i) 180 days after the occurrence of the crime upon which the claim is
31 based; or

32 (ii) 180 days after the death of the victim.

33 (2) The Board may extend the time for filing up to 2 years after each
34 occurrence for good cause.

35 (3) In cases of child abuse, a claim may be filed up to 2 years after the
36 occurrence was known or should have been known by the claimant.

1 (c) Claims shall be filed in the office of the secretary of the Board in person or by
 2 mail. The secretary shall accept for filing all claims submitted by persons eligible under
 3 subsection (a) of this section and alleging the jurisdictional requirements set forth in this
 4 [article] SUBHEADING and meeting the requirements as to form in the rules and
 5 regulations of the Board.

6 (d) Upon filing of a claim [pursuant to this article] UNDER THIS SUBHEADING,
 7 the Board shall promptly notify the State's Attorney of the county, or Baltimore City, as
 8 the case may be, [wherein] WHERE the crime is alleged to have occurred.If, within ten
 9 days after [such] notification, the State's Attorney so notified advises the Board that a
 10 criminal prosecution is pending upon the same alleged crime, the Board shall defer all
 11 proceedings under this [article] SUBHEADING until [such] THE time as [such] THE
 12 criminal prosecution has been concluded and shall so notify [such] THATState's
 13 Attorney and the claimant. When [such] THE criminal prosecution has been concluded,
 14 the State's Attorney shall promptly [so] notify the Board. Nothing in this section shall
 15 limit the authority of the Board to grant emergency awards as [hereinafter] provided
 16 UNDER THIS SUBHEADING.

17 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 6 of the Code.
 18 %In subsections (c) and (d) of this section, the references to "subheading" is
 19 substituted for the former overly broad references to "article"for accuracy.
 20 The only other changes are in style.

21 821. MINIMUM ALLOWABLE CLAIM.

22 An award may not be made on a claim unless the claimant has incurred a minimum
 23 out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks'
 24 earnings or support. Out-of-pocket loss means unreimbursed and unreimbursable
 25 expenses or indebtedness reasonably incurred for medical care, including expenses for
 26 eyeglasses and other corrective lenses, mental health counseling, funeral expenses, or
 27 other services necessary as a result of the injury upon which [such] THE claim is based.

28 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 7 of the Code.
 29 %The only changes are in style.

30 822. DECISIONS ON CLAIMS.

31 (a) A claim, when accepted for filing, shall be assigned by the chairman to [3]
 32 THREE members of the Board. All claims arising from the death of an individual as a
 33 direct result of a crime shall be considered together by [3] THREE Board members. The
 34 chairman may reassign cases as necessary.

35 (b) The Board members to whom the claim is assigned shall examine the papers
 36 filed in support of the claim and shall [thereupon] cause an investigation to be
 37 conducted into the validity of the claim. The investigation shall include, but not be limited
 38 to, an examination of police, court and official records and reports concerning the crime
 39 and an examination of medical and hospital reports relating to the injury upon which the
 40 claim is based.

1 (c) Claims shall be investigated and determined, regardless of whether the alleged
2 criminal has been apprehended or prosecuted for or convicted of any crime based upon
3 the same incident, or has been acquitted, or found not guilty of the crime in question
4 owing to criminal responsibility or other legal exemption.

5 (d) The Board members to whom a claim is assigned may recommend a tentative
6 decision and advise the claimant of that recommendation. The claimant may request a
7 hearing before the Board members for the purpose of presenting additional information.
8 If the Board members are unable to decide the claim upon the basis of the [said] papers
9 and report, they shall order a hearing. At the hearing any relevant evidence, not legally
10 privileged, shall be admissible.

11 (e) After examining the papers filed in support of the claim and thereport of
12 investigation, and after a hearing, if any, the Board members to whom the claim was
13 assigned shall make a decision either granting an award [pursuant to §12 of this article]
14 UNDER § 825 OF THIS SUBHEADING or deny the claim.

15 (f) The Board members making a decision shall file with the Secretary a written
16 report setting forth the decision and the reasons [therefor] IN SUPPORT OF THE
17 DECISION. After reviewing the records, the Secretary shall modify, affirm, or reverse the
18 decision of the Board members. The action of the Secretary in affirming, modifying, or
19 reversing the decision of the Board members shall be final. The claimant shall be
20 furnished with a copy of the final report upon request.

21 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 8 of the Code.

22 %The only changes are in style.

23 823. JUDICIAL REVIEW OF DECISION.

24 Within 30 days of the final decision any claimant aggrieved by the final decision may
25 appeal the decision under the applicable provisions of the Administrative Procedure Act,
26 §§ 10-222 and 10-223 of the State Government Article [of the Code].

27 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 10 of the Code.

28 %The only change is in style.

29 824. EMERGENCY AWARDS.

30 (A) Notwithstanding the provisions of [§§ 6 and 8 of this article] §§ 820 AND 822
31 OF THIS SUBHEADING, THE BOARD MEMBERS MAY MAKE AN EMERGENCY AWARD
32 TO THE CLAIMANT PENDING A FINAL DECISION IN THE CASE, if it appears to the
33 Board members to whom a claim is assigned, prior to taking action upon the claim, that
34 [(a) the]:

35 (1) THE claim is one with respect to which an award probably will be made[,
36 and (b) undue]; AND

37 (2) UNDUE hardship will result to the claimant if immediate payment is not
38 made[, the Board members may make an emergency award to the claimant pending a
39 final decision in the case].

50

1 (B) (1) [However, (1) the] THE amount of the emergency award [shall]MAY
2 not exceed \$1,000[, (2) the].

3 (2) THE amount of the emergency award shall be deducted from any final
4 award made to the claimant[, and (3) the].

5 (3) THE excess of the amount of the emergency award over the final award,
6 or the full amount of the emergency award if no final award is made, shall be repaid by
7 the claimant to the Board.

8 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 11 of the Code.

9 825. CONDITIONS FOR AND AMOUNT OF AWARDS.

10 (a) (1) An award may not be made unless the Board members find that:

11 (i) [a] A crime was committed[, (ii) such];

12 (II) THE crime directly resulted in personal physical injury to, or death
13 of the victim[, and]; AND

14 (iii) [police] POLICE records show that [such] THE crime was
15 promptly reported to the proper authorities[; and in].

16 (2) IN no case may an award be made where the police records show that
17 [such] THE CRIME report was made more than [forty-eight] 48 hours afterthe
18 occurrence of [such] THE crime unless the Board, for good cause shown, finds the delay
19 to have been justified. The Board, upon finding that any claimant or award recipient has
20 not fully cooperated with all law enforcement agencies, may deny or withdraw any award,
21 as the case may be.

22 [(2)] (3) (I) An award may not be made unless funds are appropriated
23 and available for the full amount of the award.

24 (II) If a multiyear award is made, the total amount of theaward shall
25 be obligated and held for [such] ANY period of time as is necessary to complete payment
26 in accordance with the provisions of the award.

27 (III) If payment of the award is terminated for any reasonsubsequent to
28 June 30 of the fiscal year in which the award was made, the remainder of the award shall
29 revert to the Criminal Injuries Compensation Fund established under [§ 17A of this
30 article] § 831 OF THIS SUBHEADING.

31 (IV) Any compensation awarded under the provisions of thisAct shall
32 not exceed \$25,000 for any disability-related claim and \$45,000 for anymedical claim.
33 The maximum amount awarded under all of the provisions of this Act shall not exceed
34 \$45,000, including any subsequent and supplemental awards.

35 [(3)] (4) Any compensation awarded under the provisions of this[article]
36 SUBHEADING for the purposes of psychiatric, psychological, or mental health counseling
37 [shall] MAY not exceed \$2,000 for each claimant.

38 (b) (1) Any award made [pursuant to this article] UNDER THIS SUBHEADING
39 shall be made in accordance with the schedule of benefits, as it existed on January 1,

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1 1989, and degree of disability, as specified in Title 9, Subtitle 6 of the Labor and
2 Employment Article and any other applicable provisions of the Labor and Employment
3 Article, except for Title 9, Subtitle 8 of the Labor and Employment Article. However, the
4 term "average weekly wages", as applied to determine the award in accordance with Title
5 9, Subtitle 6 of the Labor and Employment Article, does not include tips, gratuities and
6 wages that are undeclared on the claimant's State or federal income tax returns in the
7 applicable years. If a claimant does not have "average weekly wages" so as to qualify
8 under the formula in Title 9, Subtitle 6 of the Labor and Employment Article, the award
9 shall be in an amount equal to the arithmetic average between the maximum and
10 minimum awards listed in the applicable portion of that subtitle.

11 (2) Any person who is entitled to an award due to the death of a victim as
12 the direct result of a crime or who has psychological injury may be eligible, under the
13 rules established by the Board, to receive psychiatric, psychological, or mental health
14 counseling, within the specific limitations of [subsection (a)(3)] SUBSECTION (A)(4) of
15 this section.

16 (c) If there are two or more persons entitled to an award as a result of the death
17 of a person which is the direct result of a crime, the award shall be apportioned among
18 the claimants.

19 (d) Any award made [pursuant to this article] UNDER THIS SUBHEADING shall
20 be reduced by the amount of any payments received or to be received as a result of the
21 injury:

22 (1) [from] FROM or on behalf of the person who committed the crime[, (2)
23 from];

24 (2) FROM any other public or private source, including an award of the
25 State Workers' Compensation Commission under the Maryland Workers' Compensation
26 Act[, or (3) as]; OR

27 (3) AS an emergency award [pursuant to § 11 of this article] UNDER § 824
28 OF THIS SUBHEADING.

29 (e) (1) (I) [In] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF
30 THIS PARAGRAPH, IN determining the amount of an award, the Board members shall
31 determine whether, because of [his] THE VICTIM'S conduct, the victim of [such] THE
32 crime contributed to the infliction of [his] THE VICTIM'S injury, and the Board members
33 shall reduce the amount of the award or reject the claim altogether, in accordance with
34 [such] THIS determination[; provided, however, that the].

35 (II) THE Board members may disregard for this purpose the
36 responsibility of the victim for [his] THE VICTIM'S own injury where the record shows
37 that [such] THIS responsibility was attributable to efforts by the victim to prevent a crime
38 or an attempted crime from occurring in [his] THE VICTIM'S presence or to apprehend
39 a person who had committed a crime in [his] THE VICTIM'S presence or had, in fact,
40 committed a felony.

41 (2) Claimants filing for injuries incurred as the occupants of a motor vehicle
42 or dependents of an occupant of a motor vehicle operated by a person in violation of the
43 provisions of § 21-902(a), (b), (c), or (d) of the Transportation Article may not recover

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1 unless the claimant can prove that the occupant did not or could not have known of the
2 condition of the operator of the vehicle.

3 (3) A person is not eligible for all or a portion of an award if the person
4 initiated, consented to, provoked, or unreasonably failed to avoid a physical confrontation
5 with the offender, or the victim was participating in a criminal offense at the time the
6 injury was inflicted.

7 (f) (1) If the Board members find that the claimant will not suffer serious
8 financial hardship, as a result of the loss of earnings or support and the out-of-pocket
9 expenses incurred as a result of the injury, if not granted financial assistance pursuant to
10 this article to meet the loss of earnings, support, or out-of-pocket expenses, the Board
11 members shall deny an award. In determining the serious financial hardship, the Board
12 members shall consider all of the financial resources of the claimant. Unless total
13 dependency is established, a family is considered to be partially dependent on a mother
14 with whom they reside without regard to actual earnings.

15 (2) The conditions of paragraph (1) of this subsection [shall] DO not apply
16 in determining an award under [§ 5(a)(4), (5), and (6) of this article]§ 819(A)(4), (5),
17 AND (6) OF THIS SUBHEADING.

18 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 12 of the Code.
19 %In subsections (a)(4), (b)(1), and (d) of this section, the references to
20 "subheading" is substituted for the former overly broad references to "article"
21 for accuracy.
22 The only other changes are in style.

23 826. MANNER OF PAYMENT.

24 Any award made under this [article] SUBHEADING shall be paid in accordance
25 with the discretion and decision of the Board as to the manner of payment. No award
26 made [pursuant to this article] UNDER THIS SUBHEADING shall be subject to execution
27 or attachment other than for expenses resulting from the injury which is the basis for the
28 claim. In every case providing for compensation to an employee or [his]THE
29 EMPLOYEE'S dependent under this article, the Board may, if in its opinion the facts and
30 circumstances of the case warrant it, convert the compensation to be paid in a partial or
31 total lump sum, without discount.

32 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 13 of the Code.
33 %The reference to "subheading" is substituted for the former overly broad
34 references to "article" for accuracy.
35 The only other changes are in style.

36 827. CONFIDENTIALITY OF RECORDS.

37 (A) [The] EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION,
38 THE record of a proceeding before the Board or a Board member shall be a public
39 record[; provided, however, that any].

53

1 (B) A record or report obtained by the Board, the confidentiality of which is
2 protected by any other law or regulation, shall remain confidential subject to [such] THE
3 law or regulation.

4 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 14 of the Code.
5 %The only changes are in style.

6 828. SUBROGATION.

7 Acceptance of an award made [pursuant to this article] UNDER THIS
8 SUBHEADING shall subrogate the State, to the extent of [such] THE award, to any right
9 or right of action, including the right to recover restitution ordered under [Article 27, §
10 640 of the Code or § 3-829 of the Courts Article] § 807 OR § 808 OF THIS SUBTITLE,
11 occurring to the claimant or the victim to recover payments on account of losses resulting
12 from the crime with respect to which the award is made.

13 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 15 of the Code.
14 %The reference to "subheading" is substituted for the former, overly broad
15 reference to "article" for accuracy.
16 The only other changes are in style.

17 829. PENALTY.

18 Any person who asserts a false claim under the provisions of this [article shall be]
19 SUBHEADING IS guilty of a misdemeanor, and upon conviction [thereof, shall be] IS
20 subject to a fine of not less than \$500 or one year imprisonment or both, and shall further
21 forfeit any benefit received and shall reimburse [and repay] the State for payments
22 received or paid on [his] THE PERSON'S behalf [pursuant to any of the provisions
23 hereunder] UNDER THIS SUBHEADING.

24 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 16 of the Code.
25 %The reference to "subheading" is substituted for the former, overly broad
26 reference to "article" for accuracy.
27 The former requirement that a person "repay" the State is deleted as
28 redundant in light of the requirement that the person reimburse the State for
29 false claims.
30 The only other changes are in style.

31 830. ADDITIONAL COSTS IN CRIMINAL CASES.

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

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

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

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

37 (iii) A crime at common law.

54

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

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

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

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

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

13 (2) The Comptroller shall deposit \$20 from each fee collected under
14 subsection (b) of this section from a circuit court and \$10 from each fee collected under
15 subsection (c) of this section from the District Court into the Maryland Victims of Crime
16 Fund established under [Article 27, § 764(j) of the Code] § 854 OF THIS SUBTITLE.

17 (3) The Comptroller shall deposit all other moneys collected under
18 subsections (b) and (c) of this section into the Criminal Injuries Compensation Fund
19 established under [§ 17A of this article] § 831 OF THIS SUBHEADING.

20 (4) The Comptroller shall pay out moneys from the Maryland Victims of
21 Crime Fund as approved by the Board of Victim Services under [§§ 9-1701 through
22 9-1708 of the State Government Article] §§ 837 THROUGH 844 OF THIS SUBTITLE.

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

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

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

31 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 17 of the Code.
32 %Section 3, ch. 396, Acts of 1995, provides that this section shall terminate at
33 the end of September 30, 1996, with no further action required by the General
34 Assembly. The section as it will appear after September 30, 1996 -- unless
35 further action is taken by the General Assembly -- is set forth in Section 3 of
36 this Act.

37 831. CRIMINAL INJURIES COMPENSATION FUND.

38 (a) (1) There is established a Criminal Injuries Compensation Fund.

55

1 (2) The Fund is a special continuing, nonlapsing fund that is not subject to
2 § 7-302 of the State Finance and Procurement Article.

3 (3) The Treasurer shall separately hold, and the Comptroller shall account
4 for, the Fund.

5 (4) The Fund shall be invested and reinvested in the same manner as other
6 State funds.

7 (5) Any investment earnings or federal matching funds received by the State
8 for criminal injuries compensation shall be retained to the credit of the Fund.

9 (6) The Fund shall be subject to an audit by the Office of Legislative Audits
10 as provided for in § 2-1215 of the State Government Article.

11 (7) This section may not be construed to prohibit the Fund from receiving
12 funds from any other source.

13 (b) (1) The Criminal Injuries Compensation Fund shall be used to fund the
14 Criminal Injuries Compensation Act as provided in this article.

15 (2) The Criminal Injuries Compensation Fund may be used for:

16 (i) Any award given under the Criminal Injuries Compensation Act;
17 and

18 (ii) The actual costs of administering the Criminal Injuries
19 Compensation Act.

20 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 17A of the
21 Code.

22 There are no changes.

23 832. CRIMINAL INCIDENT REPORT.

24 (a) As used in this section "law-enforcement agency" means the following:

25 (1) The Department of State Police;

26 (2) The Baltimore City Police Department;

27 (3) The police department, bureau, or force of any county;

28 (4) The police department, bureau, or force of any incorporated city or
29 town;

30 (5) The office of the Sheriff of any county;

31 (6) The office of the State's Attorney of any county;

32 (7) The office of the Attorney General; or

33 (8) The office of the State prosecutor.

56

1 (b) A law-enforcement agency, upon the filing of a report of a violent crime, shall
2 provide to any victim of that criminal incident written information supplied by the
3 [Criminal Injuries Compensation] Board concerning compensation for crime victims.

4 (c) A failure to comply with the requirements of this section is not grounds for
5 any action, civil or criminal, against a law-enforcement agency.

6 DRAFTER'S NOTE: This section is transferred from Art. 26A, § 18 of the Code.
7 %The only change is in style.

8 833. RESERVED.

9 834. RESERVED.

10 VICTIMS AND WITNESSES - SERVICES

11 VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM

12 [770.] 835. VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM.

13 (a) There is a Victim and Witness Protection and Relocation Program.

14 (b) The Program shall be administered by the State's Attorneys' Coordinator
15 under Article 10, § 41B of the Code in accordance with regulations adopted by the State's
16 Attorneys' Coordination Council under Article 10, § 41D of the Code after consultation
17 with the State Board of Victim Services.

18 (c) Money appropriated to the Program shall be used to:

19 (1) Protect victims and witnesses and the families of victims and witnesses;

20 (2) Relocate victims and witnesses for the purpose of protecting them or
21 facilitating their participation in court proceedings; and

22 (3) Pay any costs of administering the Program.

23 (d) To the extent possible, the Program shall be used to maximize the use of
24 federal matching funds or programs.

25 (e) Expenditures under this section shall be made pursuant to an appropriation
26 approved by the General Assembly in the annual State budget.

27 (f) The Program shall be subject to an audit by the Office of Legislative Audits as
28 provided under § 2-1215 of the State Government Article.

29 DRAFTER'S NOTE: This section formerly was Art. 27, § 770 of the Code.
30 %There are no changes.

57

1 836. RESERVED.

2 BOARD OF VICTIM SERVICES

3 837. DEFINITIONS.

4 (a) In this [subtitle] SUB-SUBHEADING the following words have the meanings
5 indicated.

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

7 (c) (1) "Crime" means an act that is committed by any person in the State that
8 would constitute a crime under [Article 27 of the Code] THIS ARTICLE orat common
9 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] GOVERNOR'S OFFICE OF CRIME CONTROL AND
15 PREVENTION.

16 (e) "Fund" means the Maryland Victims of Crime Fund established under
17 [Article 27, § 764 of the Code] § 854 OF THIS SUBTITLE.

18 (f) "Victim" means an individual who suffers personal injury or death as a direct
19 result of a crime.

20 (g) "Victim Services Coordinator" means the person who is appointed under the
21 provisions of [§ 9-1708 of this subtitle] § 844 OF THIS SUB-SUBHEADING.

22 DRAFTER'S NOTE: This section is transferred from SG § 9-1701.

23 %The reference to the "Governor's Office of Crime Control and Prevention" is
24 substituted for the former obsolete reference to the "Governor's Office of
25 Justice Administration". See Executive Order 01.01.1995.18.

26 The only other changes are in style.

27 838. LEGISLATIVE FINDINGS.

28 In recognition that State and local law, programs, and procedures must be
29 continually updated to meet the unique needs of [crime victims] VICTIMSOF CRIME,
30 the General Assembly finds that:

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

34 (2) the Victim Services Program should be transferred to be under the
35 authority of the [Governor's Office of Justice Administration] GOVERNOR'S OFFICE OF
36 CRIME CONTROL AND PREVENTION; and

58

1 (3) the administrative consolidation effected by this transfer will minimize
2 fragmentation of functions that the State government performs on behalf of [crime
3 victims] VICTIMS OF CRIME and assist in the coordination, efficiency, and greater
4 effectiveness of State assistance to victims of crime.

5 DRAFTER'S NOTE: This section is transferred from SG § 9-1702.
6 %In item (2) of this section, the reference to the "Governor's Office of Crime
7 Control and Prevention" is substituted for the former obsolete reference to
8 the "Governor's Office of Justice Administration". See Executive Order
9 01.01.1995.18.
10 The only other changes are in style.

11 839. BOARD ESTABLISHED.

12 There is in the [Governor's Office of Justice Administration] GOVERNOR'S
13 OFFICE OF CRIME CONTROL AND PREVENTION, created by Executive Order
14 [01.01.1992.02] 01.01.1995.18, or in any successor unit, a State Board of Victim Services.

15 DRAFTER'S NOTE: This section is transferred from SG § 9-1703.
16 %The reference to the "Governor's Office of Crime Control and Prevention" is
17 substituted for the former obsolete reference to the "Governor's Office of
18 Justice Administration". Accordingly, the cross-reference to the Executive
19 Order 01.01.1995.18 is substituted for the superseded ExecutiveOrder
20 01.01.1992.02.

21 840. MEMBERSHIP.

22 (a) (1) The Board consists of 17 members who shall serve without
23 compensation.

24 (2) The Board shall consist of:

25 (i) [the] THE Governor or the Governor's designee, as an ex officio
26 member, who shall be chairman;

27 (ii) [the] THE Attorney General or the Attorney General's designee;

28 (iii) [2] TWO State's Attorneys, appointed by the Governor, on the
29 recommendation of the Attorney General;

30 (iv) [3] THREE members of the public, appointed by the Governor, on
31 the recommendation of the Executive Director;

32 (v) [2] TWO professional victim service providers, appointed by the
33 Governor, on recommendation of the Executive Director;

34 (vi) [the] THE chairperson of the Maryland Criminal Injuries
35 Compensation Board;

36 (vii) [1] ONE member of the judiciary of the State, appointed by the
37 Chief Judge of the Court of Appeals;

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1 (viii) [a] A representative of the Maryland State Sheriff's Association,
2 appointed by the Governor;

3 (ix) [a] A representative of the Maryland Chiefs of Police, appointed
4 by the Governor;

5 (x) [the] THE Secretary of [the Department of] Human Resources
6 or the Secretary's designee;

7 (xi) [the] THE Secretary of [the Department of] Juvenile Justice or
8 the Secretary's designee;

9 (xii) [the] THE Secretary of Public Safety and Correctional Services or
10 the Secretary's designee; and

11 (xiii) [the] THE Executive Director or the Executive Director's
12 designee, as an ex officio member.

13 (b) (1) The term of an appointed member is 5 years.

14 (2) The terms of appointed members are staggered as required by the terms
15 provided for members of the Board on July 1, 1988.

16 (3) At the end of a term, a member continues to serve until a successor is
17 appointed and qualifies.

18 (4) A member who is appointed after a term has begun serves only for the
19 rest of the term and until a successor is appointed and qualifies.

20 (c) The Governor may remove a member for incompetence or misconduct.

21 DRAFTER'S NOTE: This section is transferred from SG § 9-1704.

22 %The only changes are in style.

23 841. POWERS AND DUTIES.

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

26 (1) [to] TO render each year to the Governor a written report of its
27 activities, including the administration of the Fund;

28 (2) [to] TO monitor service needs of victims;

29 (3) [to] TO advise the Governor on the needs of victims;

30 (4) (i) [to] TO recommend the appointment of the Victim Services
31 Coordinator to the Executive Director; and

32 (ii) [to] TO review and approve Victim Services Coordinator plans,
33 annual reports, and the implementation, operation, and revision of programs by the
34 Victim Services Coordinator;

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1 (5) [to] TO approve or disapprove the grant applications submitted by the
2 [Office of Justice Administration] GOVERNOR'S OFFICE OF CRIME CONTROL AND
3 PREVENTION;

4 (6) [to] TO advise the State's Attorneys' Coordination Council on the
5 adoption of regulations governing the administration of the Victim and Witness
6 Protection and Relocation Program established under [Article 27, § 770 of the Code] §
7 835 OF THIS SUBHEADING; and

8 (7) [to] TO advise the State's Attorneys' Coordinator on the administration
9 of the Victim and Witness Protection and Relocation Program.

10 DRAFTER'S NOTE: This section is transferred from SG § 9-1705.

11 %In item (5) of this section, the reference to the "Governor's Office of Crime
12 Control and Prevention" is substituted for the former obsolete reference to
13 the "Governor's Office of Justice Administration". See Executive Order
14 01.01.1995.18.

15 The only other changes are in style.

16 842. VICTIM SERVICES COORDINATOR.

17 (a) The Executive Director shall appoint a Victim Services Coordinator.

18 (b) Subject to the authority of the Executive Director, the Victim Services
19 Coordinator shall:

20 (1) [provide] PROVIDE staff support to the Board on victim services
21 matters;

22 (2) [monitor] MONITOR, assess, and make recommendations concerning
23 State and local victim compensation programs and procedures;

24 (3) [provide] PROVIDE technical assistance to local public and private
25 programs that provide victim assistance;

26 (4) [perform] PERFORM research and gather data on victims and victim
27 assistance programs, and disseminate that data to the public;

28 (5) [submit] SUBMIT to the Governor, the Attorney General, the Secretary
29 of Public Safety and Correctional Services, and the Board an annual report which
30 includes recommendations as to how victim assistance programs may be improved;

31 (6) [ensure] ENSURE that the rights of victims are observed and assist
32 victims in attaining the information to which victims have a right; and

33 (7) [monitor] MONITOR compliance with the guidelines for treatment of
34 and assistance to victims and witnesses set under [Article 27, § 761 of the Code and such
35 other guidelines for treatment of victims of crimes and offenses as maybe adopted in the
36 future] § 848 OF THIS SUBTITLE.

37 DRAFTER'S NOTE: This section is transferred from SG § 9-1706.

38 %The only changes are in style.

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1 843. SALARY OF COORDINATOR.

2 The Victim Services Coordinator shall receive an annual salary as provided in the
3 State budget.

4 DRAFTER'S NOTE: This section is transferred from SG § 9-1707.

5 %There are no changes.

6 844. REGULATIONS.

7 (a) The [Office of Justice Administration] GOVERNOR'S OFFICE OF CRIME
8 CONTROL AND PREVENTION shall adopt regulations that provide for the administration
9 and award of grants under this [title] SUBHEADING.

10 (b) Grant applications that are approved by the [Office of Justice
11 Administration] GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION shall
12 be submitted to the Board for final approval before the release of any moneys from the
13 Fund.

14 DRAFTER'S NOTE: This section is transferred from SG § 9-1708.

15 %The reference to the "Governor's Office of Crime Control and Prevention" is
16 substituted for the former obsolete reference to the "Governor's Office of
17 Justice Administration". See Executive Order 01.01.1995.18.

18 The only other change is in style.

19 845. RESERVED.

20 846. RESERVED.

21 VICTIMS AND WITNESSES - TREATMENT AND ASSISTANCE

22 [760.] 847. DEFINITIONS.

23 (a) In [this part] §§ 847 THROUGH 850 OF THIS SUBHEADING, the following
24 words have the meanings indicated.

25 (b) "Crime" means conduct that is a crime under the laws of this State or federal
26 law or would be considered a crime except for the fact that the perpetrator was found to
27 be not criminally responsible or not competent to stand trial.

28 (c) "Crime victim" means an individual who suffers direct or threatened physical,
29 emotional, or financial harm as a result of a crime and includes familymembers of a
30 minor, incompetent, or a homicide victim.

31 (d) (1) "Disposition" means the sentencing or determination of penalty or
32 punishment to be imposed on a person convicted of a crime or against whom a finding of
33 sufficient facts for conviction is made.

34 (2) "Disposition" includes dismissal of charges or any other disposition
35 under a plea bargain agreement.

36 (e) "Family member" means spouse, child, sibling, parent, or legal guardian.

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1 (f) "Restitution" means money or services which a defendant is ordered to pay or
2 render to a victim.

3 (g) "Witness" means any person who is or expects to be a State's witness.

4 DRAFTER'S NOTE: This section formerly was Art. 27, § 760 of the Code.
5 %The only change is in style.

6 [761.] 848. GUIDELINES FOR TREATMENT OF AND ASSISTANCE TO CRIME VICTIMS
7 AND WITNESSES.

8 A crime victim or witness should:

9 (1) Be informed by appropriate criminal justice agencies of these guidelines;

10 (2) Be treated with dignity, respect, courtesy, and sensitivity;

11 (3) Receive crisis intervention assistance, if needed, or be informed by the
12 appropriate criminal justice agency where crisis intervention assistance, emergency
13 medical treatment, creditor intercession services, or other social services and counseling
14 may be obtained;

15 (4) Be notified in advance of dates and times of trial court proceedings in
16 the case and, on written request, of post sentencing proceedings, and be notified if the
17 court proceedings to which they have been summoned will not proceed as scheduled;

18 (5) Be advised of the protection available, and, on request, beprotected by
19 criminal justice agencies, to the extent reasonable, practicable, and, in the agency's
20 discretion, necessary, from harm or threats of harm arising out of the crime victim's or
21 witness's cooperation with law enforcement and prosecution efforts;

22 (6) During any phase of the investigative proceedings or court proceedings,
23 be provided, to the extent practicable, a waiting area that is separatefrom a suspect and
24 the family and friends of a suspect;

25 (7) Be informed by the appropriate criminal justice agency of financial
26 assistance, criminal injuries compensation, and any other social services available as a
27 result of being a crime victim and receive assistance or information onhow to apply for
28 services;

29 (8) Be advised of and, on request, be provided with employer intercession
30 services, when appropriate, by the State's Attorney's office or other available resource to
31 seek employer cooperation in minimizing an employee's loss of pay or other benefits
32 resulting from participation in the criminal justice process;

33 (9) On written request, be kept reasonably informed by the police or the
34 State's Attorney of the apprehension of a suspect, closing of the case,and an office to
35 contact for information about the case;

36 (10) Be advised of the right to have stolen or other property promptly
37 returned and, on written request, have the property promptly returned by law
38 enforcement agencies when means can be employed to otherwise satisfy evidentiary

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1 requirements for prosecution unless there is a compelling law enforcement reason for
2 retaining it;

3 (11) For a crime of violence, as defined in [Article 27, § 643B of the Code]
4 § 643B OF THIS ARTICLE, on written request, be kept informed by pretrial release
5 personnel, the State's Attorney or Attorney General, as appropriate, of any proceeding
6 that affects the crime victim's interests, including bail hearing, dismissal, [nol pros]
7 NOLLE PROSEQUI, or setting of charges, trial, disposition, whether at hearing, trial, or
8 appellate level;

9 (12) On request of the State's Attorney to and in the discretion of the judge,
10 be permitted to address the judge or jury or have a victim impact statement read by the
11 judge or jury at sentencing before the imposition of the sentence or at any hearing to
12 consider altering the sentence;

13 (13) Be informed, in appropriate cases by the State's Attorney of the right to
14 request restitution and, on request, be provided assistance in the preparation of the
15 request and advice as to the collection of the payment of any restitution awarded;

16 (14) Be entitled to a speedy disposition of the case in which the individual is
17 involved as a crime victim or witness in order to minimize the length of time the
18 individual must endure responsibilities and stress in connection with the matter;

19 (15) On written request to the parole authority, be informed any time there is
20 to be a hearing on provisional release from custody and any time the offender is to receive
21 such a release;

22 (16) On written request to the Patuxent Institution, Division of Correction,
23 or Parole Commission, as appropriate, have a victim impact statement read at any hearing
24 to consider temporary leave status or a provisional release; and

25 (17) On written request to the agency that has custody of the offender after
26 sentencing, be informed by the agency any time the offender escapes or receives a
27 mandatory supervision release.

28 DRAFTER'S NOTE: This section formerly was Art. 27, § 761 of the Code.

29 %The only changes are in style.

30 [762.] 849. PRINTING AND DISTRIBUTION OF GUIDELINES.

31 The Department of Public Safety and Correctional Services shall be responsible for
32 making the guidelines available to the agencies involved. To the extent feasible, the
33 guidelines shall be printed by the inmates employed by State Use Industries.

34 DRAFTER'S NOTE: This section formerly was Art. 27, § 762 of the Code.

35 %There are no changes.

36 [763.] 850. EFFECT OF GUIDELINES.

37 Nothing in this [subtitle] SUBHEADING may be construed as creating a cause of
38 action on behalf of any individual against any public official, employee, public agency,

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1 State or local government, or any agency responsible for the provisions set forth in this
2 [subtitle] SUBHEADING.

3 DRAFTER'S NOTE: This section formerly was Art. 27, § 763 of the Code.
4 %The references to "subheading" are substituted for the former references to
5 the former, overly broad references "subtitle" for accuracy.

6 851. RIGHTS OF VICTIM OR WITNESS OF DELINQUENT ACT.

7 (a) A victim of a delinquent act or a witness should:

8 (1) Be informed by the appropriate juvenile justice agency of these
9 guidelines;

10 (2) Be treated with dignity, respect, courtesy, and sensitivity;

11 (3) Be notified in advance of dates and times of juvenile court proceedings
12 in the case and be notified if the court proceedings to which they have been summoned
13 will not proceed as scheduled;

14 (4) During any phase of the investigative proceedings or court proceedings,
15 be provided, to the extent practicable, a waiting area that is separate from a child alleged
16 to be delinquent and the family and friends of a child alleged to be delinquent;

17 (5) Be informed by the appropriate juvenile justice agency of financial
18 assistance, criminal injuries compensation, and any other social services available as a
19 result of being a victim and receive assistance or information on how to apply for services;

20 (6) On written request, be kept reasonably informed by the police or the
21 State's Attorney of the apprehension of a child alleged to be delinquent, closing of the
22 case, and an office to contact for information about the case;

23 (7) Be advised of the right to have stolen or other property promptly
24 returned and, on written request, have the property promptly returned by law
25 enforcement agencies when means can be employed to otherwise satisfy evidentiary
26 requirements for prosecution unless there is a compelling law enforcement reason for
27 retaining it; and

28 (8) Be informed, in appropriate cases, by the State's Attorney of the right to
29 request restitution and, on request, be provided assistance in the preparation of the
30 request and advice as to the collection of the payment of any restitution awarded.

31 (b) The Department of Juvenile Justice shall be responsible for making the
32 guidelines available to the agencies involved.

33 (c) Nothing in this section may be construed as creating a cause of action against
34 any public official, employee, public agency, State or local government, or any agency
35 responsible for the guidelines set forth in this section.

36 DRAFTER'S NOTE: This section is transferred from CJ § 3-836.
37 %There are no changes.
38 As to the definitions of "delinquent act", "victim", and "witness" see CJ §

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1 3-801.

2 852. RESERVED.

3 853. RESERVED.

4 MISCELLANEOUS PROVISIONS

5 [764.] 854. CONTRACT WITH DEFENDANT FOR REENACTMENT OF CRIME.

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

7 (2) "Defendant" means a person charged with or convicted of a crime in this
8 State involving or causing personal injury, death, or property loss as a direct result of the
9 crime, and includes a person found not criminally responsible for criminal conduct under
10 § 12-108 of the Health - General Article.

11 (3) "Person" means a natural person, a firm, corporation, partnership,
12 association, or other legal entity.

13 (4) "Victim":

14 (i) Means a person who suffers personal injury, death, or property loss
15 as a direct result of crime; and

16 (ii) Includes, in the event of the death of a victim, the victim's estate or
17 a beneficiary under a wrongful death action under Title 3, Subtitle 9 of the Courts Article.

18 (5) "Notoriety of crimes contract" means a contract or other agreement with
19 a defendant, or a representative or assignee of a defendant, with respect to:

20 (i) The reenactment of a crime by way of a movie, book, magazine
21 article, tape recording, phonograph record, radio or television presentation, or live
22 entertainment of any kind;

23 (ii) The expression of the defendant's thoughts, feelings, opinions, or
24 emotions regarding a crime involving or causing personal injury, death, or property loss as
25 a direct result of the crime; or

26 (iii) The payment or exchange of any money or other consideration or
27 the proceeds or profits that directly or indirectly result from a crime, a sentence, or the
28 notoriety of a crime or sentence.

29 (b) A person who enters a notoriety of crimes contract with a defendant, or a
30 representative or assignee of that defendant, shall:

31 (1) Submit a copy of the contract or summary of the terms of a
32 agreement to the Attorney General; and

33 (2) Pay over to the Attorney General any moneys or other consideration not
34 subject to an order of restitution under § [640] 807 of this article which by the terms of
35 the contract would otherwise be owing to the defendant, or a representative or assignee
36 of the defendant.

1 (c) (1) On receipt of a copy of a contract under subsection (b)(1) of this section,
 2 the Attorney General shall mail to any victim at the victim's last known address, a notice
 3 that informs the victim of the Attorney General's receipt of the copy.

4 (2) (i) After the passage of 30 days, but before the expiration of 180 days
 5 from receipt of the contract or moneys described in subsection (b)(2) of this section, the
 6 Attorney General shall render a decision as to whether a contract is a notoriety of crimes
 7 contract.

8 (ii) The Attorney General may render the decision after 180 days for
 9 cause.

10 (3) For the purposes of rendering a decision under this subsection, there
 11 shall be a rebuttable presumption that the contract is a notoriety of crimes contract. The
 12 defendant may rebut this presumption by establishing to the satisfaction of the Attorney
 13 General that the subject matter of the contract only tangentially or incidentally relates to
 14 the crime.

15 (4) The Attorney General shall notify the defendant and the victim of the
 16 decision rendered under this subsection.

17 (5) The Attorney General may not make any disposition of the moneys
 18 collected under subsection (b) of this section until 60 days after the defendant and the
 19 victim have been notified.

20 (6) The decision of the Attorney General rendered under this subsection is
 21 a final decision and may be appealed by a defendant or a victim only in accordance with
 22 subsection (n) of this section within 60 days after the appellant received notice of the
 23 decision.

24 (7) If the decision of the Attorney General under this subsection is
 25 appealed, the Attorney General shall maintain any moneys collected in escrow until
 26 receiving a final order of the court.

27 (d) A person may not:

28 (1) Conceal the existence of a contract described in subsection (b) of this
 29 section; or

30 (2) Except as otherwise provided in this section, make or receive payments
 31 under a contract described in subsection (b) of this section.

32 (e) (1) (i) The Attorney General shall deposit any funds received under this
 33 section in an interest bearing escrow account.

34 (ii) Except as provided in paragraph (3) of this subsection and
 35 subsection (f) of this section, the Attorney General shall hold funds for the benefit of and
 36 payable to the victim, as provided in paragraph (2) of this subsection.

37 (2) (i) If, within 5 years of the establishment of the escrow account, the
 38 victim brings or has a pending civil action in a court of competent jurisdiction or has
 39 recovered a money judgment for damages against the defendant or has been awarded
 40 restitution, the Attorney General shall pay, subject to the priority of claims described in

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1 this section, to the victim funds from the escrow account to the extent of the money
 2 judgment or the amount of restitution. Any funds then remaining in the escrow account
 3 shall be paid over as provided in this section. Money may not be paid under this
 4 subparagraph until the defendant has been found guilty, has pleaded nolo contendere,
 5 has been placed on probation before judgment, or has been found not criminally
 6 responsible for criminal conduct under § 12-108 of the Health - General Article.

7 (ii) At least once every 6 months for 5 years from the date the
 8 Attorney General receives such moneys or other consideration, the Attorney General
 9 shall publish a legal notice in newspapers of general circulation in the county where the
 10 crime was committed and in counties contiguous to that county that advises the victims
 11 that escrow moneys are available to satisfy money judgments under this section. The
 12 Attorney General may provide for additional notice as the Attorney General deems
 13 necessary.

14 (3) Except as provided in paragraph (4) of this subsection, the Attorney
 15 General shall pay over to the defendant all of the funds from the escrow account if:

16 (i) The charges against the defendant are dismissed or if nolle
 17 prosequi is entered;

18 (ii) The defendant is acquitted;

19 (iii) The defendant is found to be incompetent to stand trial under §
 20 12-105 of the Health - General Article and at least 5 years have elapsed from that finding
 21 without a further disposition of the charge; or

22 (iv) The charges against the defendant are placed on the stet docket
 23 and a period of at least 3 years have elapsed.

24 (4) Notwithstanding subsection (1) of this section, if a defendant was
 25 convicted before July 1, 1987, the Attorney General shall pay over to the defendant:

26 (i) All of the funds from the escrow account if at least 5 years have
 27 elapsed from the establishment of the escrow account and no action by the victim is
 28 pending against the defendant; or

29 (ii) Any money remaining in the escrow account after payment of the
 30 claims described in subsection (i) of this section.

31 (f) (1) The Attorney General shall make payments to the defendant from the
 32 escrow account on order of a court of competent jurisdiction that the defendant has
 33 shown that the funds will be used for the purpose of retaining legal counsel at any stage
 34 of the proceedings of the criminal charges, including the appeals process.

35 (2) After notice to the victims of the crime, the Attorney General shall make
 36 payments from the escrow account to a representative of a defendant for the necessary
 37 expenses of production of the moneys paid into the escrow account if the Attorney
 38 General finds that the payments are necessary and are not contrary to public policy.

39 (3) The Attorney General may make payments from the escrow account for
 40 the costs of any legal notices required under subsection (e)(2)(ii) of this section.

1 (4) The total of all payments made from the escrow account under this
 2 subsection may not exceed 25 percent of the total payments into the escrow account and
 3 available to satisfy judgments obtained by the victims of crime.

4 (g) Notwithstanding any other provision of law or statute of limitations to the
 5 contrary, including the statute of limitations for a wrongful death action, a victim shall
 6 bring a civil action against a defendant within 5 years after any escrow account has been
 7 established by the Attorney General.

8 (h) Any action taken by a defendant, including an execution of a power of
 9 attorney, creation of corporate entities, or designation of the defendant's interest, to
 10 defeat the purpose of this section shall be void as against public policy.

11 (i) (1) Notwithstanding any other provision of law, claims on moneys in the
 12 escrow account shall have the following priorities:

13 (i) Payments ordered by the Attorney General or a court under
 14 subsection (f) of this section;

15 (ii) Subrogation claims of the State under Article 26A of the Code;

16 (iii) A court order of restitution under § [640] 807 of this article;

17 (iv) A civil judgment of a victim of the crime; and

18 (v) A civil judgment of a person, other than a victim of the crime,
 19 arising out of the crime.

20 (2) The Attorney General may bring an action of interpleader or an action
 21 for declaratory judgment when the Attorney General is unable to determine the priority
 22 of claims and the proper disposition of the escrow account.

23 (j) (1) There is established a Maryland Victims of Crime Fund Account in the
 24 General Fund of the State.

25 (2) The Fund is a special continuing, nonlapsing fund which is not subject to
 26 § 7-302 of the State Finance and Procurement Article.

27 (3) The Treasurer shall separately hold, and the Comptroller shall account
 28 for, the Fund.

29 (4) The Fund shall be invested and reinvested in the same manner as other
 30 State funds.

31 (5) Any investment earnings shall be retained to the credit of the Fund.

32 (6) The Fund shall be subject to an audit by the Office of Legislative Audits
 33 as provided for in § 2-1215 of the State Government Article.

34 (7) Disbursements from the Fund shall supplement and may not be a
 35 substitute for any State, local government, or other funds for assistance to crime victims
 36 or witnesses existing as of July 1, 1991.

1 (8) This section may not be construed to prohibit the Fund from receiving
2 funds from any other source.

3 (k) (1) The Maryland Victims of Crime Fund shall be used for the purpose of
4 implementation of Article 47 of the Maryland Declaration of Rights and the guidelines
5 for treatment and assistance for crime victims and witnesses described in [§ 761 of this
6 article] § 848 OF THIS SUBTITLE and other laws adopted to benefit victims and witnesses
7 of crime.

8 (2) Any cost for the administration of the Fund may be paid from the Fund.

9 (3) The Fund shall be administered by the State Board of Victim Services
10 under [§§ 9-1701 through 9-1708 of the State Government Article] §§ 837 THROUGH 844
11 OF THIS SUBTITLE.

12 (l) After payment of the claims described in subsection (i) of this section, the
13 Attorney General shall deposit the moneys remaining in the escrow account in the
14 Maryland Victims of Crime Fund Account.

15 (m) (1) Notwithstanding any other provision of law, the Attorney General has
16 exclusive jurisdiction and control as escrow agent over any moneys or other consideration
17 subject to this section.

18 (2) A distribution of moneys in an escrow account may be made only by a
19 determination and order of the Attorney General under this section.

20 (3) The Attorney General may adopt regulations for the purpose of
21 implementation of this section.

22 (n) Any person aggrieved by a final determination and order of the Attorney
23 General under this section may seek judicial review.

24 (o) (1) Any person who willfully fails to do any of the following is subject to a
25 civil penalty of not less than \$10,000 for each offense and not more than an amount equal
26 to 3 times the contract amount:

27 (i) Submit to the Attorney General a copy of the contract described in
28 subsection (b) of this section; or

29 (ii) Pay over to the Attorney General any moneys or other
30 consideration as required by this section.

31 (2) If 2 or more persons are subject to the penalties provided in this section,
32 those persons shall be jointly and severally liable for the payment of the penalty imposed.

33 (3) After notice and opportunity to be heard is provided, the Attorney
34 General may by order assess the penalties described in this section.

35 (4) If not paid within 30 days from the date of the order, any penalty
36 assessed under this section shall bear interest at the rate of 1 percent per month,
37 compounded monthly.

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1 (5) An action to recover a civil penalty assessed under this section may be
2 brought by the Attorney General in a court of competent jurisdiction within 6 years after
3 the cause of action accrues.

4 (6) Any money recovered under item (5) of this subsection shall be paid into
5 the Maryland Victims of Crime Fund.

6 (p) (1) If any person violates or threatens to violate any provision of this
7 section, the Attorney General may bring a proceeding against the person in a court of
8 competent jurisdiction to restrain the person from continuing the violation or carrying out
9 the threat of violation.

10 (2) In any proceeding under this subsection, a court shall have jurisdiction
11 to grant to the Attorney General, without bond or other undertaking, a prohibitory or
12 mandatory injunction as the facts may warrant, including temporary restraining orders
13 and preliminary injunctions to prevent payments under a contract in violation of this
14 section.

15 DRAFTER'S NOTE: This section formerly was Art. 27, § 764 of the Code.
16 %The only changes are in style.
17 As to the definition of "crime", see § 857 of this article.

18 [765.] 855. HIV TESTING OF OFFENDERS.

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

20 (2) "Agency" means any of the following:

21 (i) The Department of State Police;

22 (ii) The Baltimore City Police Department;

23 (iii) The police department, bureau, or force of any county;

24 (iv) The police department, bureau, or force of any incorporated city
25 or town;

26 (v) The office of the Sheriff of any county;

27 (vi) The office of the State's Attorney of any county;

28 (vii) The office of the Attorney General;

29 (viii) The office of the State Prosecutor;

30 (ix) The Department of Juvenile Justice; or

31 (x) The police department, bureau, or force of any bicounty agency or
32 the University of Maryland.

33 (3) "Body fluids" has the meaning stated in § 18-338.1 of the Health -
34 General Article.

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1 (4) "Charged" means the filing of an indictment, information, or petition
2 alleging a delinquent act.

3 (5) "Convicted" means:

4 (i) In receipt of a verdict or finding of guilt in a criminal proceeding;

5 (ii) Found to have committed a delinquent act in a juvenile proceeding
6 conducted in accordance with [Subtitle 8, Title 3 of the Courts and Judicial Proceedings
7 Article] TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE; or

8 (iii) Having accepted a plea of guilt or nolo contendere.

9 (6) "Department" means the Department of Health and Mental Hygiene.

10 (7) "Exposure" means, as between a victim and a person charged:

11 (i) Percutaneous contact with blood or body fluids;

12 (ii) Mucocutaneous contact with blood or body fluids;

13 (iii) Open wound, including dermatitis, exudative lesions, or chapped
14 skin, contact with blood or body fluids for a prolonged period; or

15 (iv) Intact skin contact with large amounts of blood or body fluids for a
16 prolonged period.

17 (8) "Health officer" has the meaning as stated in § 1-101(d) of the Health -
18 General Article.

19 (9) "HIV" means any human immunodeficiency virus that causes acquired
20 immune deficiency syndrome (AIDS).

21 (10) "Offense" means:

22 (i) Any prohibited activity involving a sexual act that includes:

23 1. Contact between the penis and the vulva or the penis and the
24 anus, and for purposes of this subparagraph contact involving the penis occurs upon
25 penetration, however slight; or

26 2. Contact between the mouth and the penis, the mouth and the
27 vulva, or the mouth and the anus; or

28 (ii) Any other criminal offense or delinquent act the commission of
29 which may have caused or resulted in an exposure.

30 (11) (i) "Victim" means the victim of an offense.

31 (ii) "Victim" includes:

32 1. The parent of a victim who is a minor;

33 2. The legal guardian of a victim; or

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1 Title 18 of the Health - General Article] TITLE 18, SUBTITLE 3, PART VIOF THE
2 HEALTH - GENERAL ARTICLE.

3 (e) (1) After receiving the results of a test conducted under subsection (d) of
4 this section, the local health officer shall promptly notify the victim and the accused or
5 convicted individual of the test results.

6 (2) A local health officer may not disclose positive test results to a victim or
7 a charged or convicted individual without also providing, offering, or arranging for the
8 provision of appropriate counseling to the victim and the charged or convicted individual.

9 (f) The Department shall adopt regulations to implement the provisions of this
10 section, including regulations regarding:

11 (1) The confidentiality of test results; and

12 (2) Providing victims with counseling regarding HIV disease, HIV testing,
13 and referral for appropriate health care and support services.

14 (g) A victim of an offense described under this section shall be notified of the
15 provisions of this section by:

16 (1) An agency upon the filing with a court of a statement of charges or
17 indictment or information or petition alleging delinquency for the alleged commission of
18 an offense;

19 (2) A rape crisis program established under [Article 88A, § 130] § 793 OF
20 THIS SUBTITLE [of the Code] when the program is contacted by the victim; or

21 (3) An intake officer who receives a complaint for the alleged commission of
22 an offense under § 3-810 of the Courts [and Judicial Proceedings]Article.

23 (h) (1) A victim who receives notification under subsection (e) of this section
24 may disclose the results of the test to any other individual to protect the health and safety
25 of:

26 (i) The victim;

27 (ii) The victim's sexual partner; or

28 (iii) The victim's family.

29 (2) Except as otherwise provided in this section, any person who receives
30 notification or disclosure of the results of the test under this subsection and knowingly
31 discloses the results of that test in violation of this section is guilty of a misdemeanor and
32 on conviction is subject to imprisonment of not more than 90 days or a fine of not more
33 than \$5,000 or both.

34 (i) The results of any test conducted under this section are not admissible as
35 evidence of either guilt or innocence in any criminal proceeding arising out of the alleged
36 offense.

37 (j) A State employee or agent or employee of the Department who acts in
38 compliance with the provisions of this section shall have the immunity from liability

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1 described under § 5-399.2 of the Courts [and Judicial Proceedings] Article for actions
2 taken pursuant to this section.

3 DRAFTER'S NOTE: This section formerly was Art. 27, § 765 of the Code.
4 %The only changes are in style.

5 856. LIABILITY FOR HEALTH SERVICES.

6 AS PROVIDED UNDER § 16-203(A)(4) OF THE HEALTH - GENERAL ARTICLE, A
7 RESPONSIBLE RELATIVE WHO IS THE VICTIM OF SEXUAL ABUSE, PHYSICAL ABUSE,
8 OR A CRIME OF VIOLENCE MAY NOT BE HELD LIABLE FOR THE COST OF HEALTH
9 SERVICES PROVIDED TO THE PERPETRATOR OF THE OFFENSE BY THE DEPARTMENT
10 OF HEALTH AND MENTAL HYGIENE.

11 DRAFTER'S NOTE: This section merely provides a cross-reference to HG §
12 16-203 for informational purposes.
13 No change in the law is intended.
14 As to the definition of "crime of violence", see § 643B of this article. As to the
15 definition of "responsible relative", see HG § 16-101.

16 857. RESERVED.

17 858. RESERVED.

18 SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article 41 - Governor - Executive and Administrative Departments**

21 4-609.

22 (a) Whenever any court shall suspend the sentence of any person convicted of
23 crime, and shall direct such person, to continue, for a certain time, or until otherwise
24 ordered, under the supervision of the Division, it shall be the duty of the said Division to
25 supervise, when so requested by said court, the conduct of such person and to ascertain
26 and report to said court whether or not the conditions of such probation or suspension of
27 sentence are being faithfully complied with by such person.

28 (b) The parole and probation agents of the Division shall provide the judge of the
29 court with presentence reports or other investigations in all cases when requested by any
30 judge. The presentence reports are confidential and not available for public inspection
31 except upon court order. However, presentence reports shall be made available, upon
32 request, to the defendant's attorney, the State's Attorney, a correctional institution, a
33 parole or probation, or pretrial release official of this State, any other state, the United
34 States, or the District of Columbia, and a public or private mental health facility in any of
35 those jurisdictions, if the individual who is the subject of the report has been committed
36 or is being evaluated for commitment to the facility for treatment as a condition of
37 probation. The agents shall also perform any other probationary services the judges may
38 from time to time request.

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1 (c) (1) Prior to the sentence by the circuit court of any county to the jurisdiction
2 of the Division of Correction of a defendant convicted of a felony, or a misdemeanor
3 which resulted in serious physical injury or death to the victim, or the referral of any
4 defendant to the Patuxent Institution, the court may order the Division of Parole and
5 Probation to complete a presentence investigation if the court is satisfied that the
6 investigation would help the sentencing process. The burden of establishing that the
7 presentence investigation should be ordered is on the party that requests the
8 investigation.

9 (2) A PRESENTENCE INVESTIGATION MAY INCLUDE A VICTIM IMPACT
10 STATEMENT AS PROVIDED UNDER ARTICLE 27, § 781 OF THE CODE.

11 (d) In any case in which the death penalty or imprisonment for life without the
12 possibility of parole is requested under Article 27, § 412, a presentence investigation,
13 including a victim impact statement AS PROVIDED UNDER ARTICLE 27, § 781 OF THE
14 CODE, shall be completed by the Division of Parole and Probation, and shall be
15 considered by the court or jury before whom the separate sentencing proceeding is
16 conducted under Article 27, § 412 or § 413.

17 DRAFTER'S NOTE: Former subsection (c)(2), (3), and (4) have been transferred
18 to be Art. 27, § 781 of the Code. New subsection (c)(2) of this section is added
19 as a cross-reference for informational purposes.
20 In subsection (d) of this section, a cross-reference to Art. 27, § 781 of the
21 Code is added for clarity.

22 **Article - Courts and Judicial Proceedings**

23 3-829. LIABILITY FOR ACTS OF CHILD.

24 THE COURT MAY ENTER A JUDGMENT OF RESTITUTION AGAINST THE PARENT
25 OF A CHILD, THE CHILD, OR BOTH AS PROVIDED UNDER ARTICLE 27, § 808 OF THE
26 CODE.

27 3-836. RIGHTS OF VICTIM OR WITNESS OF DELINQUENT ACT.

28 THE GUIDELINES PROVIDED UNDER ARTICLE 27, § 851 OF THE CODE APPLY TO
29 VICTIMS AND WITNESSES OF DELINQUENT ACTS.

30 10-917. RESTITUTION HEARINGS.

31 A WRITTEN STATEMENT OF EXPENSES OR A BILL SHALL BE TAKEN AS PRIMA
32 FACIE EVIDENCE AT A RESTITUTION HEARING AS PROVIDED UNDER ARTICLE 27, §
33 809 OF THE CODE.

34 SECTION 9. AND BE IT FURTHER ENACTED, That the Laws of Maryland
35 read as follows:

36 **Article 27 - Crimes and Punishments**

37 830.

38 (a) In this section, "crime" means an act committed by a person in the State which
39 is:

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1 (1) A crime under Article 27 of the Code;

2 (2) A violation of the Transportation Article which is punishable by
3 imprisonment; or

4 (3) A crime at common law.

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

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

9 (d) (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 this
12 section from a circuit court and \$10 from each fee collected under this section from the
13 District Court into the Maryland Victims of Crime Fund established under [Article 27, §
14 764(j) of the Code] § 854 OF THIS SUBTITLE.

15 (3) The Comptroller shall deposit all other moneys collected under this
16 section into the Criminal Injuries Compensation Fund established under [§ 17A of this
17 article] § 831 OF THIS SUBHEADING.

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
20 9-1708 of the State Government Article] §§ 837 THROUGH 844 OF THIS SUBTITLE.

21 (e) A political subdivision may not be held liable under any condition for the
22 payment of sums under this section.

23 DRAFTER'S NOTE: This section formerly was Art. 26A, § 17 of the Code.

24 SECTION 10. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:

26 **Article 27 - Crimes and Punishments**

27 766.

28 A VICTIM OF AN ASSAULT SHALL HAVE THE RIGHTS PROVIDED UNDER § 12A-5
29 OF THIS ARTICLE CONCERNING COMPROMISING CASES OF ASSAULT.

30 SECTION 11. AND BE IT FURTHER ENACTED, That Section 9 of this Act is
31 contingent on the taking effect of the termination provision specified in Section 2 of
32 Chapter 396 of the Acts of the General Assembly of 1995. If that termination takes effect,
33 Article 27, § 830 of the Code as enacted by Section 7 of this Act shall be void. This Act
34 may not be interpreted to have any effect on that termination provision.

35 SECTION 12. AND BE IT FURTHER ENACTED, That Section 10 of this Act
36 shall take effect October 1, 1996 contingent on the taking effect of
37 Chapter ____ (S.B. ____/H.B. ____)(6lr1153/6lr1154) of the Acts of the General
38 Assembly of 1996, and if Chapter ____ does not become effective, Section 10 of this Act

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1 shall be void without the necessity of further action by the General Assembly. If
2 Chapter _____ becomes effective, § 766 of Article 27, as amended by Section 7 of this Act,
3 shall be null and void without the necessity of further action by the General Assembly.

4 SECTION 13. AND BE IT FURTHER ENACTED, That the subtitle designation
5 "Rape Crisis Program" of Article 88A - Social Services Administration of the Annotated
6 Code of Maryland be repealed.

7 SECTION 14. AND BE IT FURTHER ENACTED, That the subtitle designation
8 "Subtitle 5. Victims and Witnesses - Release of Addresses and TelephoneNumbers" in
9 Title 9 of the Courts and Judicial Proceedings Article of the AnnotatedCode of Maryland
10 be repealed.

11 SECTION 15. AND BE IT FURTHER ENACTED, That subtitle designation
12 "Subtitle 17. Victim Services" in Title 9 of the State Government Article of the
13 Annotated Code of Maryland be repealed.

14 SECTION 16. AND BE IT FURTHER ENACTED, That the Drafter's Notes and
15 catchlines contained in this Act are not law.

16 SECTION 17. AND BE IT FURTHER ENACTED, That the provisions of this Act
17 are intended only to reorganize and restate the laws concerning victimsand witnesses of
18 crime in a nonsubstantive manner. Nothing in the codified provisions ofthis Act is
19 intended to make any substantive change to or revive any law in the Actor any other law
20 that is or was in effect on or prior to the effective date of this Act.

21 SECTION 18. AND BE IT FURTHER ENACTED, That:

22 (a) The publishers of the Annotated Code of Maryland, subject to theapproval of
23 the Department of Legislative Reference, shall propose the correction of any
24 cross-references throughout the Code that are rendered incorrect by this Act.

25 (b) The Department of Legislative Reference, in conjunction with thepublishers
26 of the Annotated Code of Maryland, shall incorporate into or conform tothe provisions
27 of this Act any other Act of the General Assembly of the 1996 Session that is affected by
28 this Act. The revisions of the 1996 Acts of the General Assembly required by this section
29 shall be ratified by passage of the Annual Corrective Bill of 1997.

30 SECTION 19. AND BE IT FURTHER ENACTED, That, subject to the provisions
31 of Sections 11 and 12 of this Act, this Act shall take effect October 1, 1996.