

CF 7r1174

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**By: Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates R. Baker, Barve, Beck, Bozman, Brinkley, E. Burns, M. Burns, Cadden, Ciliberti, Conroy, Conway, Crumlin, Cryor, D. Davis, DeCarlo, Dembrow, Dewberry, Doory, Dypski, Edwards, Elliott, Exum, Faulkner, Finifter, Frank, Frush, Fry, Fulton, Genn, Goldwater, Gordon, Grosfeld, Hammen, Harkins, Harrison, Healey, Hecht, Heller, Hixson, Holt, Howard, Hubbard, B. Hughes, Hurson, Hutchins, Kach, Klausmeier, Klima, Kopp, Krysiak, Leopold, Love, Malone, Mandel, McIntosh, McKee, Minnick, Morgan, Morhaim, Mossburg, T. Murphy, Owings, Parker, Pendergrass, Perry, Pitkin, Preis, Proctor, Rawlings, Redmer, Rosapepe, Rudolph, Rzepkowski, Shriver, Slade, Snodgrass, Stup, Taylor, Turner, Valderrama, Wood, and Workman**

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Victims' Rights Act of 1997**

3 FOR the purpose of establishing that certain evidence relating to a victim's prior sexual  
4 conduct is not admissible in a prosecution for attempted rape or attempted sexual  
5 offense in the first or second degree; requiring the Maryland Parole Commission to  
6 notify certain victims, in writing, within a certain period of time prior to entering  
7 into or approving a predetermined parole release agreement with an inmate;  
8 prohibiting the Maryland Parole Commission from entering into a predetermined  
9 parole release agreement unless it has notified the victim under this Act; expanding  
10 certain victims' rights laws to include juvenile proceedings and victims who file a  
11 notification request form; authorizing a District Court commissioner or an intake  
12 officer, under certain circumstances, to impose certain conditions of pretrial release  
13 on a defendant; expanding the requirement that a District Court commissioner  
14 consider a certain condition of pretrial release in a stalking case to apply to any  
15 criminal case; requiring the clerk, under certain circumstances, to include a copy of  
16 a notification request form with a probation order; authorizing, under certain  
17 circumstances, certain judicial officers or a law enforcement officer, to withhold the  
18 release prior to trial of certain information relating to a victim or witness; limiting  
19 the number of attorneys that may be present when a child testifies by closed circuit  
20 television, when a judge hears testimony on whether to allow a child to testify by  
21 closed circuit television, or at an in camera examination to determine whether to  
22 admit an out of court statement by a child; limiting the number of attorneys that  
23 may question the child in a criminal, juvenile delinquency, or child in need of  
24 assistance case; authorizing a victim who files a notification request form and a  
25 State's Attorney to file a leave to appeal an order that denies or fails to consider  
26 certain victims' rights; expanding the rights from which the appeal may be filed to

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1 include the right to address a jury in a death penalty sentencing and the right to  
2 prepare a victim impact statement; prohibiting the stay of a sentencing or  
3 disposition hearing when an appeal is filed under this Act; authorizing the court,  
4 under certain terms, to stay certain proceedings from which an appeal has been  
5 filed; specifying the parties to a leave to appeal filed under this Act; establishing the  
6 circumstances under which a victim or a victim's representative may address the  
7 judge before the imposition of a sentence or disposition; establishing the right of a  
8 victim's representative, subject to certain conditions, to address the jury in a death  
9 penalty sentencing; requiring a victim impact statement to identify certain  
10 information relating to contact between the defendant and the victim; expanding  
11 the requirement that a victim be notified of certain postsentencing proceedings to  
12 include victims who suffer direct or threatened physical, emotional, or financial  
13 harm as a direct result of a crime or delinquent act; requiring the Department of  
14 Public Safety and Correctional Services to notify certain victims of violent crime if  
15 the defendant or inmate has been found guilty of violating a condition of parole or  
16 mandatory supervision or if a warrant or subpoena is issued for the defendant or  
17 inmate; requiring a commitment agency, under certain circumstances, to notify the  
18 victim of certain information and events concerning the defendant; prohibiting a  
19 commitment agency from disclosing to a defendant certain information regarding  
20 the victim; prohibiting a law enforcement agency from charging a victim for a copy  
21 of an incident report in a domestic violence case when a law enforcement officer  
22 responds to a request for assistance; requiring the written notice given to a victim by  
23 a law enforcement officer who responds to a request for assistance in a domestic  
24 violence case to inform the victim of the right to obtain a copy of the incident  
25 report; altering the circumstances under which compliance with a judgment of  
26 restitution shall be required; requiring all moneys collected from a judgment of  
27 restitution to be treated as abandoned property if a victim cannot be located;  
28 requiring a delinquent restitution account to be referred to the Central Collection  
29 Unit if the probation or other supervision is terminated and restitution is still owed;  
30 expanding the availability of benefits from the Criminal Injuries Compensation  
31 Fund to victims who suffer psychological injury as a direct result of a crime; altering  
32 the standard of judgment certain claimants are required to prove in order to recover  
33 from the Criminal Injuries Compensation Fund; expanding the right to request HIV  
34 testing of offenders to include a law enforcement officer who was performing  
35 official duties at the time of suspected exposure; expanding the means by which a  
36 person may be considered to be exposed to HIV; authorizing a victim who receives  
37 notification of the results of an HIV test to disclose the results to an organization to  
38 protect the health and safety of, or to seek compensation for certain purposes;  
39 requiring the Patuxent Board of Review to give a victim a reasonable opportunity to  
40 present oral testimony in a certain manner before the Board decides whether to  
41 grant work release, leave status, or parole to an eligible person; increasing the  
42 circumstances under which a victim may request that an inmate be prohibited from  
43 having any contact with the victim; requiring a hearing examiner or member of the  
44 Maryland Parole Commission to consider certain factors before entering into a  
45 predetermined parole release agreement; requiring the Department of Public Safety  
46 and Correctional Services to notify a victim of a violent crime, at the victim's  
47 request, of certain events involving the person convicted of the violent crime; adding  
48 the issuance of a warrant or subpoena for an alleged violation of parole or

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1 mandatory supervision to the types of events of which a victim must be notified;  
 2 specifying that the provisions relating to confidentiality of juvenile records does not  
 3 prohibit a victim who has filed a notification request form from being notified of  
 4 certain proceedings involving the defendant; prohibiting the court from dismissing a  
 5 charge without providing the State's Attorney and a victim who has filed a  
 6 notification request form advance notice and an opportunity to be heard; making  
 7 certain stylistic, technical, and conforming changes; establishing and altering certain  
 8 definitions; and generally relating to victims' rights in criminal and juvenile  
 9 proceedings.

10 BY repealing and reenacting, with amendments,

11 Article 27 - Crimes and Punishments  
 12 Section 461A, 616 1/2(k), 700G, 760, 762, 763, 768 through 770, 772 through 774,  
 13 775(f)(2), 776, 780, 781, 784, 786, 787, 791, 792(b), 799, 800, 806 through 812,  
 14 815(d) and (f), 825(e)(2), 837(f), 842(b)(7), 854(k), and 855  
 15 Annotated Code of Maryland  
 16 (1996 Replacement Volume)

17 BY adding to

18 Article 27 - Crimes and Punishments  
 19 Section 771, 780A, 783A, 788, 789, and 805A  
 20 Annotated Code of Maryland  
 21 (1996 Replacement Volume)

22 BY repealing and reenacting, with amendments,

23 Article 19 - Comptroller  
 24 Section 43  
 25 Annotated Code of Maryland  
 26 (1996 Replacement Volume)

27 BY repealing and reenacting, with amendments,

28 Article 31B - Patuxent Institution  
 29 Section 10(b) and 11(c)  
 30 Annotated Code of Maryland  
 31 (1993 Replacement Volume and 1996 Supplement)

32 BY repealing and reenacting, without amendments,

33 Article 41 - Governor - Executive and Administrative Departments  
 34 Section 4-504(a)(2)  
 35 Annotated Code of Maryland  
 36 (1993 Replacement Volume and 1996 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article 41 - Governor - Executive and Administrative Departments  
 39 Section 4-504(d), 4-506, 4-511(f), and 4-612(i)  
 40 Annotated Code of Maryland

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1 (1993 Replacement Volume and 1996 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-828

5 Annotated Code of Maryland

6 (1995 Replacement Volume and 1996 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Health - General

9 Section 12-106 and 12-122

10 Annotated Code of Maryland

11 (1994 Replacement Volume and 1996 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - State Finance and Procurement

14 Section 3-305

15 Annotated Code of Maryland

16 (1995 Replacement Volume and 1996 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article 27 - Crimes and Punishments**

20 461A.

21 (a) Evidence relating to a victim's reputation for chastity and opinion evidence  
22 relating to a victim's chastity are not admissible in any prosecution for commission of a  
23 [rape or] RAPE, sexual offense in the first or second [degree] DEGREE, OR  
24 ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN THE FIRST OR SECOND  
25 DEGREE. Evidence of specific instances of the victim's prior sexual conduct may be  
26 admitted only if the judge finds the evidence is relevant and is material to a fact in issue  
27 in the case and that its inflammatory or prejudicial nature does not outweigh its probative  
28 value, and if the evidence is:

29 (1) Evidence of the victim's past sexual conduct with the defendant; or

30 (2) Evidence of specific instances of sexual activity showing the source or  
31 origin of semen, pregnancy, disease, or trauma; or

32 (3) Evidence which supports a claim that the victim has an ulterior motive in  
33 accusing the defendant of the crime; or

34 (4) Evidence offered for the purpose of impeachment when the prosecutor  
35 puts the victim's prior sexual conduct in issue.

36 (b) Any evidence described in subsection (a) of this section, may not be referred  
37 to in any statements to a jury nor introduced at trial without the court holding a prior in  
38 camera hearing to determine the admissibility of the evidence. If new information is

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1 discovered during the course of the trial that may make the evidence described in  
2 subsection (a) admissible, the court may order an in camera hearing to determine the  
3 admissibility of the proposed evidence under subsection (a).

4 616 1/2.

5 (k) If a defendant is charged with [stalking under § 121B of this article] A CRIME  
6 and is released pretrial, the court or District Court commissioner shall consider including  
7 as a condition of release reasonable protections for the safety of the alleged victim.

8 700G.

9 (a) In this section, the term "predetermined parole release agreement" means an  
10 agreement between the Commissioner of Correction, the Maryland Parole Commission,  
11 and an inmate for release on parole of the inmate at a predetermined time if, during the  
12 period of his confinement, he fulfills the conditions specified in the agreement.

13 (b) In accordance with Article 41, § 4-504, the Maryland Parole Commission may  
14 negotiate and enter into a predetermined parole release agreement with an inmate under  
15 the jurisdiction of the Commission. The agreement may provide for the release of the  
16 inmate on parole at a predetermined time if, during the period of his confinement, the  
17 inmate participates in the programs designated by the Commission and otherwise fulfills  
18 the conditions specified in the agreement.

19 (c) This section does not affect any diminution of sentence earned under §§ 700,  
20 700A, 718, and 725 of this article.

21 (D) (1) IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER §  
22 770 OF THIS ARTICLE, THE MARYLAND PAROLE COMMISSION SHALL NOTIFY THE  
23 VICTIM, IN WRITING, AT LEAST 90 DAYS PRIOR TO ENTERING INTO OR APPROVING A  
24 PREDETERMINED PAROLE RELEASE AGREEMENT WITH THE INMATE.

25 (2) THE MARYLAND PAROLE COMMISSION MAY NOT ENTER INTO A  
26 PREDETERMINED PAROLE RELEASE AGREEMENT UNLESS IT HAS NOTIFIED THE  
27 VICTIM UNDER PARAGRAPH (1) OF THIS SUBSECTION.

28 760.

29 (a) In this subheading the following terms have the meanings indicated.

30 (B) "DEFENDANT" MEANS A PERSON WHO IS CHARGED WITH A CRIME OR A  
31 CHILD WHO IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT.

32 [(b)] (C) "Official proceeding" includes a criminal trial, a hearing related to a  
33 criminal trial OR ADJUDICATORY HEARING, a grand jury proceeding, and any other  
34 proceeding that is part of a criminal action OR DELINQUENCY CASE.

35 [(c)] (D) "Victim" means any person against whom a crime OR DELINQUENT  
36 ACT has been committed or attempted.

37 [(d)] (E) "Witness" means any person who:

38 (1) Has knowledge of the existence of facts relating to a crime OR  
39 DELINQUENT ACT;

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

3 (3) Has reported a crime OR DELINQUENT ACT to a law enforcement  
4 officer, prosecutor, correctional officer, or judicial officer; or

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

7 762.

8 (a) A person may not intentionally harm or injure any person or damage or  
9 destroy any property with the intent of retaliating against a victim or witness for giving  
10 testimony in an official proceeding or for reporting a crime OR DELINQUENT ACT.

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

13 763.

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

16 (b) A court with jurisdiction over a criminal matter OR DELINQUENCY CASE  
17 may, for good cause shown, issue any order that is reasonably necessary to stop or prevent  
18 the intimidation of a victim or witness or a violation of § 27 of this article or § 761 or § 762  
19 of this subheading. This authority includes the power to:

20 (1) Order any person not to violate the provisions of § 27 of this article or §  
21 761 or § 762 of this subheading;

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

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

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

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

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

33 (D) A DISTRICT COURT COMMISSIONER OR AN INTAKE OFFICER, AS DEFINED  
34 IN § 3-801(O) OF THE COURTS ARTICLE, MAY, FOR GOOD CAUSE SHOWN, IMPOSE ONE  
35 OR MORE OF THE CONDITIONS DESCRIBED IN PARAGRAPHS (1) THROUGH (3) OF  
36 SUBSECTION (B) OF THIS SECTION AS A CONDITION OF THE PRETRIAL RELEASE OF A  
37 DEFENDANT.

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1 768.

2 As provided under § 616 1/2 of this article the court or district court commissioner  
3 shall consider the safety of the alleged victim as a condition of the pretrial release of a  
4 defendant charged with [stalking] A CRIME.

5 769.

6 As provided under § 12-122 of the Health - General Article, a victim of a crime of  
7 violence OR A VICTIM WHO HAS FILED A NOTIFICATION REQUEST FORM UNDER § 770  
8 OF THIS ARTICLE shall be notified by the Department of Health and Mental Hygiene  
9 when the Department receives a court order to examine a defendant to determine  
10 whether the defendant was not criminally responsible and whether the defendant is  
11 competent to stand trial.

12 770.

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

14 (2) "Victim" means an individual who suffers direct or threatened physical,  
15 emotional, or financial harm as a direct result of a crime or delinquent act, including a  
16 family member or guardian of a minor, incompetent, or homicide victim.

17 (3) "Clerk" means the clerk of a circuit court or the clerk of a court sitting  
18 as the juvenile court, as the context requires.

19 (4) "State's Attorney" includes:

20 (i) The State's Attorney's designee; and

21 (ii) At the trial level, the Attorney General or the Attorney General's  
22 designee.

23 (b) On first contact with a victim, a law enforcement officer, District Court  
24 commissioner, or juvenile intake officer shall give the victim a copy of the pamphlet  
25 described in § 841(8)(i) of this article.

26 (c) (1) Within 10 days after the later of the filing or the unsealing of an  
27 indictment or information in circuit court, the State's Attorney shall:

28 (i) Mail or otherwise deliver to the victim a copy of the pamphlet  
29 described in § 841(8)(ii) of this article;

30 (ii) Mail or otherwise deliver to the victim a copy of the notification  
31 request form described in § 841(9) of this article; and

32 (iii) Certify to the clerk that the State's Attorney has complied with the  
33 requirements in items (i) and (ii) of this paragraph or is unable to identify the victim.

34 (2) On the filing of a petition alleging delinquency in a case in which the  
35 child is alleged to have committed an act that could only be tried in the circuit court if  
36 committed by an adult, the State's Attorney shall:

37 (i) Inform the victim of the right to request restitution under § 808 of  
38 this article;

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1 (ii) Mail or otherwise deliver to the victim a copy of the notification  
2 request form described in § 841(9) of this article; and

3 (iii) Certify to the clerk that the State's Attorney has complied with the  
4 requirements in items (i) and (ii) of this paragraph or is unable to identify the victim.

5 (d) (1) On completion of a notification request form OBTAINED FROM THE  
6 STATE'S ATTORNEY UNDER SUBSECTION (C) OF THIS SECTION, the victim may file the  
7 form with the State's Attorney.

8 (2) On receipt of a completed notification request form by the State's  
9 Attorney, the State's Attorney shall send a copy of the form to the clerk.

10 (3) The filing of a notification request form by a victim constitutes  
11 compliance with Article 47 of the Declaration of Rights or any other provision of the  
12 Code that requires a victim to request notification.

13 (4) A victim who files a notification request form and does not want his or  
14 her address to be made public shall designate in a notification request form a person or  
15 organization who has consented to receive notice for the victim.

16 (e) (1) If a victim has filed a notification request form under subsection (d) of  
17 this section, the State's Attorney shall send to the victim prior notice, if practicable, of all  
18 court proceedings in the case.

19 (2) If the case is in a jurisdiction in which the office of the clerk is equipped  
20 with an automated filing system, nothing in this subsection precludes the State's Attorney  
21 from requesting the clerk to send the notice required under paragraph (1) of this  
22 subsection.

23 (3) After a victim has filed a notification request form under subsection (d)  
24 of this section and if prior notice to the victim is not practicable, or if the victim is not  
25 present at the proceeding, the State's Attorney shall, as soon after the proceeding as  
26 practicable, advise the victim of all proceedings that affect the victim's interests, including  
27 a bail hearing or change in the defendant's pretrial release order, dismissal, nolle  
28 prosequi or setting of charges, trial, disposition, or post-sentencing court proceeding.

29 (4) Whether or not the victim has filed a notification request form under  
30 subsection (d) of this section, if the victim requests such information, nothing may  
31 preclude the State's Attorney from giving the victim information concerning the current  
32 status of the case.

33 (f) (1) If a commitment order is issued after a victim has filed a notification  
34 request form under subsection (d) of this section, the clerk shall include a copy of the  
35 notification request form with the commitment order.

36 (2) IF A PROBATION ORDER IS ISSUED AFTER A VICTIM HAS FILED A  
37 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE  
38 CLERK SHALL INCLUDE A COPY OF THE NOTIFICATION REQUEST FORM WITH THE  
39 PROBATION ORDER.



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1 (g) If an appeal is filed in a case in which a victim has filed a notification request  
2 form under subsection (d) of this section, the clerk shall send a copy of the notification  
3 request form to the Attorney General and the court to which the case has been appealed.

4 (h) At any time after filing a notification request form under subsection (d) of this  
5 section, a victim may elect not to receive any further notices by filing a written request  
6 with:

7 (1) If the case is still in the circuit court or the juvenile court, the State's  
8 Attorney; or

9 (2) If a commitment order has been issued in the case, the department or  
10 facility specified in the commitment order to which the defendant has been committed.

11 (i) This section does not prohibit a victim from filing a notification request form  
12 with a department or facility to which a defendant has been committed.

13 771.

14 ON REQUEST OF A PARTY, VICTIM, OR WITNESS OF AN ALLEGED CRIME OR  
15 DELINQUENT ACT, A JUDGE, STATE'S ATTORNEY, DISTRICT COURT COMMISSIONER,  
16 INTAKE OFFICER, OR LAW ENFORCEMENT OFFICER MAY WITHHOLD THE RELEASE  
17 OF THE ADDRESS OR TELEPHONE NUMBER OF THE VICTIM OR WITNESS PRIOR TO  
18 THE TRIAL OR ADJUDICATORY HEARING, UNLESS A JUDGE DETERMINES THAT,  
19 UNDER THE PARTICULAR CIRCUMSTANCES, THE INFORMATION IS NECESSARY AND  
20 RELEVANT.

21 772.

22 On motion of either party or on request of a witness, during a criminal trial OR  
23 ADJUDICATORY HEARING, a judge may prohibit the release of the address or telephone  
24 number of the victim or witness unless the judge determines that, under the particular  
25 circumstances, the information is necessary and relevant.

26 773.

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

28 (2) "DEFENDANT" INCLUDES:

29 (I) A PERSON WHO IS CHARGED WITH A CRIME; AND

30 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A  
31 DELINQUENT ACT.

32 [(2)] (3) "Victim" means a person who[:

33 (i) Has testified as a witness; and

34 (ii) Is] IS the victim of a crime [of violence under § 643B of this  
35 article or a crime involving, causing, or resulting in death or serious bodily harm] OR  
36 DELINQUENT ACT for which the defendant is being tried.

37 [(3)] (4) "Representative" means a person who is:

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

2 2.] Selected by the next of kin or guardian of a person who is  
3 deceased or disabled as a result of a crime [of violence under § 643B of this article or a  
4 crime involving, causing, or resulting in death or serious bodily harm] OR DELINQUENT  
5 ACT; or

6 (ii) Designated by the court in the event of a dispute over the  
7 representative.

8 (5) "TRIAL" INCLUDES AN ADJUDICATORY HEARING AND ANY OTHER  
9 COURT PROCEEDING IN WHICH THE DEFENDANT HAS A RIGHT TO APPEAR.

10 (b) A victim or representative shall be presumed to have the right to be present  
11 [at] THROUGHOUT the trial.

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

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

17 774.

18 (a) In a case of abuse of a child as defined in § 5-701 of the Family Law Article  
19 or § 35C of this article, a court may order that the testimony of a child victim be taken  
20 outside the courtroom and shown in the courtroom by means of closed circuit television  
21 if:

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

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

26 (b) (1) Only the following persons may be in the room with the child when the  
27 child testifies by closed circuit television:

28 (i) [The] ONE prosecuting attorney;

29 (ii) [The] ONE attorney for the defendant AND ONE ATTORNEY FOR  
30 THE CHILD;

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

32 (iv) Subject to the Maryland Rules, any person whose presence, in the  
33 opinion of the court, contributes to the well-being of the child, including a person who  
34 has dealt with the child in a therapeutic setting concerning the abuse.

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

37 (3) The judge and the defendant shall be allowed to communicate with the  
38 persons in the room where the child is testifying by any appropriate electronic method.

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1 (4) [Only the] IN A CRIMINAL OR JUVENILE DELINQUENCY CASE, ONLY  
2 ONE prosecuting attorney, [the] ONE attorney for any defendant, and the judge may  
3 question the child.

4 (5) IN A CHILD IN NEED OF ASSISTANCE CASE, ONLY ONE ATTORNEY  
5 FOR EACH PARTY AND THE JUDGE MAY QUESTION THE CHILD.

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

12 (2) (i) Except as provided in subparagraph (ii)2 of this paragraph, any  
13 defendant, [any defendant's attorney, and the prosecutor] ONE ATTORNEY FOR THE  
14 DEFENDANT, ONE PROSECUTING ATTORNEY, AND ONE ATTORNEY FOR THE CHILD  
15 shall have the right to be present when the judge hears testimony on whether to allow a  
16 child victim to testify by closed circuit television.

17 (ii) If the judge decides to observe or question the child in connection  
18 with the determination to allow closed circuit television:

19 1. [Any defendant's attorney and the prosecutor] ONE  
20 ATTORNEY FOR THE DEFENDANT, ONE PROSECUTING ATTORNEY, AND ONE  
21 ATTORNEY FOR THE CHILD shall have the right to be present; and

22 2. The judge may not permit a defendant to be present.

23 (d) The provisions of this section do not apply if the defendant is appearing pro  
24 se.

25 (e) This section may not be interpreted to preclude, for purposes of identification  
26 of a defendant, the presence of both the victim and the defendant in the courtroom at the  
27 same time.

28 (f) This section may not be interpreted to permit the use of two-way closed  
29 circuit television or any other procedure that would result in the child being exposed to  
30 the defendant.

31 775.

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

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

38 1. [Any defendant's attorney and the] ONE ATTORNEY FOR  
39 EACH DEFENDANT, ONE ATTORNEY FOR THE CHILD, AND ONE prosecutor shall have  
40 the right to be present at the in camera examination; and

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

3 776.

4 (a) (1) In this section[, "victim of a violent crime"] THE FOLLOWING WORDS  
5 HAVE THE MEANINGS INDICATED.

6 (2) "STATE'S ATTORNEY" HAS THE MEANING PROVIDED IN § 770 OF THIS  
7 ARTICLE.

8 (3) (I) "VICTIM" means a victim of:

9 [(i)] 1. A crime of violence as defined under § 643B of this article;  
10 [or]

11 2. A CRIME AS DEFINED UNDER § 770 OF THIS ARTICLE; OR

12 [(ii)] 3. Except as provided in [paragraph (2) of this subsection,]  
13 SUBPARAGRAPH (II) OF THIS PARAGRAPH, a crime involving, causing, or resulting in  
14 death or serious bodily injury.

15 [(2)] (II) ["Victim of a violent crime"] "VICTIM" does not include a victim  
16 of an offense that is not punishable by imprisonment under the Maryland Vehicle Law or  
17 under Title 8, Subtitle 7 of the Natural Resources Article ("State Boat Act").

18 (b) (1) In the event of the death or disability of a victim [of a violent crime, the  
19 term "victim of a violent crime"], "VICTIM" includes the victim's:

20 (i) Spouse or surviving spouse;

21 (ii) Parent or legal guardian;

22 (iii) Child; or

23 (iv) Sibling.

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

26 (c) Although not a party to a criminal OR JUVENILE DELINQUENCY proceeding,  
27 the victim of the [violent] crime [for which the defendant is charged has the right to]  
28 OR DELINQUENT ACT OR THE STATE'S ATTORNEY MAY file an application for leave to  
29 appeal to the Court of Special Appeals from an interlocutory or final order that denies or  
30 fails to consider a right secured to that victim by [§ 773(b) or § 780] § 773(B), § 780, § 780A,  
31 OR § 781 of this subtitle or Article 41, § 4-609 of the Code.

32 (d) [The] (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
33 THE filing of an application for leave to appeal under this section may not result in the  
34 stay of [ other]:

35 (I) OTHER proceedings in a criminal case IN WHICH THE VICTIM  
36 INVOKED OR ATTEMPTED TO INVOKE A RIGHT UNDER § 773(B) OF THIS subtitle  
37 without the consent of all of the parties; AND

13

1 (II) A SENTENCE IN A CRIMINAL CASE OR A DISPOSITION IN A  
2 DELINQUENCY CASE.

3 (2) A CIRCUIT COURT, THE COURT OF SPECIAL APPEALS, OR THE  
4 COURT OF APPEALS MAY STAY A PROCEEDING UNDER THE TERMS THE COURT  
5 CONSIDERS PROPER.

6 (E) THE PARTIES TO A LEAVE TO APPEAL FILED UNDER THIS SECTION SHALL  
7 BE:

8 (1) THE VICTIM;

9 (2) IN A CRIMINAL CASE, THE DEFENDANT;

10 (3) IN A DELINQUENCY CASE, THE CHILD ALLEGED TO BE DELINQUENT;  
11 AND

12 (4) ON BEHALF OF THE STATE'S ATTORNEY, THE ATTORNEY GENERAL.

13 780.

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

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (2) "SENTENCING OR DISPOSITION HEARING" MEANS A HEARING AT  
23 WHICH THE IMPOSITION OF A SENTENCE, DISPOSITION, OR ALTERATION OF A  
24 SENTENCE OR DISPOSITION IS CONSIDERED.

25 (3) "VICTIM'S REPRESENTATIVE" MEANS A MEMBER OF THE VICTIM'S  
26 IMMEDIATE FAMILY, OR IF THE VICTIM IS DECEASED, UNDER A MENTAL, PHYSICAL,  
27 OR LEGAL DISABILITY, OR OTHERWISE UNABLE TO PROVIDE THE REQUIRED  
28 INFORMATION, THE PERSONAL REPRESENTATIVE, OR GUARDIAN OR OTHER  
29 FAMILY MEMBER.

30 (B) IN THE SENTENCING OR DISPOSITION HEARING OF A CRIMINAL OR  
31 JUVENILE CASE, THE COURT:

32 (1) SHALL, IF PRACTICABLE, PERMIT THE VICTIM OR THE VICTIM'S  
33 REPRESENTATIVE TO ADDRESS THE JUDGE OR JURY UNDER OATH OR  
34 AFFIRMATION BEFORE THE IMPOSITION OF SENTENCE OR OTHER DISPOSITION:

35 (I) AT THE REQUEST OF THE STATE'S ATTORNEY; OR

36 (II) IF THE VICTIM HAS FILED A NOTIFICATION REQUEST FORM  
37 UNDER § 770 OF THIS ARTICLE; AND

14

1 (2) MAY PERMIT THE VICTIM OR THE VICTIM'S REPRESENTATIVE TO  
2 ADDRESS THE JUDGE UNDER OATH OR AFFIRMATION BEFORE THE IMPOSITION OF  
3 SENTENCE OR OTHER DISPOSITION AT THE REQUEST OF THE VICTIM OR THE  
4 VICTIM'S REPRESENTATIVE.

5 [(b)] (C) (1) If the victim or the victim's representative is permitted to address  
6 the judge or jury, the defendant may cross-examine the victim or the victim's  
7 representative.

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

10 [(c)] (D) (1) A victim or THE VICTIM'S representative has the right not to  
11 address the court at THE sentencing OR DISPOSITION HEARING.

12 (2) A person may not attempt to coerce a victim or THE VICTIM'S  
13 representative to address the court at THE sentencing OR DISPOSITION HEARING.

14 780A.

15 (A) IN THIS SECTION, "VICTIM'S REPRESENTATIVE" HAS THE MEANING  
16 STATED IN § 780 OF THIS SUBHEADING.

17 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A VICTIM'S  
18 REPRESENTATIVE HAS THE SAME RIGHT TO ADDRESS THE JURY IN A DEATH  
19 PENALTY SENTENCING AS A VICTIM'S REPRESENTATIVE HAS TO ADDRESS A JUDGE  
20 UNDER § 780 OF THIS SUBHEADING.

21 (C) (1) ON MOTION OF A DEFENDANT OR THE STATE OR ON ITS OWN  
22 REQUEST, THE COURT IN A DEATH PENALTY SENTENCING MAY HOLD A HEARING  
23 OUTSIDE OF THE PRESENCE OF THE JURY TO DETERMINE WHETHER A VICTIM'S  
24 REPRESENTATIVE MAY PRESENT AN ORAL ADDRESS TO THE JURY.

25 (2) IF THE COURT DETERMINES THAT PART OF A VICTIM'S  
26 REPRESENTATIVE'S ORAL ADDRESS WILL BE SO UNDULY PREJUDICIAL THAT IT  
27 RENDERS THE JURY SENTENCING PROCEEDING FUNDAMENTALLY UNFAIR, THE  
28 COURT MAY LIMIT THE PREJUDICIAL PORTION OF THE ORAL ADDRESS.

29 781.

30 (A) IN THIS SECTION, "DEFENDANT" INCLUDES:

31 (1) A PERSON WHO IS CHARGED WITH A CRIME; AND

32 (2) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A DELINQUENT  
33 ACT.

34 [(a)] (B) A presentence investigation that is completed by the Division of Parole  
35 and Probation under Article 41, § 4-609 of the Code OR A PREDISPOSITION  
36 INVESTIGATION THAT IS COMPLETED BY THE DEPARTMENT OF JUVENILE JUSTICE  
37 shall include a victim impact statement, if:

15

1 (1) The defendant, in committing a felony OR DELINQUENT ACT THAT  
2 WOULD BE A FELONY IF COMMITTED BY AN ADULT, caused physical, psychological, or  
3 economic injury to the victim; or

4 (2) The defendant, in committing a misdemeanor OR DELINQUENT ACT  
5 THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, caused serious  
6 physical injury or death to the victim.

7 [(b)] (C) If the court does not order a presentence investigation OR  
8 PREDISPOSITION INVESTIGATION, the State's Attorney OR THE VICTIM may prepare a  
9 victim impact statement to be submitted to the court and the defendant in accordance  
10 with the Maryland Rules of Procedure pertaining to presentence investigations.

11 [(c)] (D) The court shall consider the victim impact statement in determining the  
12 appropriate sentence OR DISPOSITION, and in entering any [order] JUDGMENT of  
13 restitution [to] FOR the victim under [§ 807(c)] § 807 OR § 808 of this subtitle.

14 [(d)] (E) A victim impact statement shall:

15 (1) Identify the victim of the offense;

16 (2) Itemize any economic loss suffered by the victim as a result of the  
17 offense;

18 (3) Identify any physical injury suffered by the victim as a result of the  
19 offense along with its seriousness and permanence;

20 (4) Describe any change in the victim's personal welfare or familial  
21 relationships as a result of the offense;

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

24 (6) IDENTIFY ANY REQUEST BY THE VICTIM THAT THE DEFENDANT BE  
25 PROHIBITED FROM HAVING CONTACT WITH THE VICTIM AS A CONDITION OF  
26 PROBATION, PAROLE, MANDATORY SUPERVISION, WORK RELEASE, OR ANY OTHER  
27 JUDICIAL OR ADMINISTRATIVE RELEASE OF THE DEFENDANT; AND

28 [(6)] (7) Contain any other information related to the impact of the offense  
29 upon the victim or the victim's family that the court requires.

30 [(e)] (F) If the victim is deceased, under a mental, physical, or legal disability, or  
31 otherwise unable to provide the information required under this section, the information  
32 may be obtained from the personal representative, guardian, or committee, or such family  
33 members as may be necessary.

34 Postsentencing Procedures

35 783A.

36 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS  
37 INDICATED.

38 (B) "DEFENDANT" INCLUDES:

16

1 (1) A PERSON WHO IS CHARGED WITH A CRIME; AND

2 (2) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A DELINQUENT  
3 ACT.

4 (C) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR  
5 THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT  
6 OF A CRIME OR DELINQUENT ACT, INCLUDING A FAMILY MEMBER OR GUARDIAN  
7 OF A MINOR, INCOMPETENT, OR HOMICIDE VICTIM.

8 784.

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

10 (1) A review of sentence under § 645JA of this article;

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

13 (3) IN A JUVENILE DELINQUENCY CASE, A REVIEW OF A COMMITMENT  
14 ORDER OR OTHER DISPOSITION UNDER THE MARYLAND RULES;

15 [(3)] (4) An appeal to the Court of Special Appeals; [or]

16 [(4)] (5) An appeal to the Court of Appeals; OR

17 (6) ANY OTHER POSTSENTENCING COURT PROCEEDING.

18 (b) Following conviction OR ADJUDICATION and sentencing OR DISPOSITION of  
19 a [criminal] defendant for a crime [of violence as defined in § 643B of this article] OR  
20 DELINQUENT ACT, [the State's Attorney shall send advance notice, in writing, of a  
21 subsequent proceeding to the victim of that crime of violence, or in the case of a  
22 homicide, to a designated family member, if the 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] THE  
26 VICTIM, OR IN THE CASE OF A HOMICIDE, A DESIGNATED FAMILY MEMBER, SHALL  
27 BE NOTIFIED OF A SUBSEQUENT PROCEEDING IN ACCORDANCE WITH § 770(E) OF  
28 THIS ARTICLE IF:

29 (1) PRIOR TO THE DISTRIBUTION BY THE STATE'S ATTORNEY OF  
30 NOTIFICATION REQUEST FORMS UNDER § 770(C) OF THIS ARTICLE, THE VICTIM  
31 SUBMITTED TO THE STATE'S ATTORNEY A WRITTEN REQUEST TO BE NOTIFIED OF  
32 SUBSEQUENT PROCEEDINGS; OR

33 (2) AFTER THE DISTRIBUTION BY THE STATE'S ATTORNEY OF  
34 NOTIFICATION REQUEST FORMS UNDER § 770(C) OF THIS ARTICLE, THE VICTIM  
35 FILED A NOTIFICATION REQUEST FORM IN ACCORDANCE WITH § 770(D) OF THIS  
36 ARTICLE.

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



17

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

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

5 (2) Following the initial notification to the victim OR RECEIPT OF A  
6 NOTIFICATION REQUEST FORM, AS DEFINED UNDER § 770 OF THIS ARTICLE, the  
7 office of the Attorney General shall:

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

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

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

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

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

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

17 786.

18 (a) This section applies to a victim who has made a written request to the  
19 Maryland Parole Commission for notification OR FILED A NOTIFICATION REQUEST  
20 FORM UNDER § 770 OF THIS ARTICLE.

21 (b) (1) If a parole release hearing is scheduled for a person who has been  
22 convicted and sentenced to the Division of Correction for a crime, the victim has the  
23 rights provided under Article 41, § 4-504(d) of the Code.

24 (2) At a parole release hearing, a victim has the rights provided under  
25 Article 41, § 4-507(c) and (d) of the Code.

26 (c) (1) If a person who was convicted of a violent crime is found guilty of  
27 violating a condition of parole, the [Maryland Parole Commission] DEPARTMENT OF  
28 PUBLIC SAFETY AND CORRECTIONAL SERVICES shall notify the victim as provided  
29 under Article 41, § 4-511(f) of the Code.

30 (2) IF A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON WHO WAS  
31 CONVICTED OF A VIOLENT CRIME FOR AN ALLEGED VIOLATION OF A CONDITION  
32 OF PAROLE, THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
33 SHALL NOTIFY THE VICTIM AS PROVIDED UNDER ARTICLE 41, § 4-511(F) OF THE  
34 CODE.

35 (d) (1) If a person who is sentenced to the Division of Correction is being  
36 considered for a commutation, pardon, or remission of sentence, the Maryland Parole  
37 Commission shall notify the victim as provided under Article 41, § 4-511A(b)(1), (4), (5),  
38 and (6) of the Code.

18

1 (2) In addition to the right of notification referred to in paragraph (1) of  
2 this subsection, if the person described in paragraph (1) of this subsection was convicted  
3 of a violent crime, a victim has the rights regarding submission and consideration of a  
4 victim impact statement provided under Article 41, § 4-511A(b)(2) and (3) of the Code.

5 (e) (1) If a person who was convicted of a crime of violence is found guilty of  
6 violating a condition of mandatory supervision, the [Maryland Parole Commission]  
7 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES shall notify the  
8 victim as provided under Article 41, § 4-612(i) of the Code.

9 (2) IF A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON WHO WAS  
10 CONVICTED OF A VIOLENT CRIME FOR AN ALLEGED VIOLATION OF A CONDITION  
11 OF MANDATORY SUPERVISION, THE DEPARTMENT OF PUBLIC SAFETY AND  
12 CORRECTIONAL SERVICES SHALL NOTIFY THE VICTIM AS PROVIDED UNDER  
13 ARTICLE 41, § 4-511(F) OF THE CODE.

14 (F) BEFORE ENTERING INTO A PREDETERMINED PAROLE RELEASE  
15 AGREEMENT WITH AN INMATE, THE MARYLAND PAROLE COMMISSION SHALL  
16 NOTIFY A VICTIM AS PROVIDED UNDER § 700G OF THIS ARTICLE.

17 787.

18 If a person has been committed under § 12-111 of the Health - General Article for  
19 a crime of violence, and a victim of the crime has made a written request to the  
20 Department of Health and Mental Hygiene for notification OR FILED A NOTIFICATION  
21 REQUEST FORM UNDER § 770 OF THIS ARTICLE, the victim has the rights provided  
22 under § 12-122 of the Health - General Article.

23 788.

24 IF A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON WHO WAS CONVICTED  
25 OF A VIOLENT CRIME FOR AN ALLEGED VIOLATION OF A CONDITION OF  
26 PROBATION AND A VICTIM HAS MADE A WRITTEN REQUEST TO THE DIVISION OF  
27 PAROLE AND PROBATION FOR NOTIFICATION OR A VICTIM FILED A NOTIFICATION  
28 REQUEST FORM UNDER § 770 OF THIS ARTICLE, THE DEPARTMENT OF PUBLIC  
29 SAFETY AND CORRECTIONAL SERVICES OR THE DEPARTMENT OF JUVENILE  
30 JUSTICE SHALL NOTIFY THE VICTIM OF THE ALLEGED VIOLATION.

31 789.

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

34 (2) "COMMITMENT AGENCY" MEANS A DEPARTMENT OR FACILITY  
35 THAT HAS BEEN ORDERED BY A COURT TO RETAIN CUSTODY OF A DEFENDANT OR  
36 CHILD AND HAS RECEIVED A NOTIFICATION REQUEST FORM UNDER § 770(F) OR (I)  
37 OF THIS ARTICLE.

38 (3) "RELEASE FROM CONFINEMENT" MEANS WORK RELEASE, HOME  
39 DETENTION, AND ANY OTHER ADMINISTRATIVE OR STATUTORILY AUTHORIZED  
40 RELEASE OF A DEFENDANT FROM A CONFINEMENT FACILITY.

19

1 (4) "VICTIM" MEANS A VICTIM WHO HAS FILED A NOTIFICATION  
2 REQUEST FORM UNDER § 770 OF THIS ARTICLE.

3 (B) ON RECEIPT OF A NOTIFICATION REQUEST FORM UNDER § 770(F) OR (I)  
4 OF THIS ARTICLE, A COMMITMENT AGENCY SHALL NOTIFY THE VICTIM OF:

5 (1) THE COMMITMENT AGENCY'S RECEIPT OF THE NOTIFICATION  
6 REQUEST FORM;

7 (2) THE DATE ON WHICH THE DEFENDANT WAS PLACED UNDER THE  
8 CUSTODY OF THE COMMITMENT AGENCY;

9 (3) HOW TO CHANGE THE ADDRESS OF THE VICTIM OR OF THE PERSON  
10 TO RECEIVE NOTICE FOR THE VICTIM; AND

11 (4) HOW TO ELECT NOT TO RECEIVE ANY FUTURE NOTICES.

12 (C) A COMMITMENT AGENCY SHALL NOTIFY A VICTIM IN ADVANCE, IF  
13 POSSIBLE, AND IF NOT, AS SOON AS POSSIBLE REGARDING ANY OF THE FOLLOWING  
14 EVENTS CONCERNING THE DEFENDANT:

15 (1) AN ESCAPE;

16 (2) A RECAPTURE;

17 (3) A TRANSFER TO ANOTHER COMMITMENT AGENCY;

18 (4) A RELEASE FROM CONFINEMENT AND ANY CONDITIONS ATTACHED  
19 TO THE RELEASE; AND

20 (5) THE DEATH OF THE DEFENDANT.

21 (D) A COMMITMENT AGENCY MAY NOT DISCLOSE TO A DEFENDANT THE  
22 ADDRESS OR TELEPHONE NUMBER OF A VICTIM OR PERSON WHO RECEIVES NOTICE  
23 FOR THE VICTIM.

24 791.

25 Evidence relating to a victim's chastity or prior sexual conduct may be admitted in a  
26 prosecution for [rape or] RAPE, sexual offense in the first or second [degree] DEGREE,  
27 OR ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN THE FIRST OR SECOND  
28 DEGREE only in the manner provided under § 461A of this article.

29 792.

30 (b) (1) Subject to paragraph (2) of this subsection, on the earlier of the date  
31 that the child sexual offender is released, is granted probation before judgment, is  
32 granted probation after judgment, is granted a suspended sentence, or receives a sentence  
33 that does not include a term of imprisonment the supervising authority shall send written  
34 notice of the release of the child sexual offender to the local law enforcement agency in  
35 the county where the offender will reside.

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

20

- 1 (i) The full name of the child sexual offender;
- 2 (ii) The child sexual offender's address, if available;
- 3 (iii) The child sexual offender's Social Security number;
- 4 (iv) A recent photograph of the child sexual offender; and
- 5 (v) A brief description of the crime for which the child sexual offender
- 6 was convicted, granted probation before judgment, or found not criminally responsible.

7 (3) The same notice as required under paragraph (1) of this subsection shall

8 be sent to:

9 (I) A VICTIM OF THE CRIME FOR WHICH THE PERSON WAS FOUND

10 TO BE A CHILD SEXUAL OFFENDER, IF THE VICTIM FILED A NOTIFICATION REQUEST

11 FORM UNDER § 770 OF THIS ARTICLE; AND

12 (II) [the] THE following persons if such notice has been requested in

13 writing about a specific child sexual offender:

14 [(i)] 1. The victim of the crime for which the child sexual offender

15 was convicted or, if the victim is a minor, the parents or legal guardian of the victim;

16 [(ii)] 2. Any witness who testified against the child sexual offender in

17 any court proceedings involving the offense; and

18 [(iii)] 3. 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.

21

1 (7) A supervising authority shall send any notice required under paragraphs  
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.

11 799.

12 (a) When a law enforcement officer responds to a request for assistance under §  
13 798 of this subheading, the officer shall give the victim a copy of a written notice that:

14 (1) States that the victim may:

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

17 (ii) If the commissioner declines to charge the alleged abuser, request  
18 that the State's Attorney file a criminal charging document against the alleged abuser;  
19 [and]

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

22 (IV) OBTAIN A COPY OF THE INCIDENT REPORT AS PROVIDED  
23 UNDER § 800 OF THIS SUBHEADING; AND

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

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

29 800.

30 When a law enforcement officer responds to a request for assistance under § 798 of  
31 this subheading and an incident report is filed, the law enforcement agency shall provide  
32 a copy of the report to the Department of State Police and, on request, to the victim  
33 without a subpoena AND WITHOUT CHARGE.

34 Restitution

35 805A.

36 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS  
37 INDICATED, UNLESS THE CONTEXT OF THEIR USE INDICATES OTHERWISE.

22

1 (B) "ABANDONED VEHICLE" HAS THE SAME MEANING AS STATED IN § 25-201  
2 OF THE TRANSPORTATION ARTICLE.

3 (C) "CHILD" MEANS A PERSON UNDER THE AGE OF 18 YEARS.

4 (D) "COURT" MEANS THE COURT OF APPEALS, COURT OF SPECIAL APPEALS,  
5 CIRCUIT COURT, JUVENILE COURT, AND DISTRICT COURT OF MARYLAND, OR ANY  
6 OF THEM, UNLESS THE CONTEXT CLEARLY REQUIRES A CONTRARY MEANING.

7 (E) "CRIME" MEANS AN ACT COMMITTED BY ANY PERSON IN THE STATE  
8 WHICH WOULD CONSTITUTE A CRIME AS DEFINED IN THIS ARTICLE OR AT COMMON  
9 LAW, A DELINQUENT ACT AS DEFINED IN § 3-801 OF THE COURTS ARTICLE, OR A  
10 VIOLATION OF THE TRANSPORTATION ARTICLE THAT IS PUNISHABLE BY A TERM OF  
11 CONFINEMENT.

12 (F) "DEFENDANT" MEANS ANY PERSON WHO HAS :

13 (1) RECEIVED PROBATION BEFORE JUDGMENT;

14 (2) BEEN FOUND TO HAVE COMMITTED A DELINQUENT ACT;

15 (3) BEEN FOUND GUILTY OF A CRIME, REGARDLESS OF WHETHER THE  
16 DEFENDANT HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE BY REASON OF  
17 INSANITY; OR

18 (4) ANY PERSON WHOSE PLEA OF NOLO CONTENDERE TO A CRIME HAS  
19 BEEN ACCEPTED BY THE COURT.

20 (G) "DIVISION" MEANS DIVISION OF PAROLE AND PROBATION.

21 (H) "JUDGE" MEANS A JUDGE OF A COURT.

22 (I) "JUDGMENT OF RESTITUTION" MEANS EITHER A DIRECT ORDER FOR  
23 PAYMENT OF RESTITUTION OR AN ORDER FOR PAYMENT OF RESTITUTION THAT IS  
24 A CONDITION OF PROBATION IN AN ORDER OF PROBATION.

25 (J) "LIABLE PARENT" MEANS A PARENT WHO HAS BEEN ORDERED TO PAY  
26 RESTITUTION UNDER § 808 OF THIS SUBHEADING.

27 (K) "PROPERTY" MEANS BOTH REAL AND PERSONAL PROPERTY.

28 (L) (1) "VICTIM" MEANS A PERSON WHO SUFFERS PERSONAL INJURY,  
29 DEATH, OR PROPERTY DAMAGE OR LOSS AS A DIRECT RESULT OF CRIME.

30 (2) "VICTIM" INCLUDES:

31 (I) IN THE EVENT OF THE DEATH OF A VICTIM, THE VICTIM'S  
32 ESTATE; OR

33 (II) UPON CONVICTION, THE FINDING OF A DELINQUENT ACT,  
34 ACCEPTANCE OF A PLEA OF NOLO CONTENDERE, OR IMPOSITION OF PROBATION  
35 BEFORE JUDGMENT FOR AN OFFENSE UNDER § 267 OF THIS ARTICLE:

36 1. THE OWNER OF THE BURIAL SITE; AND

23

1                                    2. AN INDIVIDUAL RELATED BY BLOOD OR MARRIAGE TO  
2 THE INDIVIDUAL BURIED IN THE BURIAL SITE.

3 806.

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

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

16 807.

17            [(a) (1) In this section, the following words have the meanings indicated, unless  
18 the context of their use indicates otherwise.

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

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

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

25                            (5) "Crime" means an act committed by any person in the State which would  
26 constitute a crime as defined in this article or at common law, or a violation under §  
27 25-202 of the Transportation Article. However, an act involving the operation of a motor  
28 vehicle which results in injury does not constitute a crime for the purpose of this section  
29 unless the injuries were intentionally inflicted through the use of a vehicle.

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

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

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

34                            (9) "Order of restitution" means either a direct order for payment of  
35 restitution or an order for payment of restitution that is a condition of probation in an  
36 order of probation.

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

38                            (11) (i) "Victim" means a person who suffers personal injury, death, or  
39 property damage or loss as a direct result of crime.

24

1 (ii) "Victim" includes:

2 1. In the event of the death of a victim, the victim's estate; or

3 2. Upon conviction, acceptance of a plea of nolo contendere, or  
4 imposition of probation before judgment for an offense under § 267 of this article:

5 A. The owner of the burial site; and

6 B. An individual related by blood or marriage to the individual  
7 buried in the burial site.]

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

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

14 (ii) The victim suffered actual medical, DENTAL, HOSPITAL,  
15 COUNSELING, FUNERAL, BURIAL expenses, ANY OTHER direct out-of-pocket losses, or  
16 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 § 855 of this subtitle.

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

27 (i) The victim or the State requests restitution; AND

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

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

31 (3) A court need not issue [an order] A JUDGMENT of restitution under  
32 this section if the court finds [good]:

33 (I) THAT THE DEFENDANT OR LIABLE PARENT DOES NOT HAVE  
34 THE ABILITY TO PAY THE JUDGMENT OF RESTITUTION; OR

35 (II) GOOD cause to establish extenuating circumstances as to why [an  
36 order] A JUDGMENT of restitution is inappropriate in a case.



25

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

2 (i) The victim;

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

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

8 (5) If the victim has been fully compensated for the victim's loss by a  
9 third-party payor, the court may issue [an order] A JUDGMENT of restitution directing  
10 the defendant OR LIABLE PARENT to pay restitution to the third-party payor. Otherwise,  
11 payment of restitution to the victim has priority over payment of restitution to the  
12 third-party payor.

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

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

19 [(c)] (B) When [an order] A JUDGMENT of restitution has been entered under  
20 subsection [(b)] (A) of this section:

21 (1) Compliance with the [order] JUDGMENT OF RESTITUTION:

22 (i) May be [made as a sentence; and] REQUIRED IN THE  
23 JUDGMENT OF CONVICTION;

24 (ii) [Shall] IF PROBATION IS ORDERED, SHALL be a condition of  
25 [probation,] PROBATION:

26 1. in addition to a [sentence, if probation is ordered; and]  
27 SENTENCE; OR

28 2. IN LIEU OF A SENTENCE IF THE PROBATION IS ORDERED  
29 BEFORE JUDGMENT UNDER § 641 OF THIS ARTICLE; AND

30 (III) IF WORK RELEASE IS ORDERED, SHALL BE A CONDITION OF  
31 WORK RELEASE.

32 (2) Subject to federal law, the Department of Public Safety and Correctional  
33 Services OR THE DEPARTMENT OF JUVENILE JUSTICE shall obtain the Social Security  
34 number of the defendant OR LIABLE PARENT to facilitate the collection of restitution.

35 [(d)] (C) (1) Restitution shall be made by the defendant OR LIABLE PARENT to  
36 the Division [of Parole and Probation] OR THE DEPARTMENT OF JUVENILE JUSTICE  
37 under the terms and conditions of the [order] JUDGMENT of restitution.

26

1 (2) The Division OR THE DEPARTMENT OF JUVENILE JUSTICE shall keep  
2 records of any payments or return of property in satisfaction of the [order ] JUDGMENT  
3 of restitution.

4 (3) The Division OR THE DEPARTMENT OF JUVENILE JUSTICE shall  
5 forward any property or payments in accordance with the [court's order] JUDGMENT of  
6 restitution and the provisions of this section to:

7 (i) The victim;

8 (ii) The Department of Health and Mental Hygiene or other  
9 governmental entity; or

10 (iii) The third-party payor.

11 (4) The Division OR THE DEPARTMENT OF JUVENILE JUSTICE may assess  
12 additional fees not to exceed 2 percent of the amount of the [order] JUDGMENT of  
13 restitution to pay for administrative costs of collecting payments or property. These fees  
14 shall be paid by the defendant OR LIABLE PARENT.

15 [(e)] (D) (1) When a defendant OR LIABLE PARENT fails to make restitution as  
16 ordered, the Division OR THE DEPARTMENT OF JUVENILE JUSTICE shall notify the  
17 court.

18 (2) The court may hold a hearing to determine if the defendant OR LIABLE  
19 PARENT is in contempt of court or has violated the terms of the probation.

20 (3) If the court finds that the defendant OR LIABLE PARENT intentionally  
21 became impoverished to avoid payment of the restitution, the court may find the  
22 defendant in CONTEMPT OF COURT OR IN violation of probation.

23 [(f)] (E) [An order] A JUDGMENT of restitution may not preclude the owner of  
24 the property or the victim who suffered personal physical or mental injury or  
25 out-of-pocket loss of earnings or support from proceeding in a civil action to recover  
26 damages from the defendant OR LIABLE PARENT. A civil verdict shall be reduced by the  
27 amount paid under the criminal [ restitution order] JUDGMENT OF RESTITUTION.

28 [(g)] (F) If [an order] A JUDGMENT of restitution requiring the payment of  
29 money is recorded and indexed in the civil judgment index under subsection [(h)] (G) or  
30 subsection [(i)] (H) of this section:

31 (1) The [order] JUDGMENT of restitution shall constitute a money  
32 judgment in favor of the individual, governmental entity, or third-party payor to whom  
33 the defendant OR LIABLE PARENT has been ordered to pay restitution;

34 (2) The [order] JUDGMENT of restitution may be enforced by the  
35 individual, governmental entity, or third-party payor to whom the defendant OR LIABLE  
36 PARENT has been ordered to pay restitution in the same manner as a money judgment in  
37 a civil action; and

38 (3) Except as otherwise expressly provided by this section, an individual,  
39 governmental entity, or third-party payor to whom a defendant OR LIABLE PARENT has  
40 been ordered to pay restitution shall have all the rights and obligations of a money

27

1 judgment creditor under the Maryland Rules, including the obligation to file a statement  
2 that the judgment has been satisfied under Rule 2-626 or Rule 3-626 on receiving all  
3 amounts due under the judgment.

4           [(h)] (G) (1) [An order] A JUDGEMENT of restitution that is issued by a circuit  
5 court under this section shall be recorded and indexed in the civil judgment index by the  
6 clerk of the circuit court as a money judgment as prescribed by the Maryland Rules.

7                   (2) [An order] A JUDGMENT of restitution that is recorded and indexed in  
8 the civil judgment index as a money judgment under paragraph (1) of this subsection:

9                           (i) In the county of entry of the judgment, shall constitute a lien from  
10 the date of entry in the amount of the judgment on the defendant's OR LIABLE PARENT'S  
11 interest in land located in the county of the entry of the judgment; but

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

15           [(i)] (H) (1) [An order] A JUDGMENT of restitution that is issued by the  
16 District Court under this section may not be recorded and indexed as a money judgment  
17 in the District Court until the individual, governmental entity, or third-party payor to  
18 whom the defendant OR LIABLE PARENT has been ordered to pay restitution files a  
19 written statement with the clerk of the District Court that requests the order of  
20 restitution be recorded and indexed as a money judgment.

21                   (2) If [an order] A JUDGMENT of restitution issued by the District Court is  
22 recorded and indexed as a money judgment as permitted under paragraph (1) of this  
23 subsection, the clerk of the District Court shall:

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

26                           (ii) On the receipt of the written statement from the individual,  
27 governmental entity, or third-party payor to whom a defendant OR LIABLE PARENT has  
28 been ordered to pay restitution, forward a notice of lien of judgment to the circuit court  
29 of any other county as prescribed by the Maryland Rules.

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

33                   (4) [An order] A JUDGMENT of restitution that is issued by the District  
34 Court and is recorded and indexed as a money judgment as permitted by paragraph (1) of  
35 this subsection shall constitute a lien in the amount of the judgment of the defendant's  
36 OR LIABLE PARENT'S interest in land in a county from the date that a notice of lien is  
37 recorded and indexed in the circuit court of that county.

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

28

1 (i) The [order] JUDGMENT of restitution does not constitute a  
2 money judgment until it is recorded and indexed in the civil judgment records in the  
3 District Court;

4 (ii) The [order] JUDGMENT of restitution shall be recorded and  
5 indexed as a money judgment in the District Court and a notice of lien shall be forwarded  
6 to the circuit court of that county by the clerk of the District Court on the receipt of a  
7 written statement from the individual, governmental entity, or third-party payor that  
8 requests the [order] JUDGMENT of restitution be recorded and indexed as a money  
9 judgment;

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

14 (iv) There shall be no fee for recording and indexing the [order]  
15 JUDGMENT of restitution as a money judgment in the District Court or for recording and  
16 indexing a notice of lien in the circuit court of that county.

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

19 (1) For recording and indexing an order of restitution as a money judgment  
20 in the court in which the [order] JUDGMENT of restitution was issued; or

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

23 [(k)] (J) (1) Subject to the Maryland Rules, unless complete restitution is paid  
24 by a defendant OR LIABLE PARENT, termination of [an order] A JUDGMENT of  
25 restitution or probation by a court does not affect a money judgment that has been  
26 recorded and indexed under this section.

27 (2) If a District Court decides to terminate [an order] A JUDGMENT of  
28 restitution that has not been recorded and indexed as a money judgment under subsection  
29 [(i)] (H) of this section or to terminate a probation before [an order] A JUDGMENT of  
30 restitution has been recorded and indexed as a money judgment under subsection [(i)]  
31 (H) of this section, the court shall direct the clerk of the court to:

32 (i) Record and index the [order] JUDGMENT of restitution as a  
33 money judgment and forward a notice of lien to the circuit court of that county prior to  
34 terminating the [order] JUDGMENT of restitution and probation; and

35 (ii) Forward a written notice to the individual, governmental entity, or  
36 third-party payor to whom the defendant OR LIABLE PARENT was ordered to pay  
37 restitution which states that the [order] JUDGMENT of restitution has been recorded  
38 and indexed as a money judgment in the District Court and that a notice of lien has been  
39 forwarded to the circuit court of that county.

40 [(l)] (K) (1) Notwithstanding any other provision of this section and except as  
41 provided in paragraph (2) of this subsection, a victim or other person may not execute on

29

1 a judgment recorded and indexed under this section if the defendant OR LIABLE PARENT  
2 files a motion under the Maryland Rules to stay execution of sentence or the [order]  
3 JUDGMENT of restitution, WHICH HAS NOT BEEN DETERMINED BY THE COURT, and  
4 challenges the conviction, sentence, or [order] JUDGMENT of restitution by:

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

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

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

10 (iv) Filing an application for review of criminal sentence under §§  
11 645JA through 645JG of this article; or

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

13 (2) If a defendant OR LIABLE PARENT files an action described in  
14 paragraph (1) of this subsection, an individual, governmental entity, or third-party payor  
15 may not execute on a judgment recorded and indexed under this section until a court  
16 issues a final judgment upholding the conviction, sentence, or [order] JUDGMENT of  
17 restitution.

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

22 (4) THE JUDGMENT OF RESTITUTION MAY BE ENFORCED IN THE SAME  
23 MANNER AS ENFORCING MONETARY JUDGMENTS.

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

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

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

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

37 (M) IF A VICTIM CANNOT BE LOCATED, ALL MONEYS COLLECTED FROM A  
38 JUDGMENT OF RESTITUTION SHALL BE TREATED AS ABANDONED PROPERTY  
39 UNDER TITLE 17 OF THE COMMERCIAL LAW ARTICLE.

30

1 808.

2 (a) [(1) The juvenile] NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
 3 THE court may enter a judgment of restitution UNDER § 807 OF THIS SUBHEADING  
 4 against the parent of a child, the child, or both in any case in which the court finds a child  
 5 has committed a delinquent act [and during or as a result of the commission of that  
 6 delinquent act has:

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

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

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

13 1. Personal injury;

14 2. Child abuse under § 35C of this article;

15 3. Abuse or neglect of vulnerable persons under § 35D of this  
 16 article;

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

18 5. Sodomy under § 553 of this article; or

19 6. Unnatural or perverted sexual practices under § 554 of this  
 20 article] OR AN OFFENSE FOR WHICH THE CHILD HAS BEEN CHARGED AS AN ADULT.

21 [(2) The juvenile court may order the parent of a child, a child, or both to  
 22 make restitution to:

23 (i) The victim;

24 (ii) Any governmental entity, including the Criminal Injuries  
 25 Compensation Board; or

26 (iii) A third party payor, including an insurer, that has made payment  
 27 to the victim to compensate the victim for a property loss under paragraph (1)(i) of this  
 28 subsection or pecuniary loss under paragraph (1)(ii) of this subsection.

29 (3) (i) Restitution payments to the victim have priority over restitution  
 30 payments to a third party payor.

31 (ii) If the victim has been compensated for the victim's loss by a third  
 32 party payor, the juvenile court may order restitution payments to the third party payor in  
 33 the amount that the third party payor compensated the victim.

34 (4) Payment of restitution to a victim under this section has priority over  
 35 payment of restitution to any governmental entity.

36 (b) Considering the age and circumstances of a child, the juvenile court may order  
 37 the child to make restitution to the wronged person personally.]

31

1 [(c)] (B) (1) A judgment OF RESTITUTION rendered under this section may not  
2 exceed:

3 (i) As to property stolen, destroyed, converted, or unlawfully  
4 obtained, the lesser of the fair market value of the property or \$10,000;

5 (ii) As to property damaged, or substantially decreased in value, the  
6 lesser of the amount of damage or the decrease in value of the property not to exceed the  
7 fair market value of the property or \$10,000; and

8 (iii) As to personal injuries inflicted, the lesser of the actual medical,  
9 dental, hospital, COUNSELING, funeral, and burial expenses incurred by the injured  
10 person as a result of the injury or \$10,000.

11 (2) As an absolute limit against any one child, his parents, or both, a  
12 judgment rendered under this section may not exceed \$10,000 for all acts arising out of a  
13 single incident.

14 [(d)] (C) A restitution hearing to determine the liability of a parent, a child, or  
15 both, shall be held not later than 30 days after the SENTENCING OR disposition hearing  
16 and may be extended by the [juvenile] court for good cause.

17 [(e)] (D) A judgment of restitution against a parent may not be entered unless the  
18 parent has been afforded a reasonable opportunity to be heard and to present  
19 appropriate evidence in the parent's behalf. A hearing under this section may be held as  
20 part of an [adjudicatory] SENTENCING or disposition hearing for the child.

21 [(f)] The judgment may be enforced in the same manner as enforcing monetary  
22 judgments.

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

26 809.

27 (a) In a restitution hearing held under § 807 or § 808 of this subheading, a written  
28 statement or bill for medical, dental, hospital, COUNSELING, funeral, or burial expenses  
29 shall be prima facie evidence that the amount indicated on the written statement or bill  
30 represents a fair and reasonable charge for the services or materials provided.

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

34 810.

35 (a) (1) In addition to taking any action authorized under § 807 of this  
36 subheading, the Division [of Parole and Probation] OR THE DEPARTMENT OF  
37 JUVENILE JUSTICE may refer a delinquent restitution account to the Central Collection  
38 Unit in the Department of Budget and [Fiscal Planning] MANAGEMENT for collection.

39 (2) IF THE PROBATION OR OTHER SUPERVISION IS TERMINATED AND  
40 RESTITUTION IS STILL OWED, THE DELINQUENT RESTITUTION ACCOUNT SHALL BE

32

1 REFERRED TO THE CENTRAL COLLECTION UNIT IN THE DEPARTMENT OF BUDGET  
2 AND MANAGEMENT FOR COLLECTION.

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

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

7 (2) Certify any defendant OR LIABLE PARENT who is in arrears on  
8 restitution payments amounting to more than \$30 under the [order] JUDGMENT of  
9 restitution:

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

12 (ii) To the State Lottery Agency for State lottery prize interception in  
13 accordance with § 811 of this subheading.

14 (c) (1) The Central Collection Unit may not compromise and settle [an order]  
15 A JUDGMENT of restitution unless the Division [of Parole and Probation] OR THE  
16 DEPARTMENT OF JUVENILE JUSTICE obtains the consent of the victim.

17 (2) The Division [of Parole and Probation] OR THE DEPARTMENT OF  
18 JUVENILE JUSTICE shall contact the victim to see if the victim consents to compromise  
19 and settle [an order] A JUDGMENT of restitution.

20 (d) If complete restitution and interest have been paid or [an order] A  
21 JUDGMENT of restitution has been compromised and settled as provided in subsection  
22 (c) of this section, the Division, THE DEPARTMENT OF JUVENILE JUSTICE, or the  
23 Central Collection Unit immediately shall notify:

24 (1) The court that issued the order by filing the statement as provided under  
25 § 807(g)(3) of this subheading that the judgment has been satisfied; and

26 (2) The last known employer of a defendant in order to terminate an  
27 earnings withholding order issued under § 812 of this subheading.

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

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

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

32 1. The date the Division OR THE DEPARTMENT OF JUVENILE  
33 JUSTICE directed the defendant OR LIABLE PARENT to pay restitution or make a  
34 restitution payment; or

35 2. 30 days after the court issued [an order] A JUDGMENT of  
36 restitution.



33

1 (2) If restitution is considered delinquent, the amount of the arrearage is  
2 the amount of restitution ordered plus any interest as allowed by law reduced by any  
3 amount previously paid or received under the [order] JUDGMENT OF RESTITUTION.

4 811.

5 (a) In this section, "Unit" means the Central Collection Unit in the Department  
6 of Budget and Management.

7 (b) A certification to the State Lottery Agency under § 810(b)(2)(ii) of this  
8 subheading shall contain:

9 (1) The full name of the defendant OR LIABLE PARENT and any other  
10 name known to be used by the defendant OR LIABLE PARENT;

11 (2) The Social Security number of the defendant OR LIABLE PARENT; and

12 (3) The amount of the arrearage.

13 (c) If a defendant OR LIABLE PARENT who is delinquent in restitution payments  
14 wins a lottery prize to be paid by check directly by the State Lottery Agency, the State  
15 Lottery Agency shall send a notice to the defendant OR LIABLE PARENT that:

16 (1) The defendant OR LIABLE PARENT has won a prize to be paid by the  
17 State Lottery Agency;

18 (2) The Lottery Agency has received notice from the [Central Collection]  
19 Unit of the defendant's OR LIABLE PARENT'S restitution arrearage in the amount  
20 specified;

21 (3) State law requires the Lottery Agency to withhold the prize to pay it  
22 towards the defendant's OR LIABLE PARENT'S restitution arrearage;

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

25 (5) The defendant OR LIABLE PARENT may appeal to the Unit if the  
26 defendant OR LIABLE PARENT disputes the existence or the amount of the arrearage;  
27 and

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

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

33 (e) Upon receipt of a notice from the State Lottery Agency, any defendant OR  
34 LIABLE PARENT who disputes the existence or amount of the arrearage may appeal the  
35 proposed transfer within 15 days after the date of the notice.

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

34

1 (g) If the defendant OR LIABLE PARENT appeals the proposed transfer, after a  
2 hearing the Unit shall notify the State Lottery Agency that the withheld prize shall be:

3 (1) Paid to the defendant OR LIABLE PARENT;

4 (2) Transferred to the Unit; or

5 (3) Partly paid to the defendant OR LIABLE PARENT and partly transferred  
6 to the Unit, in the amounts specified.

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

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

10 (2) An interception request under this section.

11 (i) The Secretary of Budget and Management and the Director of the State  
12 Lottery Agency may jointly adopt regulations to implement this section.

13 812.

14 (a) If a court issues [an order] A JUDGMENT of restitution under § 807 OR § 808  
15 of this subheading, the court may issue an immediate and continuing earnings withholding  
16 order in an amount sufficient to pay the restitution:

17 (1) At THE sentencing OR DISPOSITION HEARING;

18 (2) When the defendant is placed on work release or probation; or

19 (3) When the payment of restitution is delinquent.

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

22 (1) An earnings withholding order issued under § 10-126 of the Family Law  
23 Article;

24 (2) An earnings withholding order issued under this section; and

25 (3) Any other lien or legal process.

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

27 (i) The clerk of the court immediately shall:

28 1. Serve a copy of the earnings withholding order on any  
29 current or subsequent employers of the defendant OR LIABLE PARENT, if known; and

30 2. Mail a copy of the earnings withholding order to the  
31 defendant OR LIABLE PARENT at the last known address or place of incarceration of the  
32 defendant, if known;

33 (ii) A defendant OR LIABLE PARENT immediately shall notify the  
34 court and the Division of:

35

1 1. Any objection to an earnings withholding order; and

2 2. The current address of the residence of the defendant OR  
3 LIABLE PARENT, the name of the employer, and the work address of the defendant OR  
4 LIABLE PARENT, or any change of employer, residence, or work address of the defendant  
5 OR LIABLE PARENT;

6 (iii) An employer who is served with an earnings withholding order  
7 under this section immediately shall notify the court and the Division of the following  
8 information:

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

11 2. The address of the residence of the defendant OR LIABLE  
12 PARENT on the termination of employment;

13 3. Information regarding the new place of employment of the  
14 defendant OR LIABLE PARENT; or

15 4. That the defendant OR LIABLE PARENT has been  
16 reemployed by the employer; and

17 (iv) Unless the information has previously been provided to the court,  
18 the Division or the Central Collection Unit shall notify the court of any current or  
19 subsequent address of the residence of the defendant OR LIABLE PARENT and the  
20 employer and work address of the defendant OR LIABLE PARENT.

21 (2) An earnings withholding order is binding on each present and future  
22 employer of the defendant OR LIABLE PARENT who has been served with the order.

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

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

27 (ii) Set forth the obligations and responsibilities of an employer and a  
28 defendant OR LIABLE PARENT under an earnings withholding order and the  
29 consequences of violating a provision of this section.

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

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

34 (6) (i) Subject to the provisions of paragraphs (ii) and (iii) of this  
35 subsection, the payment amount under an earnings withholding order under this section  
36 shall be 20 percent of the earnings of a defendant OR LIABLE PARENT as determined  
37 under § 806 of this subheading.

36

1 (ii) If the restitution obligation of the defendant OR LIABLE PARENT  
2 is considered to be delinquent, the court may impose a payment amount in excess of the  
3 amount allowed in subparagraph (i) of this paragraph.

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

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

10 (7) (i) A defendant OR LIABLE PARENT or employer of a defendant OR  
11 LIABLE PARENT who violates the provisions of this section is subject to a fine not to  
12 exceed \$250.

13 (ii) A fine collected under this section shall be distributed in the same  
14 manner as the distribution of costs under § 830 of this subtitle.

15 (iii) In addition to any fine imposed under this paragraph, an employer  
16 is liable for damages for the failure of the employer to deduct the earnings of a defendant  
17 OR LIABLE PARENT or failure to make a timely payment as required in the order.

18 815.

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

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

23 (ii) [Committed] AN ACT COMMITTED in another state against a  
24 resident of this State which is a criminal offense under State, federal, or common law;

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

27 (iv) [Of operating] OPERATING a motor vehicle or vessel which  
28 results in injury which was intentionally inflicted; OR

29 (V) A DELINQUENT ACT.

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

32 (f) "Victim" means a person who suffers:

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

34 (2) Psychological injury as a direct result of[:

35 (i) First or second degree rape; or

36 (ii) A first, second, third, or fourth degree sexual offense] A CRIME.

37

1 825.

2 (e) (2) Claimants filing for injuries incurred as the occupants of a motor vehicle  
3 or dependents of an occupant of a motor vehicle operated by a person in violation of the  
4 provisions of [§ 21-902(a), (b), (c), or (d)] § 21-902 of the Transportation Article may not  
5 recover unless the claimant can prove that the occupant did not or could not  
6 REASONABLY have known of the condition of the operator of the vehicle.

7 837.

8 (f) "Victim" means an individual who suffers direct or threatened physical,  
9 emotional, or financial harm as a direct result of a crime OR AN ACT INVOLVING THE  
10 OPERATION OF A MOTOR VEHICLE UNDER § 21-902 OF THE TRANSPORTATION  
11 ARTICLE, including a family member of a minor, incompetent, or homicide victim.

12 842.

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

15 (7) Monitor compliance with the guidelines for treatment of and assistance  
16 to victims and witnesses set under [§ 848] §§ 848 AND 851 of this subtitle.

17 854.

18 (k) (1) The Maryland Victims of Crime Fund shall be used for the purpose of  
19 implementation of Article 47 of the Maryland Declaration of Rights and the guidelines  
20 for treatment and assistance for crime victims and witnesses described in [§ 848] §§ 848  
21 AND 851 of this subtitle and other laws adopted to benefit victims and witnesses of  
22 [crime] CRIMES AND DELINQUENT ACTS.

23 (2) Any cost for the administration of the Fund may be paid from the Fund.

24 (3) The Fund shall be administered by the State Board of Victim Services  
25 under §§ 837 through 844 of this subtitle.

26 855.

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

28 (2) "Agency" means any of the following:

29 (i) The Department of State Police;

30 (ii) The Baltimore City Police Department;

31 (iii) The police department, bureau, or force of any county;

32 (iv) The police department, bureau, or force of any incorporated city  
33 or town;

34 (v) The office of the sheriff of any county;

35 (vi) The office of the State's Attorney of any county;

36 (vii) The office of the Attorney General;

38

1 (viii) The office of the State Prosecutor;

2 (ix) The Department of Juvenile Justice; or

3 (x) The police department, bureau, or force of any bicounty agency or  
4 the University of Maryland.

5 (3) "Body fluids" has the meaning stated in § 18-338.1 of the Health -  
6 General Article.

7 (4) "Charged" means the filing of an indictment, information, or petition  
8 alleging a delinquent act.

9 (5) "Convicted" means:

10 (i) In receipt of a verdict or finding of guilt in a criminal proceeding;

11 (ii) Found to have committed a delinquent act in a juvenile proceeding  
12 conducted in accordance with Title 3, Subtitle 8 of the Courts Article; or

13 (iii) Having accepted a plea of guilt or nolo contendere.

14 (6) "Department" means the Department of Health and Mental Hygiene.

15 (7) "Exposure" means, as between a victim and a person charged:

16 (i) Percutaneous contact with blood or body fluids;

17 (ii) Mucocutaneous contact with blood or body fluids;

18 (iii) Open wound, including dermatitis, exudative lesions, or chapped  
19 skin, contact with blood or body fluids for a prolonged period; [or]

20 (iv) Intact skin contact with large amounts of blood or body fluids for a  
21 prolonged period; OR

22 (V) ANY OTHER CONDITION OR CIRCUMSTANCE UNDER WHICH A  
23 PERSON MAY BE EXPOSED TO HIV.

24 (8) "Health officer" has the meaning as stated in § 1-101(d) of the Health -  
25 General Article.

26 (9) "HIV" means any human immunodeficiency virus that causes acquired  
27 immune deficiency syndrome (AIDS).

28 (10) "Offense" means:

29 (i) Any prohibited activity involving a sexual act that includes:

30 1. Contact between the penis and the vulva or the penis and the  
31 anus, and for purposes of this subparagraph contact involving the penis occurs upon  
32 penetration, however slight; or

33 2. Contact between the mouth and the penis, the mouth and the  
34 vulva, or the mouth and the anus; or

39

1 (ii) Any other criminal offense or delinquent act the commission of  
2 which may have caused or resulted in an exposure.

3 (11) (i) "Victim" means the victim of an offense.

4 (ii) "Victim" includes:

- 5 1. The parent of a victim who is a minor;
- 6 2. The legal guardian of a victim; [or]
- 7 3. The person authorized to give substituted consent for the  
8 victim under § 5-605 of the Health - General Article; OR
- 9 4. A LAW ENFORCEMENT OFFICER ACTING IN THE  
10 PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES AT THE  
11 TIME OF THE EXPOSURE.

12 (b) (1) Upon the written request of a victim to the office of the State's Attorney  
13 in the jurisdiction where an offense occurred, the court shall order an individual  
14 convicted of committing the offense or being granted probation before judgment under §  
15 641 of this article to furnish a blood sample to be tested for the presence of HIV and any  
16 other identified causative agent of the acquired immune deficiency syndrome (AIDS).

17 (2) The written request shall be filed by the State's Attorney with the court  
18 and sealed by the court.

19 (c) (1) If the individual is charged within 1 year after the offense occurred, in  
20 addition to the provisions of subsection (b) of this section, upon the written request of a  
21 victim to the office of the State's Attorney in the jurisdiction where an offense occurred,  
22 the court may order, upon a finding of probable cause to believe that an exposure  
23 occurred, an individual charged with the offense to furnish a blood sample to be tested  
24 for the presence of HIV.

25 (2) (i) Prior to issuing any order for testing under the provisions of  
26 paragraph (1) of this subsection, the court shall conduct a hearing at which both the  
27 victim and the person charged have the right to be present.

28 (ii) Both the victim and the person charged shall be notified of:

- 29 1. The date, time, and location of the hearing; and
- 30 2. Their right to be present at the hearing.

31 (3) During the hearing only affidavits, counter-affidavits, and medical  
32 records that relate to the material facts of the case used to support or rebut a finding of  
33 probable cause for the issuance of a court order may be admissible.

34 (4) The written request of the victim shall be filed by the State's Attorney  
35 with the court and sealed by the court.

36 (d) (1) After conviction, a granting of probation before judgment, or a finding  
37 of probable cause by a court under subsection (b) or (c) of this section, respectively, the

40

1 State's Attorney shall promptly notify the local health officer of the victim's written  
2 request for testing.

3 (2) Upon receipt of a court order for testing issued under subsection (b) or  
4 (c) of this section, the local health officer or the local health officer's designee from any  
5 other governmental entity shall:

6 (i) Promptly collect the blood sample from the convicted or charged  
7 individual;

8 (ii) Conduct the test on the blood sample; and

9 (iii) Provide pretest and posttest counseling to the victim and the  
10 charged or convicted individual in accordance with the provisions of Title 18, Subtitle 3,  
11 Part VI of the Health - General Article.

12 (e) (1) After receiving the results of a test conducted under subsection (d) of  
13 this section, the local health officer shall promptly notify the victim and the accused or  
14 convicted individual of the test results.

15 (2) A local health officer may not disclose positive test results to a victim or  
16 a charged or convicted individual without also providing, offering, or arranging for the  
17 provision of appropriate counseling to the victim and the charged or convicted individual.

18 (f) The Department shall adopt regulations to implement the provisions of this  
19 section, including regulations regarding:

20 (1) The confidentiality of test results; and

21 (2) Providing victims with counseling regarding HIV disease, HIV testing,  
22 and referral for appropriate health care and support services.

23 (g) A victim of an offense described under this section shall be notified of the  
24 provisions of this section by:

25 (1) An agency upon the filing with a court of a statement of charges or  
26 indictment or information or petition alleging delinquency for the alleged commission of  
27 an offense;

28 (2) A rape crisis program established under § 793 of this subtitle when the  
29 program is contacted by the victim; or

30 (3) An intake officer who receives a complaint for the alleged commission of  
31 an offense under § 3-810 of the Courts Article.

32 (h) (1) A victim who receives notification under subsection (e) of this section  
33 may disclose the results of the test to any other individual OR ORGANIZATION to protect  
34 the health and safety of, OR TO SEEK COMPENSATION FOR:

35 (i) The victim;

36 (ii) The victim's sexual partner; or

37 (iii) The victim's family.



41

1 (2) Except as otherwise provided in this section, any person who receives  
 2 notification or disclosure of the results of the test under this subsection and knowingly  
 3 discloses the results of that test in violation of this section is guilty of a misdemeanor and  
 4 on conviction is subject to imprisonment of not more than 90 days or a fine of not more  
 5 than \$5,000 or both.

6 (i) The results of any test conducted under this section are not admissible as  
 7 evidence of either guilt or innocence in any criminal proceeding arising out of the alleged  
 8 offense.

9 (j) A State employee or agent or employee of the Department who acts in  
 10 compliance with the provisions of this section shall have the immunity from liability  
 11 described under § 5-399.2 of the Courts Article for actions taken pursuant to this section.

## 12 **Article 19 - Comptroller**

13 43.

14 In this subtitle the following words have the meanings indicated:

15 (a) (3) "Debt" includes a delinquent restitution account on [an order] A  
 16 JUDGMENT of restitution referred to the unit for collection under Article 27, § 810 of the  
 17 Code.

18 (b) (1) "Person" means any individual, fiduciary or business entity which may be  
 19 entitled to receive a Maryland income tax refund and which owes money to, or has a  
 20 delinquent account with, any State agency which has not been adjudged satisfied by court  
 21 order, set aside by court order, or discharged in bankruptcy.

22 (2) "Person" includes a defendant OR LIABLE PARENT in arrears of  
 23 restitution payments whose account has been referred to the unit under Article 27, § 810  
 24 of the Code.

## 25 **Article 31B - Patuxent Institution**

26 10.

27 (b) (1) The board of review may not grant an eligible person work release or  
 28 leave under this section until it provides by mail written notice to the victim that it intends  
 29 to decide whether to grant work release or leave to the eligible person.

30 (2) The board of review shall give the victim a reasonable opportunity to  
 31 comment in writing on work release or leave OR TO PRESENT ORAL TESTIMONY IN A  
 32 MANNER ESTABLISHED IN REGULATIONS PROMULGATED BY THE BOARD OF  
 33 REVIEW before the board of review decides whether to grant work release or leave status  
 34 to an eligible person.

35 (3) The board of review shall promptly notify the victim of the decision of  
 36 the board of review regarding leave or work release.

37 (4) The victim may designate, in writing to the board of review, the name  
 38 and address of a representative, who is a resident of this State, to receive notice for the  
 39 victim.

42

1 (5) The board of review shall delete the victim's address and phone number  
 2 before examination of any document by the eligible person or the eligible person's  
 3 representative.

4 11.

5 (c) (1) The board of review shall provide by mail written notice of an eligible  
 6 person's parole hearing to the victim.

7 (2) The board of review shall give the victim a reasonable opportunity to  
 8 comment on the parole in writing OR PRESENT ORAL TESTIMONY IN A MANNER  
 9 ESTABLISHED IN REGULATIONS PROMULGATED BY THE BOARD OF REVIEW before  
 10 the board decides whether to grant parole to an eligible person.

11 (3) The board of review shall promptly notify the victim of the decision of  
 12 the board of review regarding parole.

13 (4) The victim may designate, in writing to the board of review, the name  
 14 and address of a representative, who is a resident of the State, to receive notice for the  
 15 victim.

16 (5) The board of review shall delete the victim's address and phone number  
 17 before examination of any document by the eligible person or the eligible person's  
 18 representative.

#### 19 **Article 41 - Governor - Executive and Administrative Departments**

20 4-504.

21 (a) The Commission has the exclusive power to:

22 (2) Negotiate and sign predetermined parole release agreements;

23 (d) (1) In this subsection, "victim" means a person who suffers personal physical  
 24 injury or death as a direct result of a crime or, if the victim is deceased, a designated  
 25 family member of the victim.

26 (2) (i) In cases where a defendant is sentenced to the Division of  
 27 Correction, IF THE VICTIM FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE  
 28 27, § 770 OF THE CODE OR if the victim makes a written request to the Commission for  
 29 notification and maintains a current address on file with the Commission, the  
 30 Commission, at least 90 days before the parole release hearing, shall notify the victim or  
 31 designated representative in writing, directed to the most current address on file, that a  
 32 parole release hearing has been scheduled for the inmate convicted of the commission of  
 33 the violent crime.

34 (ii) If the inmate was convicted of a violent crime:

35 1. The victim may submit to the Commission, in writing, not  
 36 later than 30 days from the date of the Commission's notice, a request to require the  
 37 Division of Parole and Probation to complete an updated victim impact statement.

38 2. The Division of Parole and Probation shall complete the  
 39 updated statement at least 30 days prior to the parole release hearing.

43

1                               3. The Division of Parole and Probation shall promptly send the  
2 updated victim impact statement to the Commission.

3                               (iii) At least 30 days before the parole release hearing, the victim may:

4                               1. Make a written recommendation to the Commission on the  
5 advisability of releasing the inmate on parole; and

6                               2. Request that an inmate be prohibited from having any  
7 contact with a victim as a condition of parole, MANDATORY SUPERVISION, WORK  
8 RELEASE, OR OTHER ADMINISTRATIVE RELEASE.

9                               (iv) The Commission shall make the updated victim impact statement  
10 or recommendation available for the inmate's review under § 4-505 of this subtitle.

11                              (v) If an updated victim impact statement or recommendation is  
12 prepared under this subsection, the Commission shall consider the updated victim impact  
13 statement or recommendation at the parole release hearing.

14                              (vi) The victim may designate, in writing to the Commission, the name  
15 and address of a representative who is a resident of this State to receive notice for the  
16 victim.

17                              (3) The victim may request a meeting with a Commission member.

18                              (4) At the parole release hearing for an inmate convicted of the violent  
19 crime, the victim or a designated representative may present oral testimony in a manner  
20 established in regulations promulgated by the Commission.

21                              (5) The Commission shall promptly notify the victim or the victim's  
22 designated representative of the decision of the Commission regarding parole for the  
23 inmate convicted of the violent crime.

24 4-506.

25                              Each hearing examiner and Commission member determining if an inmate is  
26 suitable for release on parole, AND THE COMMISSION BEFORE ENTERING INTO A  
27 PREDETERMINED PAROLE RELEASE AGREEMENT, shall consider:

28                              (1) The circumstances surrounding the crime;

29                              (2) The physical, mental, and moral qualification of the inmate eligible for  
30 parole;

31                              (3) The progress of the inmate during his confinement, including the  
32 academic progress of the inmate in the mandatory education program required in §  
33 22-102 of the Education Article;

34                              (4) Whether or not there is reasonable probability that the inmate, if  
35 released on parole, will remain at liberty without violating the law;

36                              (5) Whether or not release on parole of the inmate is compatible with the  
37 welfare of society;

44

1 (6) An updated victim impact statement or recommendation prepared  
2 under § 4-504(d) of this subtitle;

3 (7) Any recommendation made by the sentencing judge at the time of  
4 sentencing;

5 (8) Any information that is presented to a Commission member at a meeting  
6 with the victim; and

7 (9) Any testimony presented to the Commission by the victim or the victim's  
8 designated representative under § 4-504(d)(4) of this subtitle.

9 4-511.

10 (f) If the inmate was convicted of a violent crime and the victim made a written  
11 request for notification under § 4-504 of this subtitle OR IF A VICTIM FILED A  
12 NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770 OF THE CODE, [the  
13 Commission] THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
14 shall notify the victim:

15 (1) THAT A WARRANT OR SUBPOENA WAS ISSUED BY THE COMMISSION  
16 FOR AN ALLEGED VIOLATION OF PAROLE;

17 [(1)] (2) That an inmate released on parole has been found guilty OR NOT  
18 GUILTY of violating a condition of parole; and

19 [(2)] (3) Of the punishment imposed for the violation.

20 4-612.

21 (i) If the inmate was convicted of a crime of violence as defined under Article 27,  
22 § 643B of the Code and the victim made a written request for notification under § 4-504  
23 of this subtitle OR IF A VICTIM FILED A NOTIFICATION REQUEST FORM UNDER  
24 ARTICLE 27, § 770 OF THE CODE, [the Commission] THE DEPARTMENT OF PUBLIC  
25 SAFETY AND CORRECTIONAL SERVICES shall notify the victim:

26 (1) IF A WARRANT OR SUBPOENA WAS ISSUED BY THE COMMISSION  
27 FOR AN ALLEGED VIOLATION OF MANDATORY SUPERVISION;

28 [(1)] (2) If an inmate released on mandatory supervision has been found  
29 guilty OR NOT GUILTY of violating a condition of mandatory supervision; and

30 [(2)] (3) Of the punishment imposed for the violation.

31 **Article - Courts and Judicial Proceedings**

32 3-828.

33 (a) A police record concerning a child is confidential and shall be maintained  
34 separate from those of adults. Its contents may not be divulged, by subpoena or otherwise,  
35 except by order of the court upon good cause shown or as otherwise provided in § 7-303  
36 of the Education Article. This subsection does not prohibit access to and confidential use  
37 of the record by the Department of Juvenile Justice or in the investigation and  
38 prosecution of the child by any law enforcement agency.

45

1 (b) (1) A court record pertaining to a child is confidential and its contents may  
2 not be divulged, by subpoena or otherwise, except by order of the court upon good cause  
3 shown or as provided in § 7-303 of the Education Article.

4 (2) This subsection does not prohibit access to and the use of the court  
5 record or fingerprints of a child described under the Criminal Justice Information System  
6 subtitle of Article 27 of the Code in a proceeding in the court involving the child, by  
7 personnel of the court, the State's Attorney, counsel for the child, a court-appointed  
8 special advocate for the child, or authorized personnel of the Department of Juvenile  
9 Justice, or, in a proceeding involving a child alleged to be in need of assistance, by  
10 authorized personnel of the Social Services Administration and local departments of  
11 social services of the Department of Human Resources in order to conduct a child abuse  
12 or neglect investigation or to comply with requirements imposed under Title IV-E of the  
13 Social Security Act.

14 (3) Information obtained from a juvenile court record by authorized  
15 personnel of the Department of Human Resources under paragraph (2) of this subsection  
16 is subject to the provisions of Article 88A, § 6 of the Code.

17 (4) (i) Except as provided in subparagraph (ii) of this paragraph, this  
18 subsection does not prohibit access to and confidential use of the court record or  
19 fingerprints of a child described under the Criminal Justice Information System subtitle  
20 of Article 27 of the Code in an investigation and prosecution by a law enforcement  
21 agency.

22 (ii) The court record or fingerprints of a child described under Article  
23 27, §§ 747(a)(21) and 747A of the Code may not be disclosed to:

24 1. A federal criminal justice agency or information center; or

25 2. Any law enforcement agency other than a law enforcement  
26 agency of the State or a political subdivision of the State.

27 (c) The court, on its own motion or on petition, and for good cause shown, may  
28 order the court records of a child sealed, and, upon petition or on its own motion, shall  
29 order them sealed after the child has reached 21 years of age. If sealed, the court records  
30 of a child may not be opened, for any purpose, except by order of the court upon good  
31 cause shown.

32 (d) This section does not prohibit access to or use of any juvenile record by the  
33 Maryland Division of Parole and Probation or the Maryland Parole Commission when the  
34 Division or the Commission is carrying out any of their statutory duties either at the  
35 direction of a court of competent jurisdiction, or when the Maryland Parole Commission  
36 is carrying out any of its statutory duties, if the record concerns a charge or adjudication  
37 of delinquency.

38 (e) This section does not prohibit access to and use of any juvenile record by the  
39 Maryland Division of Correction when the Division is carrying out any of its statutory  
40 duties if: (1) the individual to whom the record pertains is committed to the custody of  
41 the Division; and (2) the record concerns an adjudication of delinquency.

46

1 (f) Subject to the provisions of Article 83C, § 2-115 of the Code, this section does  
 2 not prohibit access to or use of any juvenile record for criminal justice research purposes.  
 3 A record used under this subsection may not contain the name of the individual to whom  
 4 the record pertains, or any other identifying information which could reveal the  
 5 individual's name.

6 (G) THIS SECTION DOES NOT PROHIBIT A VICTIM WHO HAS FILED A  
 7 NOTIFICATION REQUEST FORM FROM BEING NOTIFIED OF PROCEEDINGS AND  
 8 EVENTS INVOLVING THE DEFENDANT AS PROVIDED IN ARTICLE 27, §§ 770 AND 788 OF  
 9 THE CODE.

10 **Article - Health - General**

11 12-106.

12 (a) Whether or not the defendant is confined, if the court considers that resuming  
 13 the criminal proceeding would be unjust because so much time has passed since the  
 14 defendant was found incompetent to stand trial, the court may dismiss the charge.  
 15 However, the court may not dismiss a charge:

16 (1) WITHOUT PROVIDING THE STATE'S ATTORNEY AND A VICTIM WHO  
 17 HAS FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770 OF THE CODE  
 18 ADVANCE NOTICE AND AN OPPORTUNITY TO BE HEARD; AND

19 [(1)] (2) (I) Until 10 years after the defendant was found incompetent to  
 20 stand trial in any capital case; or

21 [(2)] (II) Until 5 years after the defendant was found incompetent to stand  
 22 trial in any other case where the penalty may be imprisonment in the State penitentiary.

23 (b) [The court shall notify the central repository of the criminal justice  
 24 information system any time charges are dismissed under this section ] IF CHARGES ARE  
 25 DISMISSED UNDER THIS SECTION, THE COURT SHALL NOTIFY:

26 (1) THE VICTIM OF THE CRIME CHARGED WHO HAS FILED A  
 27 NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770 OF THE CODE; AND

28 (2) THE CENTRAL REPOSITORY OF THE CRIMINAL JUSTICE  
 29 INFORMATION SYSTEM.

30 12-122.

31 (a) (1) In this section, "victim" means a victim of a crime of violence, as defined  
 32 in Article 27, § 643B of the Code OR A VICTIM WHO HAS FILED A NOTIFICATION  
 33 REQUEST FORM UNDER ARTICLE 27, § 770 OF THE CODE.

34 (2) "Victim" includes a designated family member of a victim who is  
 35 deceased, disabled, or a minor.

36 (b) A State's Attorney shall notify a victim of all rights provided under this  
 37 section.

38 (c) (1) A victim may request notification under this section by:

47

1 (I) [notifying] NOTIFYING the State's Attorney and the Department  
2 [once every 2 years] in writing of the victim's request for notification; OR

3 (II) FILING A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, §  
4 770 OF THE CODE.

5 (2) A victim's request for notification UNDER PARAGRAPH (1)(I) OF THIS  
6 SUBSECTION shall designate:

7 (i) The address and telephone number of the victim; or

8 (ii) The name, address, and telephone number of a representative to  
9 receive notice on behalf of the victim.

10 (3) A victim may, at any time, withdraw a request for notification.

11 (d) If a victim has requested notification in the manner provided under subsection  
12 (c) of this section, the Department shall promptly notify the victim or the victim's  
13 representative in writing when:

14 (1) The Department receives a court order to examine a defendant under §  
15 12-110 of this subtitle;

16 (2) The Department receives a court order committing a defendant to the  
17 Department under § 12-111 of this subtitle;

18 (3) A hearing is scheduled under § 12-114 of this subtitle;

19 (4) The Department receives notice that a committed individual has applied  
20 for a hearing under § 12-118 of this subtitle;

21 (5) An administrative law judge recommends that a committed individual be  
22 released after a hearing under § 12-114 of this subtitle;

23 (6) The Department submits a recommendation to the court for a  
24 committed individual's conditional release under § 12-119 of this subtitle;

25 (7) The facility of the Department that has charge of a committed individual  
26 has notified the State's Attorney that a committed individual is absent without  
27 authorization; or

28 (8) The Department receives a court order for the conditional release or  
29 discharge from commitment of a committed individual under § 12-117, § 12-118, or §  
30 12-119 of this subtitle.

31 (e) Upon notification by the Department under subsection (d) of this section, a  
32 victim may submit, in writing, to the State's Attorney and to the facility of the  
33 Department that has charge of a committed individual:

34 (1) Any information that the victim considers relevant; and

35 (2) A request that the committed individual be prohibited from having any  
36 contact with the victim, as a condition of release.

48

1 (f) If a victim submits information to the Department under this section, the  
2 Department shall:

3 (1) Consider the information;

4 (2) Maintain at the facility that has charge of the committed individual,  
5 separate from the medical record of the committed individual, the written statement of  
6 the victim; and

7 (3) Delete the victim's or the victim's representative's address and  
8 telephone number before any document is examined by the committed individual or the  
9 committed individual's representative.

10 (g) This section may not be construed to authorize the release to the victim of any  
11 medical, psychological, or psychiatric information on a committed individual.

12 (h) The facility of the Department that has charge of an individual under § 12-110  
13 of this subtitle shall promptly notify the State's Attorney and a victim or a victim's  
14 representative who has requested notification under this section if the individual is absent  
15 without authorization.

16 (i) An agent or employee of the Department who acts in compliance with the  
17 provisions of this section shall have the immunity from liability described under § 5-399.2  
18 of the Courts Article.

19 **Article - State Finance and Procurement**

20 3-305.

21 (a) Except as otherwise provided in this section, the Central Collection Unit shall  
22 pay the net proceeds of collections into the State Treasury.

23 (b) If the funds of a unit of the State government are not part of the State  
24 Treasury, the Central Collection Unit shall deliver to the Treasurer the net proceeds of  
25 collection on a debt or claim that was due to the unit of the State government for its  
26 account.

27 (c) All fees collected under § 3-304(a)(2) of this subtitle shall be credited to the  
28 Central Collection Fund established under § 3-306 of this subtitle.

29 (d) The Central Collection Unit shall deliver the net proceeds of collections from  
30 defendants OR LIABLE PARENTS in arrears on restitution payments to the Division of  
31 Parole and Probation OR THE DEPARTMENT OF JUVENILE JUSTICE to be forwarded by  
32 the Division OR DEPARTMENT to the victim or other appropriate person or agency in  
33 accordance with the order of restitution.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 1997.