

CF 7lr1173

**By: Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)
and Senator Miller**

Introduced and read first time: January 15, 1997

Assigned to: Judicial Proceedings

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
27 include the right to address a jury in a death penalty sentencing and the right to
28 prepare a victim impact statement; prohibiting the stay of a sentencing or
29 disposition hearing when an appeal is filed under this Act; authorizing the court,
30 under certain terms, to stay certain proceedings from which an appeal has been
31 filed; specifying the parties to a leave to appeal filed under this Act; establishing the
32 circumstances under which a victim or a victim's representative may address the
33 judge before the imposition of a sentence or disposition; establishing the right of a
34 victim's representative, subject to certain conditions, to address the jury in a death
35 penalty sentencing; requiring a victim impact statement to identify certain

2

1 information relating to contact between the defendant and the victim; expanding
2 the requirement that a victim be notified of certain postsentencing proceedings to
3 include victims who suffer direct or threatened physical, emotional, or financial
4 harm as a direct result of a crime or delinquent act; requiring the Department of
5 Public Safety and Correctional Services to notify certain victims of violent crime if
6 the defendant or inmate has been found guilty of violating a condition of parole or
7 mandatory supervision or if a warrant or subpoena is issued for the defendant or
8 inmate; requiring a commitment agency, under certain circumstances, to notify the
9 victim of certain information and events concerning the defendant; prohibiting a
10 commitment agency from disclosing to a defendant certain information regarding
11 the victim; prohibiting a law enforcement agency from charging a victim for a copy
12 of an incident report in a domestic violence case when a law enforcement officer
13 responds to a request for assistance; requiring the written notice given to a victim by
14 a law enforcement officer who responds to a request for assistance in a domestic
15 violence case to inform the victim of the right to obtain a copy of the incident
16 report; altering the circumstances under which compliance with a judgment of
17 restitution shall be required; requiring all moneys collected from a judgment of
18 restitution to be treated as abandoned property if a victim cannot be located;
19 requiring a delinquent restitution account to be referred to the Central Collection
20 Unit if the probation or other supervision is terminated and restitution is still owed;
21 expanding the availability of benefits from the Criminal Injuries Compensation
22 Fund to victims who suffer psychological injury as a direct result of a crime; altering
23 the standard of judgment certain claimants are required to prove in order to recover
24 from the Criminal Injuries Compensation Fund; expanding the right to request HIV
25 testing of offenders to include a law enforcement officer who was performing
26 official duties at the time of suspected exposure; expanding the means by which a
27 person may be considered to be exposed to HIV; authorizing a victim who receives
28 notification of the results of an HIV test to disclose the results to an organization to
29 protect the health and safety of, or to seek compensation for certain purposes;
30 requiring the Patuxent Board of Review to give a victim a reasonable opportunity to
31 present oral testimony in a certain manner before the Board decides whether to
32 grant work release, leave status, or parole to an eligible person; increasing the
33 circumstances under which a victim may request that an inmate be prohibited from
34 having any contact with the victim; requiring a hearing examiner or member of the
35 Maryland Parole Commission to consider certain factors before entering into a
36 predetermined parole release agreement; requiring the Department of Public Safety
37 and Correctional Services to notify a victim of a violent crime, at the victim's
38 request, of certain events involving the person convicted of the violent crime; adding
39 the issuance of a warrant or subpoena for an alleged violation of parole or
40 mandatory supervision to the types of events of which a victim must be notified;
41 specifying that the provisions relating to confidentiality of juvenile records does not
42 prohibit a victim who has filed a notification request form from being notified of
43 certain proceedings involving the defendant; prohibiting the court from dismissing a
44 charge without providing the State's Attorney and a victim who has filed a
45 notification request form advance notice and an opportunity to be heard; making
46 certain stylistic, technical, and conforming changes; establishing and altering certain
47 definitions; and generally relating to victims' rights in criminal and juvenile
48 proceedings.

3

1 BY repealing and reenacting, with amendments,
2 Article 27 - Crimes and Punishments
3 Section 461A, 616 1/2(k), 700G, 760, 762, 763, 768 through 770, 772 through 774,
4 775(f)(2), 776, 780, 781, 784, 786, 787, 791, 792(b), 799, 800, 806 through 812,
5 815(d) and (f), 825(e)(2), 837(f), 842(b)(7), 854(k), and 855
6 Annotated Code of Maryland
7 (1996 Replacement Volume)

8 BY adding to
9 Article 27 - Crimes and Punishments
10 Section 771, 780A, 783A, 788, 789, and 805A
11 Annotated Code of Maryland
12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article 19 - Comptroller
15 Section 43
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article 31B - Patuxent Institution
20 Section 10(b) and 11(c)
21 Annotated Code of Maryland
22 (1993 Replacement Volume and 1996 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article 41 - Governor - Executive and Administrative Departments
25 Section 4-504(a)(2)
26 Annotated Code of Maryland
27 (1993 Replacement Volume and 1996 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article 41 - Governor - Executive and Administrative Departments
30 Section 4-504(d), 4-506, 4-511(f), and 4-612(i)
31 Annotated Code of Maryland
32 (1993 Replacement Volume and 1996 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article - Courts and Judicial Proceedings
35 Section 3-828
36 Annotated Code of Maryland
37 (1995 Replacement Volume and 1996 Supplement)

38 BY repealing and reenacting, with amendments,

4

1 Article - Health - General
2 Section 12-106 and 12-122
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1996 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - State Finance and Procurement
7 Section 3-305
8 Annotated Code of Maryland
9 (1995 Replacement Volume and 1996 Supplement)

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

12 **Article 27 - Crimes and Punishments**

13 461A.

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

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

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

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

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

29 (b) Any evidence described in subsection (a) of this section, may not be referred
30 to in any statements to a jury nor introduced at trial without the court holding a prior in
31 camera hearing to determine the admissibility of the evidence. If new information is
32 discovered during the course of the trial that may make the evidence described in
33 subsection (a) admissible, the court may order an in camera hearing to determine the
34 admissibility of the proposed evidence under subsection (a).

35 616 1/2.

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

5

1 700G.

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

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

12 (c) This section does not affect any diminution of sentence earned under §§ 700,
13 700A, 718, and 725 of this article.

14 (D) (1) IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER §
15 770 OF THIS ARTICLE, THE MARYLAND PAROLE COMMISSION SHALL NOTIFY THE
16 VICTIM, IN WRITING, AT LEAST 90 DAYS PRIOR TO ENTERING INTO OR APPROVING A
17 PREDETERMINED PAROLE RELEASE AGREEMENT WITH THE INMATE.

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

21 760.

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

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

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

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

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

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

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

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

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

6

1 762.

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

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

7 763.

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

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

14 (1) Order any person not to violate the provisions of § 27 of this article or §
15 761 or § 762 of this subheading;

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

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

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

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

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

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

32 768.

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

36 769.

37 As provided under § 12-122 of the Health - General Article, a victim of a crime of
38 violence OR A VICTIM WHO HAS FILED A NOTIFICATION REQUEST FORM UNDER § 770
39 OF THIS ARTICLE shall be notified by the Department of Health and Mental Hygiene

7

1 when the Department receives a court order to examine a defendant to determine
2 whether the defendant was not criminally responsible and whether the defendant is
3 competent to stand trial.

4 770.

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

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

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

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

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

13 (ii) At the trial level, the Attorney General or the Attorney General's
14 designee.

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

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

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

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

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

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

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

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

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

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

8

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

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

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

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

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

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

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

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

29 (2) IF A PROBATION ORDER IS ISSUED AFTER A VICTIM HAS FILED A
30 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE
31 CLERK SHALL INCLUDE A COPY OF THE NOTIFICATION REQUEST FORM WITH THE
32 PROBATION ORDER.

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

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

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

9

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

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

5 771.

6 ON REQUEST OF A PARTY, VICTIM, OR WITNESS OF AN ALLEGED CRIME OR
7 DELINQUENT ACT, A JUDGE, STATE'S ATTORNEY, DISTRICT COURT COMMISSIONER,
8 INTAKE OFFICER, OR LAW ENFORCEMENT OFFICER MAY WITHHOLD THE RELEASE
9 OF THE ADDRESS OR TELEPHONE NUMBER OF THE VICTIM OR WITNESS PRIOR TO
10 THE TRIAL OR ADJUDICATORY HEARING, UNLESS A JUDGE DETERMINES THAT,
11 UNDER THE PARTICULAR CIRCUMSTANCES, THE INFORMATION IS NECESSARY AND
12 RELEVANT.

13 772.

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

18 773.

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

20 (2) "DEFENDANT" INCLUDES:

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

22 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A
23 DELINQUENT ACT.

24 [(2)] (3) "Victim" means a person who[:

25 (i) Has testified as a witness; and

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

29 [(3)] (4) "Representative" means a person who is:

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

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

35 (ii) Designated by the court in the event of a dispute over the
36 representative.

10

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

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

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

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

10 774.

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

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

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

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

21 (i) [The] ONE prosecuting attorney;

22 (ii) [The] ONE attorney for the defendant OR CHILD;

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

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

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

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

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

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

36 (c) (1) In determining whether testimony by the child victim in the defendant's
37 presence will result in the child suffering serious emotional distress such that the child
38 cannot reasonably communicate, the judge may observe and question the child either

11

1 inside or outside the courtroom and hear testimony of a parent or custodian of the child
2 or any other person, including a person who has dealt with the child in a therapeutic
3 setting.

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

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

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

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

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

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

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

23 775.

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

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

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

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

35 776.

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

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

12

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

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

3 [or]

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

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

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

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

13 (i) Spouse or surviving spouse;

14 (ii) Parent or legal guardian;

15 (iii) Child; or

16 (iv) Sibling.

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

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

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

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

31 (II) A SENTENCE IN A CRIMINAL CASE OR A DISPOSITION IN A
32 DELINQUENCY CASE.

33 (2) A CIRCUIT COURT, THE COURT OF SPECIAL APPEALS, OR THE
34 COURT OF APPEALS MAY STAY A PROCEEDING UNDER THE TERMS THE COURT
35 CONSIDERS PROPER.

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

13

- 1 (1) THE VICTIM;
- 2 (2) IN A CRIMINAL CASE, THE DEFENDANT;
- 3 (3) IN A DELINQUENCY CASE, THE CHILD ALLEGED TO BE DELINQUENT;
- 4 AND
- 5 (4) ON BEHALF OF THE STATE'S ATTORNEY, THE ATTORNEY GENERAL.

6 780.

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

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) "SENTENCING OR DISPOSITION HEARING" MEANS A HEARING AT
16 WHICH THE IMPOSITION OF A SENTENCE, DISPOSITION, OR ALTERATION OF A
17 SENTENCE OR DISPOSITION IS CONSIDERED.

18 (3) "VICTIM'S REPRESENTATIVE" MEANS A MEMBER OF THE VICTIM'S
19 IMMEDIATE FAMILY, OR IF THE VICTIM IS DECEASED, UNDER A MENTAL, PHYSICAL,
20 OR LEGAL DISABILITY, OR OTHERWISE UNABLE TO PROVIDE THE REQUIRED
21 INFORMATION, THE PERSONAL REPRESENTATIVE, OR GUARDIAN OR OTHER
22 FAMILY MEMBER.

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

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

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

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

31 (2) MAY PERMIT THE VICTIM OR THE VICTIM'S REPRESENTATIVE TO
32 ADDRESS THE JUDGE UNDER OATH OR AFFIRMATION BEFORE THE IMPOSITION OF
33 SENTENCE OR OTHER DISPOSITION AT THE REQUEST OF THE VICTIM OR THE
34 VICTIM'S REPRESENTATIVE.

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

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

14

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

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

5 780A.

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

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

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

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

20 781.

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

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

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

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

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

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

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

15

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

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

5 (1) Identify the victim of the offense;

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

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

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

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

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

18 [(6)] (7) Contain any other information related to the impact of the offense
19 upon the victim or the victim's family that the court requires.

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

24 Postsentencing Procedures

25 783A.

26 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (B) "DEFENDANT" INCLUDES:

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

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

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

16

1 784.

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

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

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

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

8 [(3)] (4) An appeal to the Court of Special Appeals; [or]

9 [(4)] (5) An appeal to the Court of Appeals; OR

10 (6) ANY OTHER POSTSENTENCING COURT PROCEEDING.

11 (b) Following conviction OR ADJUDICATION and sentencing OR DISPOSITION of
12 a [criminal] defendant for a crime [of violence as defined in § 643B of this article] OR
13 DELINQUENT ACT, [the State's Attorney shall send advance notice, in writing, of a
14 subsequent proceeding to the victim of that crime of violence, or in the case of a
15 homicide, to a designated family member, if the victim or designated family member:

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

18 (2) Maintains with the State's Attorney a current address in the State] THE
19 VICTIM, OR IN THE CASE OF A HOMICIDE, A DESIGNATED FAMILY MEMBER, SHALL
20 BE NOTIFIED OF A SUBSEQUENT PROCEEDING IN ACCORDANCE WITH § 770(E) OF
21 THIS ARTICLE IF:

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

26 (2) AFTER THE DISTRIBUTION BY THE STATE'S ATTORNEY OF
27 NOTIFICATION REQUEST FORMS UNDER § 770(C) OF THIS ARTICLE, THE VICTIM
28 FILED A NOTIFICATION REQUEST FORM IN ACCORDANCE WITH § 770(D) OF THIS
29 ARTICLE.

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

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

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

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

17

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

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

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

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

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

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

10 786.

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

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

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

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

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

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

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

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

18

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

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

9 787.

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

15 788.

16 IF A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON WHO WAS CONVICTED
17 OF A VIOLENT CRIME FOR AN ALLEGED VIOLATION OF A CONDITION OF
18 PROBATION AND A VICTIM HAS MADE A WRITTEN REQUEST TO THE DIVISION OF
19 PAROLE AND PROBATION FOR NOTIFICATION OR A VICTIM FILED A NOTIFICATION
20 REQUEST FORM UNDER § 770 OF THIS ARTICLE, THE DEPARTMENT OF PUBLIC
21 SAFETY AND CORRECTIONAL SERVICES OR THE DEPARTMENT OF JUVENILE
22 JUSTICE SHALL NOTIFY THE VICTIM OF THE ALLEGED VIOLATION.

23 789.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

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

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

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

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

37 (1) THE COMMITMENT AGENCY'S RECEIPT OF THE NOTIFICATION
38 REQUEST FORM;

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

19

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

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

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

7 (1) AN ESCAPE;

8 (2) A RECAPTURE;

9 (3) A TRANSFER TO ANOTHER COMMITMENT AGENCY;

10 (4) A RELEASE FROM CONFINEMENT AND ANY CONDITIONS ATTACHED
11 TO THE RELEASE; AND

12 (5) THE DEATH OF THE DEFENDANT.

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

16 791.

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

21 792.

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

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

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

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

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

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

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

20

1 (3) The same notice as required under paragraph (1) of this subsection shall
2 be sent to:

3 (I) A VICTIM OF THE CRIME FOR WHICH THE PERSON WAS FOUND
4 TO BE A CHILD SEXUAL OFFENDER, IF THE VICTIM FILED A NOTIFICATION REQUEST
5 FORM UNDER § 770 OF THIS ARTICLE; AND

6 (II) [the] THE following persons if such notice has been requested in
7 writing about a specific child sexual offender:

8 [(i)] 1. The victim of the crime for which the child sexual offender
9 was convicted or, if the victim is a minor, the parents or legal guardian of the victim;

10 [(ii)] 2. Any witness who testified against the child sexual offender in
11 any court proceedings involving the offense; and

12 [(iii)] 3. Any person specified in writing by the State's Attorney.

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

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

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

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

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

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

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

32 (7) A supervising authority shall send any notice required under paragraphs
33 (3), (5)(ii), and (6)(ii) of this subsection to the last address provided to the supervising
34 authority for a person who is entitled to notice under paragraph (3) of this subsection.

35 (8) If a child sexual offender will reside after release in a municipal
36 corporation that has a police department, or, in the case where a child sexual offender
37 escapes from a facility and the offender resided, before the offender was committed to
38 the custody of a supervising authority, in a municipal corporation that has a police
39 department, a local law enforcement agency that receives a notice from a supervising

21

1 authority under this subsection shall send a copy of the notice to the police department of
2 the municipal corporation.

3 799.

4 (a) When a law enforcement officer responds to a request for assistance under §
5 798 of this subheading, the officer shall give the victim a copy of a written notice that:

6 (1) States that the victim may:

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

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

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

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

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

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

21 800.

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

26 Restitution

27 805A.

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

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

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

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

36 (E) "CRIME" MEANS AN ACT COMMITTED BY ANY PERSON IN THE STATE
37 WHICH WOULD CONSTITUTE A CRIME AS DEFINED IN THIS ARTICLE OR AT COMMON

22

1 LAW, A DELINQUENT ACT AS DEFINED IN § 3-801 OF THE COURTS ARTICLE, OR A
2 VIOLATION OF THE TRANSPORTATION ARTICLE THAT IS PUNISHABLE BY A TERM OF
3 CONFINEMENT.

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

5 (1) RECEIVED PROBATION BEFORE JUDGMENT;

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

7 (3) BEEN FOUND GUILTY OF A CRIME, REGARDLESS OF WHETHER THE
8 DEFENDANT HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE BY REASON OF
9 INSANITY; OR

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

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

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

14 (I) "JUDGMENT OF RESTITUTION" MEANS EITHER A DIRECT ORDER FOR
15 PAYMENT OF RESTITUTION OR AN ORDER FOR PAYMENT OF RESTITUTION THAT IS
16 A CONDITION OF PROBATION IN AN ORDER OF PROBATION.

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

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

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

22 (2) "VICTIM" INCLUDES:

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

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

28 1. THE OWNER OF THE BURIAL SITE; AND

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

31 806.

32 (a) In all cases where restitution or reparation is adjudged to be made to the
33 [party injured] VICTIM and immediate restitution or reparation is not fully made, the
34 court [before whom the offender is convicted] shall either issue execution against the
35 property of the [convicted person] DEFENDANT OR LIABLE PARENT in the name of the
36 [person injured] VICTIM for the value of the property taken, or so much of the property
37 as is not restored, the value to be estimated by the court, or order restitution in an

23

1 amount not to exceed 20 percent of any earnings less other deductions required by law to
2 be paid out of any funds earned by the defendant under a "work release" plan.

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

7 807.

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

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

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

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

16 (5) "Crime" means an act committed by any person in the State which would
17 constitute a crime as defined in this article or at common law, or a violation under §
18 25-202 of the Transportation Article. However, an act involving the operation of a motor
19 vehicle which results in injury does not constitute a crime for the purpose of this section
20 unless the injuries were intentionally inflicted through the use of a vehicle.

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

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

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

25 (9) "Order of restitution" means either a direct order for payment of
26 restitution or an order for payment of restitution that is a condition of probation in an
27 order of probation.

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

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

31 (ii) "Victim" includes:

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

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

35 A. The owner of the burial site; and

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

24

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

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

7 (ii) The victim suffered actual medical, DENTAL, HOSPITAL,
 8 COUNSELING, FUNERAL, BURIAL expenses, ANY OTHER direct out-of-pocket losses, or
 9 loss of earnings as a direct result of the crime;

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

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

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

16 (vi) The Department of Health and Mental Hygiene or other
 17 governmental entity paid expenses incurred under § 855 of this subtitle.

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

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

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

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

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

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

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

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

31 (i) The victim;

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

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

25

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

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

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

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

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

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

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

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

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

23 (III) IF WORK RELEASE IS ORDERED, SHALL BE A CONDITION OF
 24 WORK RELEASE.

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

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

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

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

37 (i) The victim;

38 (ii) The Department of Health and Mental Hygiene or other
 39 governmental entity; or

26

1 (iii) The third-party payor.

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

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

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

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

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

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

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

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

29 (3) Except as otherwise expressly provided by this section, an individual,
30 governmental entity, or third-party payor to whom a defendant OR LIABLE PARENT has
31 been ordered to pay restitution shall have all the rights and obligations of a money
32 judgment creditor under the Maryland Rules, including the obligation to file a statement
33 that the judgment has been satisfied under Rule 2-626 or Rule 3-626 on receiving all
34 amounts due under the judgment.

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

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

27

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

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

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

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

31 [(l)] (K) (1) Notwithstanding any other provision of this section and except as
32 provided in paragraph (2) of this subsection, a victim or other person may not execute on
33 a judgment recorded and indexed under this section if the defendant OR LIABLE PARENT
34 files a motion under the Maryland Rules to stay execution of sentence or the [order]
35 JUDGMENT of restitution, WHICH HAS NOT BEEN DETERMINED BY THE COURT, and
36 challenges the conviction, sentence, or [order] JUDGMENT of restitution by:

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

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

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

29

1 (iv) Filing an application for review of criminal sentence under §§
2 645JA through 645JG of this article; or

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

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

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

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

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

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

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

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

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

31 808.

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

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

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

30

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

3 1. Personal injury;

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

5 3. Abuse or neglect of vulnerable persons under § 35D of this
6 article;

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

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

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

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

13 (i) The victim;

14 (ii) Any governmental entity, including the Criminal Injuries
15 Compensation Board; or

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

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

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

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

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

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

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

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

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

31

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

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

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

11 [(f) The judgment may be enforced in the same manner as enforcing monetary
 12 judgments.

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

16 809.

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

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

24 810.

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

29 (2) IF THE PROBATION OR OTHER SUPERVISION IS TERMINATED AND
 30 RESTITUTION IS STILL OWED, THE DELINQUENT RESTITUTION ACCOUNT SHALL BE
 31 REFERRED TO THE CENTRAL COLLECTION UNIT IN THE DEPARTMENT OF BUDGET
 32 AND MANAGEMENT FOR COLLECTION.

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

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

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

32

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

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

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

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

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

15 (1) The court that issued the order by filing the statement as provided under
16 § 807(g)(3) of this subheading that the judgment has been satisfied; and

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

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

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

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

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

26 2. 30 days after the court issued [an order] A JUDGMENT of
27 restitution.

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

31 811.

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

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

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

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

33

1 (3) The amount of the arrearage.

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) Transferred to the Unit; or

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

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

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

36 (2) An interception request under this section.

34

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

3 812.

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

7 (1) At THE sentencing OR DISPOSITION HEARING;

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

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

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

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

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

15 (3) Any other lien or legal process.

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

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

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

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

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

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

26 2. The current address of the residence of the defendant OR
27 LIABLE PARENT, the name of the employer, and the work address of the defendant OR
28 LIABLE PARENT, or any change of employer, residence, or work address of the defendant
29 OR LIABLE PARENT;

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

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

35 2. The address of the residence of the defendant OR LIABLE
36 PARENT on the termination of employment;

35

1 3. Information regarding the new place of employment of the
2 defendant OR LIABLE PARENT; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36

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

4 815.

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

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

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

11 (iii) [Of operating] OPERATING a motor vehicle in violation of [§
12 21-902(a), (b), (c), or (d)] § 21-902 of the Transportation Article; [or]

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

15 (V) A DELINQUENT ACT.

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

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

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

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

21 (i) First or second degree rape; or

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

23 825.

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

29 837.

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

34 842.

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

37

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

3 854.

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

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

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

12 855.

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

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

15 (i) The Department of State Police;

16 (ii) The Baltimore City Police Department;

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

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

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

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

22 (vii) The office of the Attorney General;

23 (viii) The office of the State Prosecutor;

24 (ix) The Department of Juvenile Justice; or

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

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

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

31 (5) "Convicted" means:

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

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

38

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

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

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

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

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

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

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

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

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

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

16 (10) "Offense" means:

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

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

21 2. Contact between the mouth and the penis, the mouth and the
22 vulva, or the mouth and the anus; or

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

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

26 (ii) "Victim" includes:

27 1. The parent of a victim who is a minor;

28 2. The legal guardian of a victim; [or]

29 3. The person authorized to give substituted consent for the
30 victim under § 5-605 of the Health - General Article; OR

31 4. A LAW ENFORCEMENT OFFICER ACTING IN THE
32 PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES AT THE
33 TIME OF THE EXPOSURE.

34 (b) (1) Upon the written request of a victim to the office of the State's Attorney
35 in the jurisdiction where an offense occurred, the court shall order an individual

39

1 convicted of committing the offense or being granted probation before judgment under §
2 641 of this article to furnish a blood sample to be tested for the presence of HIV and any
3 other identified causative agent of the acquired immune deficiency syndrome (AIDS).

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

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

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

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

16 1. The date, time, and location of the hearing; and

17 2. Their right to be present at the hearing.

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

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

23 (d) (1) After conviction, a granting of probation before judgment, or a finding
24 of probable cause by a court under subsection (b) or (c) of this section, respectively, the
25 State's Attorney shall promptly notify the local health officer of the victim's written
26 request for testing.

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

30 (i) Promptly collect the blood sample from the convicted or charged
31 individual;

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

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

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

40

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

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

6 (1) The confidentiality of test results; and

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

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

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

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

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

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

21 (i) The victim;

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

23 (iii) The victim's family.

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

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

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

41

1 **Article 19 - Comptroller**

2 43.

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

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

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

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

14 **Article 31B - Patuxent Institution**

15 10.

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

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

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

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

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

32 11.

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

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

42

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

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

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

9 **Article 41 - Governor - Executive and Administrative Departments**

10 4-504.

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

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

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

16 (2) (i) In cases where a defendant is sentenced to the Division of
17 Correction, IF THE VICTIM FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE
18 27, § 770 OF THE CODE OR if the victim makes a written request to the Commission for
19 notification and maintains a current address on file with the Commission, the
20 Commission, at least 90 days before the parole release hearing, shall notify the victim or
21 designated representative in writing, directed to the most current address on file, that a
22 parole release hearing has been scheduled for the inmate convicted of the commission of
23 the violent crime.

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

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

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

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

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

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

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

43

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

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

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

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

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

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

16 4-506.

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

20 (1) The circumstances surrounding the crime;

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

23 (3) The progress of the inmate during his confinement, including the
24 academic progress of the inmate in the mandatory education program required in §
25 22-102 of the Education Article;

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

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

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

32 (7) Any recommendation made by the sentencing judge at the time of
33 sentencing;

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

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

44

1 4-511.

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

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

9 [(1)] (2) That an inmate released on parole has been found guilty OR NOT
10 GUILTY of violating a condition of parole; and

11 [(2)] (3) Of the punishment imposed for the violation.

12 4-612.

13 (i) If the inmate was convicted of a crime of violence as defined under Article 27,
14 § 643B of the Code and the victim made a written request for notification under § 4-504
15 of this subtitle OR IF A VICTIM FILED A NOTIFICATION REQUEST FORM UNDER
16 ARTICLE 27, § 770 OF THE CODE, [the Commission] THE DEPARTMENT OF PUBLIC
17 SAFETY AND CORRECTIONAL SERVICES shall notify the victim:

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

20 [(1)] (2) If an inmate released on mandatory supervision has been found
21 guilty OR NOT GUILTY of violating a condition of mandatory supervision; and

22 [(2)] (3) Of the punishment imposed for the violation.

23 **Article - Courts and Judicial Proceedings**

24 3-828.

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

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

34 (2) This subsection does not prohibit access to and the use of the court
35 record or fingerprints of a child described under the Criminal Justice Information System
36 subtitle of Article 27 of the Code in a proceeding in the court involving the child, by
37 personnel of the court, the State's Attorney, counsel for the child, a court-appointed
38 special advocate for the child, or authorized personnel of the Department of Juvenile
39 Justice, or, in a proceeding involving a child alleged to be in need of assistance, by
40 authorized personnel of the Social Services Administration and local departments of

45

1 social services of the Department of Human Resources in order to conduct a child abuse
2 or neglect investigation or to comply with requirements imposed under Title IV-E of the
3 Social Security Act.

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

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

12 (ii) The court record or fingerprints of a child described under Article
13 27, §§ 747(a)(21) and 747A of the Code may not be disclosed to:

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

15 2. Any law enforcement agency other than a law enforcement
16 agency of the State or a political subdivision of the State.

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

22 (d) This section does not prohibit access to or use of any juvenile record by the
23 Maryland Division of Parole and Probation or the Maryland Parole Commission when the
24 Division or the Commission is carrying out any of their statutory duties either at the
25 direction of a court of competent jurisdiction, or when the Maryland Parole Commission
26 is carrying out any of its statutory duties, if the record concerns a charge or adjudication
27 of delinquency.

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

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

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

46

1 **Article - Health General**

2 12-106.

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

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

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

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

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

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

19 (2) THE CENTRAL REPOSITORY OF THE CRIMINAL JUSTICE
20 INFORMATION SYSTEM.

21 12-122.

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

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

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

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

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

32 (II) FILING A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, §
33 770 OF THE CODE.

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

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

47

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

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

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

7 (1) The Department receives a court order to examine a defendant under §
8 12-110 of this subtitle;

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

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

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

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

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

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

21 (8) The Department receives a court order for the conditional release or
22 discharge from commitment of a committed individual under § 12-117, § 12-118, or §
23 12-119 of this subtitle.

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

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

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

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

32 (1) Consider the information;

33 (2) Maintain at the facility that has charge of the committed individual,
34 separate from the medical record of the committed individual, the written statement of
35 the victim; and

48

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

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

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

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

13 **Article - State Finance and Procurement**

14 3-305.

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

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

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

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

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