

Unofficial Copy
E2

1997 Regular Session
7lr1174

CF 7lr1173

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

and ~~Senator Miller~~ Senators Miller, Baker, Colburn, Ferguson, Forehand, Green,

Haines, Hughes, Jimeno, Kelley, and Middlebrooks

Introduced and read first time: January 15, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 13, 1997

CHAPTER ____

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

2

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

3

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

10 BY repealing and reenacting, with amendments,

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

17 BY adding to

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

22 BY repealing and reenacting, with amendments,

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

27 BY repealing and reenacting, with amendments,

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

32 BY repealing and reenacting, without amendments,

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

37 BY repealing and reenacting, with amendments,

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

4

1 (1993 Replacement Volume and 1996 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-828

5 Annotated Code of Maryland

6 (1995 Replacement Volume and 1996 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Health - General

9 Section 12-106 and 12-122

10 Annotated Code of Maryland

11 (1994 Replacement Volume and 1996 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - State Finance and Procurement

14 Section 3-305

15 Annotated Code of Maryland

16 (1995 Replacement Volume and 1996 Supplement)

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

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

19 **Article 27 - Crimes and Punishments**

20 461A.

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

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

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

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

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

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

5

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

4 616 1/2.

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

8 700G.

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

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

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

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

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

28 760.

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

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

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

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

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

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

6

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

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

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

7 762.

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

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

13 763.

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

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

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

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

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

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

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

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

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

7

1 768.

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

5 769.

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

12 770.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9

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

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

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

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

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

13 771.

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

21 772.

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

26 773.

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

28 (2) "DEFENDANT" INCLUDES:

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

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

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

33 (i) Has testified as a witness; and

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

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

10

1 (i) [1. Subpoenaed or has testified; and
 2 2.] Selected by the next of kin or guardian of a person who is
 3 deceased or disabled as a result of a crime [of violence under § 643B of this article or a
 4 crime involving, causing, or resulting in death or serious bodily harm] OR DELINQUENT
 5 ACT; or

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

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

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

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

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

17 774.

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

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

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

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

28 (i) [The] ONE prosecuting attorney;

29 (ii) [The] ONE attorney for the defendant ~~OR~~;

30 (III) ONE ATTORNEY FOR THE CHILD;

31 ~~{(iii)}~~ (IV) The operators of the closed circuit television equipment;
 32 and

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

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

11

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

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

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

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

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

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

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

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

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

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

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

33 775.

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

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

12

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

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

6 776.

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

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

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

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

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

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

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

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

23 (i) Spouse or surviving spouse;

24 (ii) Parent or legal guardian;

25 (iii) Child; or

26 (iv) Sibling.

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

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

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

13

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

4 (II) A SENTENCE IN A CRIMINAL CASE OR A DISPOSITION IN A
5 DELINQUENCY CASE.

6 (2) A CIRCUIT COURT, THE COURT OF SPECIAL APPEALS, OR THE
7 COURT OF APPEALS MAY STAY A PROCEEDING UNDER THE TERMS THE COURT
8 CONSIDERS PROPER.

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

11 (1) THE VICTIM;

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

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

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

16 780.

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

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

25 (2) "SENTENCING OR DISPOSITION HEARING" MEANS A HEARING AT
26 WHICH THE IMPOSITION OF A SENTENCE, DISPOSITION, OR ALTERATION OF A
27 SENTENCE OR DISPOSITION IS CONSIDERED.

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

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

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

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

14

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

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

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

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

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

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

16 780A.

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

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

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

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

31 781.

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

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

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

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

15

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

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

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

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

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

15 (1) Identify the victim of the offense;

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

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

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

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

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

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

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

34 Postsentencing Procedures

35 783A.

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

38 (B) "DEFENDANT" INCLUDES:

16

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

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

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

8 784.

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

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

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

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

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

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

17 (6) ANY OTHER POSTSENTENCING COURT PROCEEDING.

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

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

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

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

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

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

17

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

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

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

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

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

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

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

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

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

17 786.

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

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

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

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

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

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

18

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

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

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

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

17 787.

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

23 788.

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

31 789.

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

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

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

19

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

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

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

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

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

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

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

15 (1) AN ESCAPE;

16 (2) A RECAPTURE;

17 (3) A TRANSFER TO ANOTHER COMMITMENT AGENCY;

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

20 (5) THE DEATH OF THE DEFENDANT.

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

24 791.

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

29 792.

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

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

20

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

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

8 be sent to:

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

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

11 FORM UNDER § 770 OF THIS ARTICLE; AND

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

13 writing about a specific child sexual offender:

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

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

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

17 any court proceedings involving the offense; and

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

19 (4) Information regarding any person who receives notice under paragraph

20 (3) of this subsection is confidential and may not be disclosed to the child sexual offender

21 or any other person, agency, or entity.

22 (5) If a child sexual offender escapes from a facility, the supervising

23 authority of the facility shall immediately notify, by the most reasonable and expedient

24 means available:

25 (i) The local law enforcement agency in the jurisdiction in which the

26 offender resided before the offender was committed to the custody of the supervising

27 authority; and

28 (ii) Any person who is entitled to receive notice under paragraph (3)

29 of this subsection.

30 (6) If the offender is recaptured, the supervising authority shall send notice,

31 as soon as possible and in no event later than 2 working days after the supervising

32 authority learns of the recapture, to:

33 (i) The local law enforcement agency in the jurisdiction in which the

34 offender resided before the offender was committed to the custody of the supervising

35 authority; and

36 (ii) Any person who is entitled to receive notice under paragraph (3)

37 of this subsection.

21

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

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

11 799.

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

14 (1) States that the victim may:

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

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

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

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

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

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

29 800.

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

34 Restitution

35 805A.

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

22

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

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

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

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

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

13 (1) RECEIVED PROBATION BEFORE JUDGMENT;

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

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

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

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

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

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

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

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

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

30 (2) "VICTIM" INCLUDES:

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

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

36 1. THE OWNER OF THE BURIAL SITE; AND

23

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

3 806.

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

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

16 807.

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

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

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

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

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

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

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

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

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

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

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

24

1 (ii) "Victim" includes:

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

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

5 A. The owner of the burial site; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

2 (i) The victim;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

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

7 (i) The victim;

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

10 (iii) The third-party payor.

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

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

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

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

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

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

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

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

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

27

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30

1 808.

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

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

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

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

13 1. Personal injury;

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

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

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

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

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

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

23 (i) The victim;

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

26 809.

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

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

34 810.

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

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

32

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33

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

4 811.

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

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

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

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

12 (3) The amount of the arrearage.

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

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

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

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

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

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

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

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

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

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

34

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

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

4 (2) Transferred to the Unit; or

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

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

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

10 (2) An interception request under this section.

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

13 812.

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

17 (1) At THE sentencing OR DISPOSITION HEARING;

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

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

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

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

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

25 (3) Any other lien or legal process.

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

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

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

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

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

35

- 1 1. Any objection to an earnings withholding order; and
- 2 2. The current address of the residence of the defendant OR
- 3 LIABLE PARENT, the name of the employer, and the work address of the defendant OR
- 4 LIABLE PARENT, or any change of employer, residence, or work address of the defendant
- 5 OR LIABLE PARENT;
- 6 (iii) An employer who is served with an earnings withholding order
- 7 under this section immediately shall notify the court and the Division of the following
- 8 information:
- 9 1. Any justification for an employer's inability to comply with
- 10 the earnings withholding order;
- 11 2. The address of the residence of the defendant OR LIABLE
- 12 PARENT on the termination of employment;
- 13 3. Information regarding the new place of employment of the
- 14 defendant OR LIABLE PARENT; or
- 15 4. That the defendant OR LIABLE PARENT has been
- 16 reemployed by the employer; and
- 17 (iv) Unless the information has previously been provided to the court,
- 18 the Division or the Central Collection Unit shall notify the court of any current or
- 19 subsequent address of the residence of the defendant OR LIABLE PARENT and the
- 20 employer and work address of the defendant OR LIABLE PARENT.
- 21 (2) An earnings withholding order is binding on each present and future
- 22 employer of the defendant OR LIABLE PARENT who has been served with the order.
- 23 (3) Except as otherwise provided in this section, an earnings withholding
- 24 order issued under this section shall:
- 25 (i) Comply with the requirements of § 10-126(a) of the Family Law
- 26 Article; and
- 27 (ii) Set forth the obligations and responsibilities of an employer and a
- 28 defendant OR LIABLE PARENT under an earnings withholding order and the
- 29 consequences of violating a provision of this section.
- 30 (4) Each amount withheld in an earnings withholding order under this
- 31 section shall be payable to the Division.
- 32 (5) The provisions of § 10-127(a) through (c) of the Family Law Article
- 33 shall apply to an earnings withholding order under this section.
- 34 (6) (i) Subject to the provisions of paragraphs (ii) and (iii) of this
- 35 subsection, the payment amount under an earnings withholding order under this section
- 36 shall be 20 percent of the earnings of a defendant OR LIABLE PARENT as determined
- 37 under § 806 of this subheading.

36

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

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

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

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

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

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

18 815.

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

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

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

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

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

29 (V) A DELINQUENT ACT.

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

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

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

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

35 (i) First or second degree rape; or

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

37

1 825.

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

7 837.

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

12 842.

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

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

17 854.

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

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

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

26 855.

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

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

29 (i) The Department of State Police;

30 (ii) The Baltimore City Police Department;

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

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

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

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

36 (vii) The office of the Attorney General;

38

1 (viii) The office of the State Prosecutor;

2 (ix) The Department of Juvenile Justice; or

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

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

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

9 (5) "Convicted" means:

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

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

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

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

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

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

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

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

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

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

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

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

28 (10) "Offense" means:

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

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

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

39

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

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

4 (ii) "Victim" includes:

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

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

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

9 4. A LAW ENFORCEMENT OFFICER ACTING IN THE
10 PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES AT THE
11 TIME OF THE EXPOSURE.

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

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

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

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

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

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

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

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

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

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

40

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

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

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

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

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

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

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

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

20 (1) The confidentiality of test results; and

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

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

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

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

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

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

35 (i) The victim;

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

37 (iii) The victim's family.

41

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

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

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

12 **Article 19 - Comptroller**

13 43.

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

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

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

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

25 **Article 31B - Patuxent Institution**

26 10.

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

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

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

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

42

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

4 11.

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

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

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

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

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

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

20 4-504.

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

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

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

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

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

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

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

43

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

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

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

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

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

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

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

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

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

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

24 4-506.

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

28 (1) The circumstances surrounding the crime;

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

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

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

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

44

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

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

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

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

9 4-511.

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

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

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

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

20 4-612.

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

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

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

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

31 **Article - Courts and Judicial Proceedings**

32 3-828.

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

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

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

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

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

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

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

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

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

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

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

46

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

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

10 **Article - Health General**

11 12-106.

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

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

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

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

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

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

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

30 12-122.

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

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

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

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

47

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48

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

3 (1) Consider the information;

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

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

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

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

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

19 **Article - State Finance and Procurement**

20 3-305.

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

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

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

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

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

