

HOUSE BILL 500

Unofficial Copy
E2

1998 Regular Session
(8lr1140)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws)** and Delegates **Barve, Bobo, Bonsack, Bozman, Brinkley, E. Burns, M. Burns, Cadden, Comeau, Conroy, Conway, Crumlin, Cryor, Curran, DeCarlo, Dewberry, Donoghue, Doory, Dypski, Edwards, Faulkner, Finifter, Frush, Fulton, Hammen, Harkins, Harrison, Healey, Hecht, Heller, Hixson, Howard, Hubbard, B. Hughes, Hutchins, Jacobs, Kach, Kelly, Klausmeier, Klima, Leopold, Love, McIntosh, McKee, Minnick, Mohorovic, Morhaim, O'Donnell, Owings, Palumbo, Perry, Petzold, Pitkin, Preis, Proctor, Rawlings, Redmer, Rudolph, Rzepkowski, Schade, Snodgrass, Turner, and Workman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Victims' Rights - Presence of Victims**

3 FOR the purpose of ~~authorizing a victim's representative to be present at trial, or any~~
4 ~~other court proceeding under certain circumstances~~ altering the circumstances
5 under which a victim or a representative of a victim has the right to be present
6 at certain proceedings; altering the circumstances under which a judge may
7 sequester a victim or victim's representative; applying provisions of law
8 concerning presence of a victim or representative to certain juvenile delinquency

1 ~~proceedings; prohibiting a judge from sequestering a victim or representative~~
 2 ~~under certain circumstances; defining certain terms a certain term; altering~~
 3 ~~certain definitions; and generally relating to victims' rights in criminal and~~
 4 ~~juvenile proceedings.~~

5 BY repealing and reenacting, with amendments,
 6 Article 27 - Crimes and Punishments
 7 Section 773
 8 Annotated Code of Maryland
 9 (1996 Replacement Volume and 1997 Supplement)

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

12 **Article 27 - Crimes and Punishments**

13 773.

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

15 (2) "DEFENDANT" MEANS:

16 (I) A PERSON WHO IS CHARGED WITH A CRIME; OR

17 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A
 18 DELINQUENT ACT.

19 [(2)] (3) "Victim" means a person who:

20 (i) ~~Has testified as a witness; and~~

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

24 [(3)] (4) "Representative" means a person who is:

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

26 2.] Selected by the next of kin or guardian of a [person]
 27 VICTIM who is deceased or disabled [as a result of a crime of violence under § 643B of
 28 this article or a crime involving, causing, or resulting in death or serious bodily
 29 harm]; or

30 (ii) Designated by the court in the event of a dispute over the
 31 representative.

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

1 (B) THIS SECTION APPLIES TO A:

2 (1) CRIMINAL TRIAL; AND

3 (2) JUVENILE DELINQUENCY ADJUDICATORY HEARING WHICH IS
4 CONDUCTED IN OPEN COURT OR WHICH A VICTIM OR REPRESENTATIVE IS ENTITLED
5 TO ATTEND UNDER § 3-812 OF THE COURTS ARTICLE.

6 ~~(b)~~ (C) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) (D) AND (E) OF
7 THIS SECTION:

8 (1) A [victim or] representative shall ~~be presumed to~~ have the right to
9 be present at the trial OR JUVENILE DELINQUENCY ADJUDICATORY HEARING OF THE
10 DEFENDANT; AND

11 (2) AFTER THE VICTIM HAS INITIALLY TESTIFIED AT THE TRIAL OR
12 JUVENILE DELINQUENCY ADJUDICATORY HEARING, THE VICTIM SHALL HAVE THE
13 RIGHT TO BE PRESENT AT THE TRIAL OR JUVENILE DELINQUENCY ADJUDICATORY
14 HEARING OF THE DEFENDANT.;

15 [(c)] ~~(2)~~ (D) The judge may sequester a [victim AFTER THE VICTIM HAS
16 INITIALLY TESTIFIED or] ~~representative~~ A REPRESENTATIVE from any part of the
17 trial OR JUVENILE DELINQUENCY ADJUDICATORY HEARING at the request of the
18 defendant or the State only after a finding DETERMINATION BY THE COURT, WITH
19 SPECIFIC FINDINGS OF FACT ON THE RECORD [of good cause] THAT ~~THE~~
20 ~~DEFENDANT WOULD BE DENIED A FAIR TRIAL.;~~

21 (1) THERE IS REASON TO BELIEVE THAT THE VICTIM WILL BE
22 RECALLED OR THE REPRESENTATIVE WILL BE CALLED TO TESTIFY AT THE TRIAL OR
23 ADJUDICATORY HEARING; AND

24 (2) THE PRESENCE OF THE VICTIM OR REPRESENTATIVE WOULD
25 INFLUENCE THE VICTIM OR REPRESENTATIVE'S FUTURE TESTIMONY AT THE TRIAL
26 OR ADJUDICATORY HEARING IN A MANNER THAT WOULD MATERIALLY AFFECT THE
27 DEFENDANT'S RIGHT TO A FAIR TRIAL OR ADJUDICATORY HEARING.

28 ~~(C)~~ EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AFTER THE
29 VICTIM OR REPRESENTATIVE HAS TESTIFIED, THE COURT MAY NOT SEQUESTER A
30 VICTIM OR REPRESENTATIVE FROM THE TRIAL.

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

35 (F) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT A VICTIM'S OR
36 REPRESENTATIVE'S RIGHT TO ATTEND A TRIAL OR A JUVENILE DELINQUENCY
37 ADJUDICATORY HEARING AS PROVIDED BY § 3-812 OF THE COURTS ARTICLE OR § 857
38 OF THIS ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1998.