
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

Introduced and read first time: February 5, 1998
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 17, 1998

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
9 proceedings; ~~prohibiting a judge from sequestering a victim or representative~~
10 ~~under certain circumstances~~; defining ~~certain terms~~ a certain term; altering
11 certain definitions; and generally relating to victims' rights in criminal and
12 juvenile proceedings.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 773
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 773.

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

6 (2) "DEFENDANT" MEANS:

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

8 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A
9 DELINQUENT ACT.

10 [(2)] (3) "Victim" means a person who:

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

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

15 [(3)] (4) "Representative" means a person who is:

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

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

21 (ii) Designated by the court in the event of a dispute over the
22 representative.

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

25 (B) THIS SECTION APPLIES TO A:

26 (1) CRIMINAL TRIAL; AND

27 (2) JUVENILE DELINQUENCY ADJUDICATORY HEARING WHICH IS
28 CONDUCTED IN OPEN COURT OR WHICH A VICTIM IS ENTITLED TO ATTEND UNDER §
29 3-812 OF THE COURTS ARTICLE.

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

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

4 (2) AFTER THE VICTIM HAS INITIALLY TESTIFIED AT THE TRIAL OR
5 JUVENILE DELINQUENCY ADJUDICATORY HEARING, THE VICTIM SHALL HAVE THE
6 RIGHT TO BE PRESENT AT THE TRIAL OR JUVENILE DELINQUENCY ADJUDICATORY
7 HEARING OF THE DEFENDANT.

8 [(c)] ~~(2)~~ (D) The judge may sequester a ~~victim~~ AFTER THE VICTIM HAS
9 INITIALLY TESTIFIED or ~~representative~~ from any part of the trial OR JUVENILE
10 DELINQUENCY ADJUDICATORY HEARING at the request of the defendant or the State
11 only after a finding [of good cause] ~~THAT THE DEFENDANT WOULD BE DENIED A~~
12 ~~FAIR TRIAL;~~

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

16 (2) THE PRESENCE OF THE VICTIM OR REPRESENTATIVE WOULD
17 INFLUENCE THE VICTIM OR REPRESENTATIVE'S FUTURE TESTIMONY AT THE TRIAL
18 OR ADJUDICATORY HEARING IN A MANNER THAT WOULD MATERIALLY AFFECT THE
19 DEFENDANT'S RIGHT TO A FAIR TRIAL OR ADJUDICATORY HEARING.

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

23 ~~(4)~~ (E) A judge may remove a victim or representative from the trial OR
24 JUVENILE DELINQUENCY ADJUDICATORY HEARING for the same causes and in the
25 same manner as the laws or rules of court provide for the exclusion or removal of the
26 defendant.

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