
By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates Barve, Bobo, Bonsack, Brinkley, E. Burns, M. Burns, Cadden, Comeau, Conroy, Conway, Crumlin, Curran, DeCarlo, Donoghue, Doory, Dypski, Edwards, Exum, 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, and Workman**

Introduced and read first time: February 5, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Victims' Rights - Leave to Appeal**

3 FOR the purpose of authorizing a victim who files a notification request form, and a
4 State's Attorney, to file an application for leave to appeal an order that denies or
5 fails to consider certain victims' rights; expanding the rights from which the
6 appeal may be filed to include the right to address a jury in a death penalty
7 sentencing and the right to prepare a victim impact statement; prohibiting the
8 stay of a sentencing or disposition hearing when an appeal is filed under this
9 Act; authorizing the court, under certain terms, to stay certain proceedings from
10 which an appeal has been filed; specifying the parties to a leave to appeal filed
11 under this Act; and generally relating to victims' rights in criminal and juvenile
12 proceedings.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 776
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

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

1

Article 27 - Crimes and Punishments

2 776.

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

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

7 (3) (I) "VICTIM" means [a]:

8 1. A victim of[:

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

11 2. A VICTIM WHO FILED A NOTIFICATION REQUEST FORM
12 UNDER § 770 OF THIS ARTICLE; OR

13 [(iii)] 3. Except as provided in [paragraph (2) of this
14 subsection] SUBPARAGRAPH (II) OF THIS PARAGRAPH, A VICTIM OF a crime OR
15 DELINQUENT ACT involving, causing, or resulting in death or serious bodily injury.

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

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

21 (i) Spouse or surviving spouse;

22 (ii) Parent or legal guardian;

23 (iii) Child; or

24 (iv) Sibling.

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

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

1 (1) THE VICTIM'S OR REPRESENTATIVE'S RIGHT TO BE PRESENT AT
2 TRIAL AS PROVIDED UNDER § 773(B) OF THIS SUBTITLE;

3 (2) THE VICTIM'S OR REPRESENTATIVE'S RIGHT TO BE PRESENT AT A
4 JUVENILE DELINQUENCY PROCEEDING AS PROVIDED UNDER § 3-812 OF THE COURTS
5 ARTICLE;

6 (3) THE RIGHT OF A VICTIM OR REPRESENTATIVE TO ADDRESS A
7 SENTENCING JUDGE, AS PROVIDED UNDER § 780 OF THIS SUBTITLE;

8 (4) THE RIGHT OF A VICTIM'S REPRESENTATIVE TO ADDRESS A JURY IN
9 A DEATH PENALTY SENTENCING, AS PROVIDED UNDER § 780A OF THIS SUBTITLE;

10 (5) THE RIGHT OF A VICTIM TO PROVIDE AN IMPACT STATEMENT IN A
11 PRESENTENCE INVESTIGATION, AS PROVIDED UNDER § 781 OF THIS SUBTITLE;

12 (6) THE RIGHT OF A VICTIM TO RESTITUTION, AS PROVIDED UNDER § 807
13 OF THIS SUBTITLE;

14 (7) THE RIGHT OF A VICTIM TO ATTEND ANY PROCEEDINGS IN WHICH
15 THE DEFENDANT HAS THE RIGHT TO APPEAR, AS PROVIDED UNDER § 857; OR

16 (8) THE RIGHT OF A VICTIM TO PROVIDE AN IMPACT STATEMENT, AS
17 PROVIDED UNDER ARTICLE 41, § 4-609 OF THE CODE.

18 (d) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
19 TRIAL JUDGE, THE COURT OF SPECIAL APPEALS, OR THE COURT OF APPEALS MAY
20 STAY A PROCEEDING UNDER THE TERMS THE COURT CONSIDERS PROPER.

21 (2) The filing of an application for leave to appeal under this section may
22 not result in the stay of other proceedings in a criminal OR JUVENILE DELINQUENCY
23 case IN WHICH THE VICTIM INVOKED OR ATTEMPTED TO INVOKE A RIGHT TO BE
24 PRESENT AT A TRIAL OR HEARING UNDER §§ 773(B) AND 857 OF THIS SUBTITLE, OR §
25 3-812 OF THE COURTS ARTICLE without the consent of all of the parties.

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

28 (1) THE VICTIM;

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

30 (3) IN A JUVENILE DELINQUENCY CASE:

31 (I) THE CHILD ALLEGED TO BE DELINQUENT; AND

32 (II) A PARENT WHO WAS A PARTY IN THE JUVENILE DELINQUENCY
33 CASE; AND

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

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