

HOUSE BILL 505

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1998 Regular Session  
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CF 8r1588

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By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates Barve, Bobo, Bozman, Brinkley, E. Burns, M. Burns, Cadden, Comeau, Conroy, Conway, Crumlin, Cryor, Curran, DeCarlo, Dewberry, 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, Turner, and Workman**

Introduced and read first time: February 5, 1998

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Parole Hearings - Oral Testimony by Victims**

3 FOR the purpose of expanding the category of victims or designated representatives  
4 who are entitled to present oral testimony at certain parole release hearings;  
5 requiring certain victims to make a written request to the Parole Commission to  
6 have certain parole release hearings open to the public; requiring the clerk of  
7 the court to include a certain worksheet with a certain commitment order;  
8 altering the circumstances under which the Department of Public Safety and  
9 Correctional Services is required to notify a victim of certain proceedings;  
10 expanding the category of defendants for which a victim may request certain  
11 notifications, meetings, conditions, and open parole hearings; altering a certain  
12 definition; providing for a delayed effective date; and generally relating to parole  
13 release hearings.

14 BY repealing and reenacting, with amendments,

15 Article 27 - Crimes and Punishments

16 Section 643C and 786(b) and (d)

17 Annotated Code of Maryland

1 (1996 Replacement Volume and 1997 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article 27 - Crimes and Punishments

4 Section 786(a)

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 1997 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article 41 - Governor - Executive and Administrative Departments

9 Section 4-504(d) and 4-507

10 Annotated Code of Maryland

11 (1997 Replacement Volume and 1997 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 643C.

16 (a) Nothing in this article may be construed to prohibit the use of judicial  
17 guidelines in setting sentences.

18 (b) However, the guidelines may not:

19 (1) Prescribe a sentence exceeding the maximum sentence provided by  
20 law; or

21 (2) Be used in violation of any mandatory minimum sentence prescribed  
22 by law.

23 (C) IF A COMMITMENT ORDER IS ISSUED BY A COURT, THE CLERK OF THE  
24 COURT SHALL INCLUDE A COPY OF THE MARYLAND SENTENCING GUIDELINES  
25 WORKSHEET WITH THE COMMITMENT ORDER.

26 786.

27 (a) This section applies to a victim who has made a written request to the  
28 Department of Public Safety and Correctional Services for notification or filed a  
29 notification request form under § 770 of this article.

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

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

1 (d) (1) If a person who is sentenced [to the Division of Correction] is being  
 2 considered for a commutation, pardon, or remission of sentence, the Department of  
 3 Public Safety and Correctional Services shall notify the victim as provided under  
 4 Article 41, § 4-511A(b)(1), (4), (5), and (6) of the Code.

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

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

11 4-504.

12 (d) (1) In this subsection, "victim" means ~~a~~:

13 (I) A person who suffers personal physical injury, ~~CHILD ABUSE,~~ or  
 14 death as a direct result of a crime ~~or, if,~~

15 (II) A VICTIM OF CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE  
 16 CODE;

17 (III) A VICTIM OF A VIOLENT CRIME; OR

18 (IV) IF the victim is deceased ~~OR,~~ DISABLED, OR A MINOR, a  
 19 designated family member OR DESIGNATED REPRESENTATIVE of the victim.

20 (2) (i) ~~In cases where a defendant is sentenced to the Division of~~  
 21 ~~Correction, if~~ IF the victim filed a notification request form under Article 27, § 770 of  
 22 the Code or if the victim makes a written request to the Department for notification  
 23 and maintains a current address on file with the Department, the Department, at  
 24 least 90 days before the parole release hearing, shall notify the victim or designated  
 25 representative in writing, directed to the most current address on file, that a parole  
 26 release hearing has been scheduled for the inmate convicted of the commission of the  
 27 violent crime.

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

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

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

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

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

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

5 2. Request that an inmate be prohibited from having any  
6 contact with a victim as a condition of parole, mandatory supervision, work release, or  
7 other administrative release.

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

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

14 (vi) The victim may designate, in writing to the Department, the  
15 name and address of a representative who is a resident of this State to receive notice  
16 for the 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, OR A CRIME FOR WHICH A VICTIM HAS FILED A NOTIFICATION REQUEST FORM  
20 UNDER ARTICLE 27, § 770 OF THE CODE, the victim or a designated representative may  
21 present oral testimony in a manner established in regulations adopted by the  
22 Commission, IF THE VICTIM REQUESTS AN OPEN HEARING UNDER § 4-507(C) OF THIS  
23 SUBTITLE.

24 (5) The Department shall promptly notify the victim or the victim's  
25 designated representative of the decision of the Commission regarding parole for the  
26 inmate convicted of the ~~violent~~ crime.

27 4-507.

28 (a) The Commission or its hearing examiners shall hear cases for parole  
29 release at least once each month at penal institutions under the Division of Correction  
30 and as often as necessary at other places of penal confinement within this State at  
31 which inmates eligible for parole consideration are confined.

32 (b) The Commission may adopt rules and regulations for the conduct of  
33 proceedings before it and the hearing examiners.

34 (c) (1) If a victim [of a violent crime] AS DEFINED IN § 4-504(D) OF THIS  
35 SUBTITLE makes a written request for notification under § 4-504 of this subtitle OR  
36 ARTICLE 27, § 770 OF THE CODE and also makes a written request within a reasonable  
37 amount of time before a scheduled hearing for the inmate convicted of the [violent]

1 crime that the hearing before the Commission or the hearing examiners be open to  
2 the public, the hearing shall be open to the public.

3           (2)       The vote of each member of the Commission when acting collectively  
4 or in panels or the decision of an individual commissioner or hearing examiner on a  
5 formal action, including an action to close or restrict access to a parole hearing under  
6 subsection (e) of this section, shall be made available to the public.

7           (3)       Nothing in this section limits the ability of the Commission to hold a  
8 parole hearing through the use of video conferences or other means of electronic  
9 transmission.

10       (d)       Subject to the provisions of subsection (e) of this section, the victim or  
11 victim's representative has the right to attend the hearing.

12       (e)       The Commission, a panel of commissioners, an individual commissioner, or  
13 a hearing examiner, may:

14           (1)       Restrict the number of individuals allowed to attend a parole hearing  
15 in accordance with physical limitations or security requirements of the facility where  
16 the hearing is held;

17           (2)       Deny admission or continued attendance at a parole hearing to an  
18 individual who:

19                   (i)       Threatens or presents a danger to the security of the institution  
20 in which the hearing is being held;

21                   (ii)       Threatens or presents a danger to other attendees or  
22 participants; or

23                   (iii)       Disrupts the hearing;

24           (3)       Close a parole hearing on formal action to deliberate upon the oral  
25 testimony and any other relevant information received at the hearing; or

26           (4)       After formal action, hold a closed parole hearing on written request of  
27 the chief law enforcement official responsible for an ongoing criminal investigation  
28 related to the inmate, if the ongoing investigation could be compromised.

29       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 ~~October 1, 1998~~ January 1, 1999.

