

HOUSE BILL 506

Unofficial Copy
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1998 Regular Session
(8lr1139)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced 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, Linton, Love, McIntosh, McKee, Menes, Minnick, Mohorovic, Morhaim, O'Donnell, Owings, Palumbo, Perry, Petzold, Pitkin, Preis, Proctor, Rawlings, Redmer, Rudolph, Rzepkowski, Schade, Snodgrass, Stup, 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 - ~~Plea Agreement~~ Notification**

3 FOR the purpose of requiring the notification of certain victims about the terms and
4 conditions of any plea agreement *and judicial action* under certain
5 circumstances; ~~defining certain terms~~; altering a certain definition; and
6 generally relating to victims' notification procedures.

7 BY repealing and reenacting, with amendments,

1 Article 27 - Crimes and Punishments
 2 Section 770
 3 Annotated Code of Maryland
 4 (1996 Replacement Volume and 1997 Supplement)

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

7 **Article 27 - Crimes and Punishments**

8 770.

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

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

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

15 ~~(4) "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 ~~(5) "PLEA AGREEMENT" MEANS:~~

20 ~~(I) AN AGREEMENT BETWEEN THE DEFENDANT OR THE~~
 21 ~~DEFENDANT'S ATTORNEY AND THE STATE'S ATTORNEY THAT THE DEFENDANT WILL~~
 22 ~~ADMIT OR PLEAD GUILTY, NOT GUILTY ON STIPULATED FACTS, OR NOLO~~
 23 ~~CONTENDERE ON ANY PROPER CONDITIONS; OR~~

24 ~~(II) THE COURT AGREEING TO IMPOSE A CERTAIN SENTENCE,~~
 25 ~~DISPOSITION, OR OTHER JUDICIAL ACTION AS A CONSEQUENCE OF A PLEA.~~

26 ~~{(4)}~~ ~~(6)~~ "State's Attorney" includes:

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

28 (ii) [At the appellate level,] WHEN PERFORMING A
 29 PROSECUTORIAL FUNCTION AT THE TRIAL LEVEL, the Attorney General or the
 30 Attorney General's designee.

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

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

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

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

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

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

13 (i) Inform the victim of the right to request restitution under § 807
14 of this article;

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

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

20 (d) (1) On completion of a notification request form obtained from the
21 State's Attorney under subsection (c) of this section, the victim may file the form with
22 the State's Attorney.

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

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

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

31 (e) (1) If a victim has filed a notification request form under subsection (d)
32 of this section, the State's Attorney shall send to the victim prior notice, if practicable,
33 of all court proceedings in the case, INCLUDING THE TERMS AND CONDITIONS OF A
34 PLEA AGREEMENT, IF ANY.

35 (2) If the case is in a jurisdiction in which the office of the clerk is
36 equipped with an automated filing system, nothing in this subsection precludes the

1 State's Attorney from requesting the clerk to send the notice required under
2 paragraph (1) of this subsection.

3 (3) After a victim has filed a notification request form under subsection
4 (d) of this section and if prior notice to the victim is not practicable, or if the victim is
5 not present at the proceeding, the State's Attorney shall, as soon after the proceeding
6 as practicable, advise the victim of [all] THE TERMS AND CONDITIONS OF ANY PLEA
7 AGREEMENT, *JUDICIAL ACTION*, AND ALL OTHER proceedings that affect the victim's
8 interests, including a bail hearing or change in the defendant's pretrial release order,
9 dismissal, nolle prosequi or setting of charges, trial, disposition, or post-sentencing
10 court proceeding.

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

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

18 (2) If a probation order is issued after a victim has filed a notification
19 request form under subsection (d) of this section, the clerk shall include a copy of the
20 notification request form with the probation order.

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

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

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

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

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

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

