

HOUSE BILL 698

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HB 596/97 - JUD

1998 Regular Session  
8r1449

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By: **Delegates Faulkner, DeCarlo. M. Burns, Ciliberti, Snodgrass, Beck,  
Mossburg, Minnick, Leopold, Cryor, Morgan, B. Hughes, Jacobs,  
Stocksdale, and O'Donnell**

Introduced and read first time: February 11, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Plea Bargain Agreements - Justification to Court and Notice to Crime**  
3 **Victims**

4 FOR the purpose of prohibiting a State's Attorney from entering into a plea bargain  
5 agreement if the defendant is charged with certain crimes; establishing an  
6 exception to the prohibition if the State's Attorney submits a written  
7 justification for the plea bargain agreement at a certain time; establishing that  
8 if a State's Attorney enters into a plea bargain agreement in connection with  
9 certain crimes, the State's Attorney shall notify in writing certain crime victims  
10 of the date and time of the trial court proceeding in which the agreement will be  
11 presented; requiring a notice under this Act to be issued no later than a certain  
12 date; establishing that certain crime victims shall have the right to address the  
13 court under certain circumstances; defining certain terms; requiring the  
14 Department of Public Safety and Correctional Services to make certain copies  
15 available to certain persons; providing for the construction of this Act; and  
16 generally relating to plea bargain agreements.

17 BY adding to  
18 Article 27 - Crimes and Punishments  
19 Section 592A and 848A  
20 Annotated Code of Maryland  
21 (1996 Replacement Volume and 1997 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article 27 - Crimes and Punishments  
24 Section 847(c)  
25 Annotated Code of Maryland  
26 (1996 Replacement Volume and 1997 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article 27 - Crimes and Punishments  
29 Section 849

1 Annotated Code of Maryland  
2 (1996 Replacement Volume and 1997 Supplement)

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

5 **Article 27 - Crimes and Punishments**

6 592A.

7 (A) IN THIS SECTION, "PLEA BARGAIN AGREEMENT" MEANS AN AGREEMENT  
8 BETWEEN A DEFENDANT OR THE DEFENDANT'S ATTORNEY AND THE STATE'S  
9 ATTORNEY THAT THE DEFENDANT WILL PLEAD GUILTY TO A CHARGE OR CHARGES  
10 IN EXCHANGE FOR THE STATE'S ATTORNEY'S:

11 (1) RECOMMENDATIONS TO THE COURT OF A SENTENCE WHICH IS LESS  
12 THAN THE MAXIMUM PENALTY OR PENALTIES FOR THE CHARGE OR CHARGES;

13 (2) PROMISE TO MAKE NO RECOMMENDATIONS TO THE COURT  
14 REGARDING THE SENTENCE;

15 (3) PROMISE TO ENTER A NOLLE PROSEQUI TO A CHARGE OR CHARGES  
16 CARRYING GREATER STATUTORY PENALTIES; OR

17 (4) PROMISE TO PLACE A CHARGE OR CHARGES CARRYING GREATER  
18 STATUTORY PENALTIES ON THE STET DOCKET.

19 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
20 STATE'S ATTORNEY MAY NOT ENTER INTO A PLEA BARGAIN AGREEMENT IF THE  
21 DEFENDANT IS CHARGED WITH A CRIME OF VIOLENCE, AS DEFINED IN § 643B OF  
22 THIS ARTICLE.

23 (2) THE STATE'S ATTORNEY MAY ENTER INTO A PLEA BARGAIN  
24 AGREEMENT IF, PRIOR TO PRESENTING THE AGREEMENT TO THE COURT, THE  
25 STATE'S ATTORNEY SUBMITS TO THE COURT A WRITTEN JUSTIFICATION FOR  
26 ENTERING INTO THE AGREEMENT.

27 (C) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A DEFENDANT  
28 FROM PLEADING GUILTY TO A CRIMINAL CHARGE, PROVIDED THAT THERE IS NO  
29 PLEA BARGAIN AGREEMENT.

30 847.

31 (c) "Crime victim" means an individual who suffers direct or threatened  
32 physical, emotional, or financial harm as a result of a crime and includes family  
33 members of a minor, incompetent, or a homicide victim.

1 848A.

2 (A) (1) IN THIS SECTION, "CRIME VICTIM", IF THE CRIME RESULTS IN THE  
3 DEATH OR DISABILITY OF A CRIME VICTIM, INCLUDES THE DECEDENT'S OR  
4 DISABLED PERSON'S:

5 (I) SPOUSE;

6 (II) PARENT OR LEGAL GUARDIAN;

7 (III) CHILD; OR

8 (IV) SIBLING.

9 (2) "CRIME VICTIM" DOES NOT INCLUDE A VICTIM AS DEFINED BY §  
10 3-801 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

11 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE STATE'S  
12 ATTORNEY ENTERS INTO A PLEA BARGAIN AGREEMENT, AS DEFINED IN § 592A OF  
13 THIS ARTICLE, IN CONNECTION WITH A CRIME OF VIOLENCE, AS DEFINED IN § 643B  
14 OF THIS ARTICLE, THE STATE'S ATTORNEY SHALL NOTIFY IN WRITING THE CRIME  
15 VICTIM OR CRIME VICTIMS OF THE DATE AND TIME OF THE TRIAL COURT  
16 PROCEEDING IN WHICH THE AGREEMENT WILL BE PRESENTED.

17 (2) A NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION  
18 SHALL BE ISSUED NO LATER THAN 10 DAYS BEFORE THE SCHEDULED DATE OF THE  
19 PROCEEDING.

20 (C) A CRIME VICTIM DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL  
21 HAVE THE RIGHT TO ADDRESS THE COURT AT THE TIME A PLEA BARGAIN  
22 AGREEMENT IS PRESENTED TO THE COURT.

23 (D) THIS SECTION MAY NOT BE CONSTRUED TO ALLOW A CRIME VICTIM TO:

24 (1) PARTICIPATE AS A PARTY IN A CRIMINAL JUSTICE PROCEEDING;

25 (2) CONTEST THE DISPOSITION OR FINDING OF ANY CHARGE OR FINAL  
26 DETERMINATION IN A CRIMINAL JUSTICE PROCEEDING; OR

27 (3) TAKE ANY ACTION TO STOP OR OTHERWISE IMPEDE A PENDING  
28 CRIMINAL PROSECUTION IN A MANNER THAT COULD AFFECT THE RIGHT OF AN  
29 ACCUSED PERSON TO A SPEEDY TRIAL.

30 849.

31 (A) The Department of Public Safety and Correctional Services shall be  
32 responsible for [making the guidelines available to the agencies involved]:

33 (1) PRINTING COPIES OF §§ 848 AND 848A OF THIS SUBHEADING;

1           (2)       DISTRIBUTING THE COPIES TO THE OFFICE OF THE STATE'S  
2 ATTORNEY IN EACH COUNTY; AND

3           (3)       MAKING THE COPIES AVAILABLE TO CRIME VICTIMS AND  
4 WITNESSES.

5       (B)       To the extent feasible, the [guidelines] COPIES DESCRIBED IN  
6 SUBSECTION (A) OF THIS SECTION shall be printed by the inmates employed by State  
7 Use Industries.

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