

SENATE BILL 279

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1998 Regular Session
8r1586
CF 8r1141

By: **Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)**

Introduced and read first time: February 4, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 25, 1998

CHAPTER _____

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~~ certain rights from which
6 the 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; defining a certain term; altering a certain definition; and
12 generally relating to victims' rights in criminal and juvenile 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; OR

25 (V) FOR PURPOSES OF SUBSECTION (C) OF THIS SECTION, THE
26 REPRESENTATIVE OR DESIGNEE OF A VICTIM AS PROVIDED BY LAW.

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

29 (c) Although not a party to a criminal OR JUVENILE DELINQUENCY
30 proceeding, the victim of the [violent] crime [for which the defendant is charged has
31 the right to] OR DELINQUENT ACT, OR THE STATE'S ATTORNEY MAY file an
32 application for leave to appeal to the Court of Special Appeals from an interlocutory or
33 final order that denies or fails to consider [a right secured to that victim by § 773(b),

1 § 780, § 780A, or § 781 of this subtitle or Article 41, § 4-609 of the Code.] THE

2 FOLLOWING RIGHTS SECURED TO THAT VICTIM:

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

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

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

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

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

14 (6) ~~THE RIGHT OF A VICTIM~~ TO RESTITUTION, AS PROVIDED UNDER § 807
15 OF THIS SUBTITLE;

16 (7) ~~THE RIGHT OF A VICTIM~~ TO ATTEND ANY PROCEEDINGS IN WHICH
17 THE DEFENDANT HAS THE RIGHT TO APPEAR, AS PROVIDED UNDER § 857 OF THIS
18 SUBTITLE; OR

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

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

24 (2) The filing of an application for leave to appeal under this section may
25 not result in the stay of other proceedings in a criminal OR JUVENILE DELINQUENCY
26 case IN WHICH THE VICTIM INVOKED OR ATTEMPTED TO INVOKE A RIGHT TO BE
27 PRESENT AT A TRIAL OR HEARING UNDER §§ ~~773(B)~~ 773 AND 857 OF THIS SUBTITLE, OR
28 § 3-812 OF THE COURTS ARTICLE without the consent of ~~all of the parties~~;

29 (I) THE STATE'S ATTORNEY;

30 (II) IN A CRIMINAL CASE, THE DEFENDANT; AND

31 (III) IN A JUVENILE DELINQUENCY CASE, THE CHILD ALLEGED TO
32 BE DELINQUENT.

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

35 (1) THE VICTIM;

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

2 (3) IN A JUVENILE DELINQUENCY CASE:

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

4 (II) A PARENT WHO WAS A PARTY IN THE JUVENILE DELINQUENCY
5 CASE; AND

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

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