

SENATE BILL 343

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1998 Regular Session
(8lr1581)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

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

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **Victims' Rights - Presence of Victims**

3 FOR the purpose of ~~authorizing a victim's representative to be present at trial, or any~~
4 ~~other court proceeding under certain circumstances~~ altering the circumstances
5 under which a victim or a representative of a victim has the right to be present at
6 certain proceedings; altering the circumstances under which a judge may
7 sequester a victim or victim's representative; ~~prohibiting a judge from~~
8 ~~sequestering a victim or representative under certain circumstances~~ applying
9 provisions of law concerning presence of a victim or representative to certain
10 juvenile delinquency proceedings; defining ~~certain terms~~ a certain term; altering
11 certain definitions; and generally relating to victims' rights in criminal and
12 juvenile proceedings.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 773

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**

6 773.

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

8 (2) "DEFENDANT" MEANS:

9 (I) A PERSON WHO IS CHARGED WITH A CRIME; OR

10 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A
11 DELINQUENT ACT.

12 [(2)] (3) "Victim" means a person who:

13 (i) ~~Has testified as a witness; and~~

14 (ii) ~~Is~~ IS the victim of a crime [of violence under § 643B of this
15 article or a crime involving, causing, or resulting in death or serious bodily harm] OR
16 DELINQUENT ACT for which the defendant is being tried OR ADJUDICATED.

17 [(3)] (4) "Representative" means a person who is:

18 (i) [1. Subpoenaed or has testified; and

19 2.] Selected by the next of kin or guardian of a [person]
20 VICTIM who is deceased or disabled [as a result of a crime of violence under § 643B of
21 this article or a crime involving, causing, or resulting in death or serious bodily
22 harm]; or

23 (ii) Designated by the court in the event of a dispute over the
24 representative.

25 (5) ~~"TRIAL" INCLUDES AN ADJUDICATORY HEARING AND ANY OTHER~~
26 ~~COURT PROCEEDING IN WHICH THE DEFENDANT HAS A RIGHT TO APPEAR.~~

27 (B) THIS SECTION APPLIES TO A:

28 (1) CRIMINAL TRIAL; AND

29 (2) JUVENILE DELINQUENCY ADJUDICATORY HEARING WHICH IS
30 CONDUCTED IN OPEN COURT OR WHICH A VICTIM OR REPRESENTATIVE IS ENTITLED
31 TO ATTEND UNDER § 3-812 OF THE COURTS ARTICLE.

1 (Ⓟ) (C) EXCEPT AS PROVIDED IN SUBSECTIONS (C) ~~AND (D)~~ (D) AND (E) OF
2 THIS SECTION:

3 (1) A [victim or] representative shall ~~be presumed to~~ have the right to
4 be present at the trial[.]; OR JUVENILE DELINQUENCY ADJUDICATORY HEARING OF
5 THE DEFENDANT; AND

6 (2) AFTER THE VICTIM HAS INITIALLY TESTIFIED AT THE TRIAL OR
7 JUVENILE DELINQUENCY ADJUDICATORY HEARING, THE VICTIM SHALL HAVE THE
8 RIGHT TO BE PRESENT AT THE TRIAL OR JUVENILE DELINQUENCY ADJUDICATORY
9 HEARING OF THE DEFENDANT.

10 [(c)] (Ⓡ) (D) The judge may sequester a † victim AFTER THE VICTIM HAS
11 INITIALLY TESTIFIED or † representative A REPRESENTATIVE from any part of the
12 trial OR JUVENILE DELINQUENCY ADJUDICATORY HEARING at the request of the
13 defendant or the State only after a finding DETERMINATION BY THE COURT WITH
14 SPECIFIC FINDINGS OF FACTS ON THE RECORD [of good cause] THAT ~~THE~~
15 ~~DEFENDANT WOULD BE DENIED A FAIR TRIAL;~~

16 (1) THERE IS REASON TO BELIEVE THAT THE VICTIM WILL BE
17 RECALLED OR THE REPRESENTATIVE WILL BE CALLED TO TESTIFY AT THE TRIAL OR
18 ADJUDICATORY HEARING; AND

19 (2) THE PRESENCE OF THE VICTIM OR REPRESENTATIVE WOULD
20 INFLUENCE THE VICTIM OR REPRESENTATIVE'S FUTURE TESTIMONY AT THE TRIAL
21 OR ADJUDICATORY HEARING IN A MANNER THAT WOULD MATERIALLY AFFECT THE
22 DEFENDANT'S RIGHT TO A FAIR TRIAL OR ADJUDICATORY HEARING.

23 (C) ~~EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AFTER THE~~
24 ~~VICTIM OR REPRESENTATIVE HAS INITIALLY TESTIFIED, THE COURT MAY NOT~~
25 ~~SEQUESTER A VICTIM OR REPRESENTATIVE FROM THE TRIAL REGARDLESS OF~~
26 ~~WHETHER THE VICTIM OR REPRESENTATIVE WILL TESTIFY AGAIN.~~

27 (Ⓡ) (E) A judge may remove a victim or representative from the trial OR
28 JUVENILE DELINQUENCY ADJUDICATORY HEARING for the same causes and in the
29 same manner as the laws or rules of court provide for the exclusion or removal of the
30 defendant.

31 (F) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT A VICTIM'S OR
32 REPRESENTATIVE'S RIGHT TO ATTEND A TRIAL, OR A JUVENILE DELINQUENCY
33 ADJUDICATORY HEARING AS PROVIDED BY § 3-812 OF THE COURTS ARTICLE OR § 857
34 OF THIS ARTICLE.

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

