

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 302

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “juvenile” in line 3 down through “proceedings” in line 4 and substitute “waiver hearings involving a child”; in line 4, strike “certain”; strike beginning with “and” in line 4 down through the first “court” in line 5; in line 5, strike “requiring” and substitute “authorizing a victim to submit a victim impact statement to the court in certain waiver hearings involving a child; authorizing”; strike beginning with the second “certain” in line 5 down through “information” in line 6 and substitute “a victim impact statement”; in line 6, strike “delinquency proceedings” and substitute “waiver hearings involving a child; requiring the State’s Attorney to notify a victim of the victim’s right to submit a victim impact statement to the court under certain circumstances”; in line 14, after “594A” insert “, 770(e), and 781”; and in line 19, after “3-801(t),” insert “3-812(e)”.

AMENDMENT NO. 2

On page 3, in line 9, after “(1)” insert “(I)”; strike beginning with “SHALL” in line 9 down through “JURISDICTION” in line 16 and substitute “MAY SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT AS PROVIDED IN § 781 OF THIS ARTICLE.”

(II) THIS PARAGRAPH DOES NOT PRECLUDE A VICTIM WHO HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER § 770 OF THIS ARTICLE FROM SUBMITTING A VICTIM IMPACT STATEMENT TO THE COURT.

(III) THE COURT MAY CONSIDER A VICTIM IMPACT STATEMENT IN DETERMINING WHETHER TO WAIVE JURISDICTION UNDER THIS SECTION”;

and in line 17, strike “(3) THE” and substitute “(2) A”.

On page 4, in line 30, strike “(1)”; in line 34, strike “(2)” and substitute “(C)(1)”; and in the

(Over)

same line, strike the second “THE” and substitute “A”.

On page 5, strike in their entirety lines 1 through 3, inclusive, and substitute:

“(2) (I) A VICTIM MAY SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT AS PROVIDED IN ARTICLE 27, § 781 OF THE CODE.

“(II) THIS PARAGRAPH DOES NOT PRECLUDE A VICTIM WHO HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770 OF THE CODE FROM SUBMITTING A VICTIM IMPACT STATEMENT TO THE COURT.

“(III) THE COURT MAY CONSIDER A VICTIM IMPACT STATEMENT IN DETERMINING WHETHER TO WAIVE JURISDICTION UNDER THIS SECTION.”;

in lines 4, 12, 21, 26, and 27, strike “(c)”, “(d)”, “(e)”, “(f)”, and “(g)”, respectively, and substitute “(D)”, “(E)”, “(F)”, “(G)”, and “(H)”, respectively; and strike beginning with “(3)” in line 9 down through “JURISDICTION.” in line 11.

AMENDMENT NO. 3

On page 3, after line 18, insert:

“770.

(e) (1) If a victim has filed a notification request form under subsection (d) of this section, the State's Attorney shall send to the victim prior notice, if practicable, of all court proceedings in the case, including the terms and conditions of a plea agreement, if any, AND OF THE VICTIM’S RIGHT TO SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT AS PROVIDED IN § 781 OF THIS ARTICLE.

(2) If the case is in a jurisdiction in which the office of the clerk is equipped with an automated filing system, nothing in this subsection precludes the State's Attorney from requesting the clerk to send the notice required under paragraph (1) of this subsection.

(3) After a victim has filed a notification request form under subsection (d) of this section and if prior notice to the victim is not practicable, or if the victim is not present at the proceeding, the State's Attorney shall, as soon after the proceeding as practicable, advise the victim of the terms and conditions of any plea agreement, judicial action, and all other proceedings that

affect the victim's interests, including a bail hearing or change in the defendant's pretrial release order, dismissal, nolle prosequi or setting of charges, trial, disposition, or post-sentencing court proceeding.

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

781.

(a) In this section, "defendant" means:

(1) A person who is charged with a crime; or

(2) A child who is alleged to have committed a delinquent act.

(b) A presentence investigation that is completed by the Division of Parole and Probation under Article 41, § 4-609 of the Code or a predisposition investigation that is completed by the Department of Juvenile Justice shall include a victim impact statement, if:

(1) The defendant, in committing a felony or delinquent act that would be a felony if committed by an adult, caused physical, psychological, or economic injury to the victim; or

(2) The defendant, in committing a misdemeanor, caused serious physical injury or death to the victim.

(c) If the court does not order a presentence investigation or predisposition investigation, the State's Attorney or the victim may prepare a victim impact statement to be submitted to the court and the defendant in accordance with the Maryland Rules pertaining to presentence investigations.

(d) The court shall consider the victim impact statement in determining the appropriate sentence or disposition, and in entering any judgment of restitution for the victim under § 807 of this subtitle.

(Over)

(E) (1) THE STATE'S ATTORNEY SHALL NOTIFY A VICTIM WHO HAS FILED A NOTIFICATION REQUEST FORM UNDER § 770 OF THIS ARTICLE OF THE VICTIM'S RIGHT TO SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT IN A WAIVER HEARING UNDER § 594A OF THIS ARTICLE OR UNDER § 3-817 OF THE COURTS ARTICLE.

(2) THIS SUBSECTION DOES NOT PRECLUDE A VICTIM WHO HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER § 770 OF THIS ARTICLE FROM SUBMITTING A VICTIM IMPACT STATEMENT TO THE COURT.

(3) THE COURT MAY CONSIDER A VICTIM IMPACT STATEMENT IN DETERMINING WHETHER TO WAIVE JURISDICTION UNDER § 594A OF THIS ARTICLE OR UNDER § 3-817 OF THE COURTS ARTICLE.

[(e)] (F) A victim impact statement shall:

(1) Identify the victim of the offense;

(2) Itemize any economic loss suffered by the victim as a result of the offense;

(3) Identify any physical injury suffered by the victim as a result of the offense along with its seriousness and permanence;

(4) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(5) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense;

(6) Identify any request by the victim that the defendant be prohibited from having contact with the victim as a condition of probation, parole, mandatory supervision, work release, or any other judicial or administrative release of the defendant; and

(7) Contain any other information related to the impact of the offense upon the victim or the victim's family that the court requires.

[(f)] (G) If the victim is deceased, under a mental, physical, or legal disability, or otherwise unable to provide the information required under this section, the information may be obtained from the personal representative, guardian, or committee, or such family members as may be necessary.”.

AMENDMENT NO. 4

On page 4, after line 22 insert:

“3-812.

(e) (1) The court shall conduct all hearings in an informal manner.

(2) In any proceeding in which a child is alleged to be in need of supervision or assistance or to have committed a delinquent act that would be a misdemeanor if committed by an adult, the court may exclude the general public from a hearing, and admit only THE VICTIM AND those persons having a direct interest in the proceeding and their representatives.

(3) Except as provided in paragraph (4) of this subsection, in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult, the court shall conduct in open court any hearing or other proceeding at which the child has a right to appear.

(4) For good cause shown, the court may exclude the general public from a hearing or other proceeding in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(5) Except as provided in paragraph (6) of this subsection, the court shall announce, in open court, adjudications and dispositions in cases where a child is alleged to have committed a delinquent act which would be a felony if committed by an adult.

(Over)

(6) For good cause shown, the court may exclude the general public from a proceeding at which an adjudication or disposition is announced and admit only the victim and those persons having a direct interest in the proceeding and their representatives.”.

AMENDMENT NO. 5

On page 6, in line 34, strike “AN” and substitute “ANY”; in line 34, after “ADDRESS” insert “MADE IN ACCORDANCE WITH ARTICLE 27, § 780 OF THE CODE”; and strike beginning with “WRITTEN” in line 34 down through “VICTIM” in line 35 and substitute “ANY VICTIM IMPACT STATEMENT, AS DESCRIBED IN ARTICLE 27, § 781 OF THE CODE,”.