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By: **Delegate Vallario (Task Force To Examine Maryland's Crime Victims' Rights Laws) and Delegates Amedori, Arnick, R. Baker, W. Baker, Barkley, Barve, Benson, Boschert, Boutin, Bozman, Brinkley, Bronrott, Burns, Cadden, Clagett, Cole, Conway, Cryor, DeCarlo, Dembrow, Dewberry, Doory, Dypski, Edwards, Elliott, Finifter, Flanagan, Franchot, Frush, Fulton, Giannetti, Glassman, Hammen, Harrison, Healey, Hecht, Heller, Hixson, Howard, Hubbard, Hubers, Hurson, Hutchins, A. Jones, V. Jones, Kach, K. Kelly, Klausmeier, Klima, Kopp, La Vay, Leopold, Linton, Love, Mandel, McHale, McIntosh, McKee, Menes, Moe, Morhaim, O'Donnell, Owings, Paige, Parrott, Petzold, Pitkin, Proctor, Rawlings, Redmer, Riley, Rosso, Rudolph, Rzepkowski, Shank, Sher, Shriver, Snodgrass, Stern, Turner, Valderrama, Weir, and Wood**

Introduced and read first time: February 9, 2000  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Victim's Rights - Incompetency and Not Criminally Responsible Procedures**

3 FOR the purpose of eliminating a requirement that a victim notify the Department of  
4 Health and Mental Hygiene every 2 years in writing in order that a victim be  
5 notified of certain proceedings concerning incompetency and not criminally  
6 responsible cases under certain circumstances; requiring the Department to  
7 notify certain victims and victim's representatives of any court orders to  
8 examine or commit defendants, of any scheduled hearings, of any  
9 recommendations by the Department or an Administrative Law Judge  
10 concerning release, or of court orders for release or discharge in cases involving  
11 incompetency and not criminally responsible; eliminating a requirement that  
12 there be a certain notification before a victim may submit certain statements;  
13 allowing a victim to submit certain oral statements; allowing a victim to submit  
14 certain information to a court or Administrative Law Judge under certain  
15 circumstances; requiring a court or Administrative Law Judge to consider and  
16 take certain actions regarding certain information; requiring a facility of the  
17 Department to notify certain victims of certain events; requiring the notification  
18 of certain victims and victim's representatives of certain court hearings;  
19 providing for the right of certain victims and representatives to attend certain  
20 hearings under certain circumstances; and generally relating to the rights of  
21 victims and victim's representatives in incompetency and not criminally  
22 responsible cases.

23 BY repealing and reenacting, with amendments,

1 Article - Health - General  
2 Section 12-122  
3 Annotated Code of Maryland  
4 (1994 Replacement Volume and 1999 Supplement)

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

7 **Article - Health - General**

8 12-122.

9 (a) (1) In this section, "victim" means a victim of a crime of violence, as  
10 defined in Article 27, § 643B of the Code or a victim who has filed a notification  
11 request form under Article 27, § 770 of the Code.

12 (2) "Victim" includes a designated family member of a victim who is  
13 deceased, disabled, or a minor.

14 (b) A State's Attorney shall notify a victim of all rights provided under this  
15 section.

16 (c) (1) A victim may request notification under this section by:

17 (i) Notifying the State's Attorney and the Department [once every  
18 2 years in writing] of the victim's request for notification; or

19 (ii) Filing a notification request form under Article 27, § 770 of the  
20 Code.

21 (2) A victim's request for notification under paragraph (1)(i) of this  
22 subsection shall designate:

23 (i) The address and telephone number of the victim; or

24 (ii) The name, address, and telephone number of a representative  
25 to receive notice on behalf of the victim.

26 (3) A victim may, at any time, withdraw a request for notification.

27 (d) If a victim has requested notification in the manner provided under  
28 subsection (c) of this section, the Department shall promptly notify the victim or the  
29 victim's representative in writing when:

30 (1) The Department receives a court order to examine a defendant under  
31 [§ 12-110 of] this subtitle;

32 (2) The Department receives a court order committing a defendant to the  
33 Department under [§ 12-111 of] this subtitle;

1 (3) A hearing is scheduled under [§ 12-114 of] this subtitle;

2 (4) The Department receives notice that a committed individual has  
3 applied for a hearing under [§ 12-118 of] this subtitle;

4 (5) An administrative law judge recommends that a committed  
5 individual be released [after a hearing under § 12-114 of] UNDER this subtitle;

6 (6) The Department submits a recommendation to the court for a  
7 committed individual's conditional release under [§ 12-119 of] this subtitle;

8 (7) The facility of the Department that has charge of a committed  
9 individual has notified the State's Attorney that a committed individual is absent  
10 without authorization; or

11 (8) The Department receives a court order for the conditional release or  
12 discharge from commitment of a committed individual under [§ 12-117, § 12-118, or  
13 § 12-119 of] this subtitle.

14 (e) (1) [Upon notification by the Department under subsection (d) of this  
15 section, a] A victim may submit, in writing OR ORALLY, to the State's Attorney and to  
16 the facility of the Department that has charge of a committed individual:

17 [(1)] (I) Any information that the victim considers relevant; and

18 [(2)] (II) A request that the committed individual be prohibited from  
19 having any contact with the victim, as a condition of release.

20 (2) EXCEPT FOR A COURT HEARING TO DETERMINE IF A PERSON IS NOT  
21 COMPETENT OR NOT CRIMINALLY RESPONSIBLE, A VICTIM MAY SUBMIT A WRITTEN  
22 OR ORAL STATEMENT TO THE COURT OR ADMINISTRATIVE LAW JUDGE CONDUCTING  
23 A HEARING OR REVIEW UNDER THIS SUBTITLE CONTAINING:

24 (I) ANY INFORMATION THAT THE VICTIM CONSIDERS RELEVANT;  
25 AND

26 (II) A REQUEST THAT THE COMMITTED INDIVIDUAL BE  
27 PROHIBITED FROM HAVING ANY CONTACT WITH THE VICTIM AS A CONDITION OF  
28 RELEASE.

29 (f) If a victim submits WRITTEN OR ORAL information [to the Department]  
30 under this section, the Department, COURT, OR ADMINISTRATIVE LAW JUDGE shall:

31 (1) Consider the information;

32 (2) Maintain at the facility that has charge of the committed individual,  
33 separate from the medical record of the committed individual, the written statement  
34 of the victim; and

1           (3)     Delete the victim's or the victim's representative's address and  
2 telephone number before any document is examined by the committed individual or  
3 the committed individual's representative.

4     (g)     This section may not be construed to authorize the release to the victim of  
5 any medical, psychological, or psychiatric information on a committed individual.

6     (h)     The facility of the Department that has charge of an individual under [§  
7 12-110 of] this subtitle shall promptly notify the State's Attorney and a victim or a  
8 victim's representative who has requested notification under this section if:

9           (1)     [the] THE individual is absent without authorization;

10          (2)     A HOSPITAL WARRANT IS ISSUED FOR THE INDIVIDUAL; OR

11          (3)     REQUIRED UNDER ARTICLE 27, § 789 OF THE CODE.

12     (i)     An agent or employee of the Department who acts in compliance with the  
13 provisions of this section shall have the immunity from liability described under §  
14 5-522 of the Courts Article.

15     (J)     BEFORE A COURT HEARING UNDER THIS SUBTITLE, THE VICTIM OR  
16 VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED OF THE PROCEEDING AS PROVIDED  
17 UNDER ARTICLE 27, § 770 OR § 784 OF THE CODE.

18     (K)     A VICTIM OR VICTIM'S REPRESENTATIVE SHALL HAVE THE RIGHT TO  
19 ATTEND A HEARING UNDER THIS SUBTITLE AS PROVIDED UNDER ARTICLE 27, § 857  
20 OF THE CODE.

21     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2000.