Unofficial Copy HB 587/00 - JUD 2001 Regular Session 11r0650 CF 1lr0649

By: Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates R. Baker, Barkley, Barve, Boschert, Boutin, Bozman, Brinkley, Bronrott, Cadden, Cane, Clagett, Cole, Conroy, Conway, Cryor, DeCarlo, Dembrow, Dewberry, Doory, Dypski, Edwards, Finifter, Franchot, Frush, Giannetti, Glassman, Goldwater, Griffith, Grosfeld, Hammen, Harrison, Hecht, Heller, Hixson, Howard, Hubbard, Hubers, Hutchins, Kach, K. Kelly, Klausmeier, Klima, Kopp, La Vay, Leopold, Mandel, McIntosh, Menes, Morhaim, O'Donnell, Owings, Parrott, Patterson, Pendergrass, Rawlings, Redmer, Riley, Rosso, Rudolph, Shank, Sher, Shriver, Sophocleus, Stern, Stocksdale, Taylor,

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Assigned to: Judiciary

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House action: Adopted

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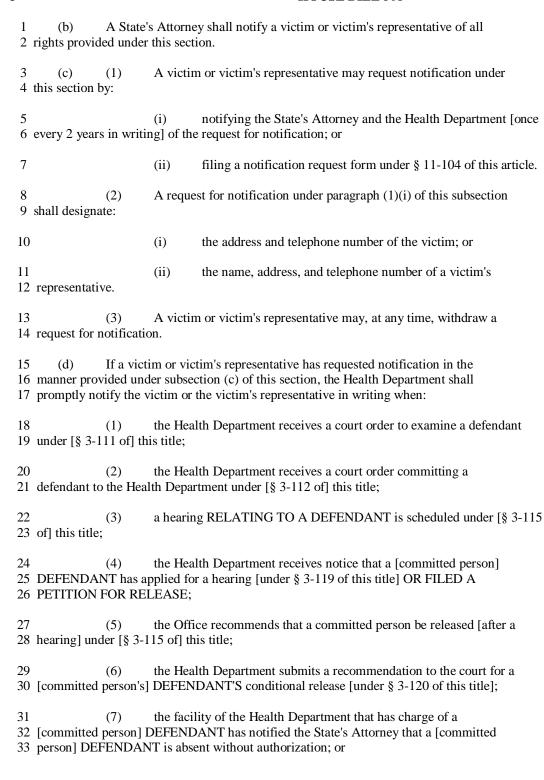
CHAPTER

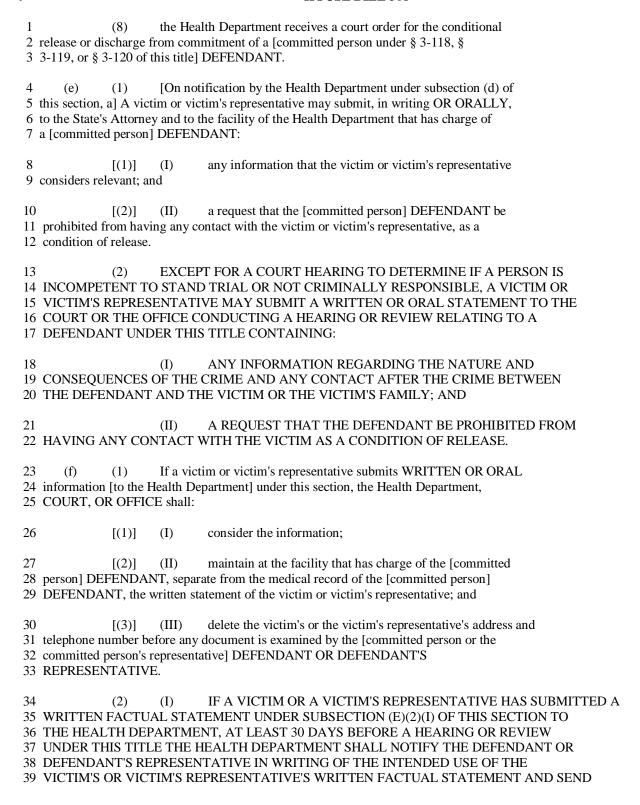
1 AN ACT concerning

2 Victims' Rights - Incompetency and Not Criminally Responsible Procedures

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

1 2 3 4 5 6 7 8 9 10	certain proceedings under certain circumstances; providing for the testimony of a victim or victim's representative at certain hearings under certain circumstances; allowing the Office to exclude victims and victims' representatives from certain parts of certain proceedings under certain circumstances; requiring the notification of certain victims and victims' representatives of certain court hearings; providing for the right of certain victims and victims' representatives to attend certain hearings under certain circumstances; making stylistic changes; defining a certain term; and generally relating to the rights of victims and victims' representatives in incompetency				
12 BY repealing and reenacting, with amendments, 13 Article - Criminal Procedure 14 Section 3-123 15 Annotated Code of Maryland 16 (As enacted by Chapter (S.B. 1) of the Acts of the General Assembly of 2001)					
17 18	17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 18 MARYLAND, That the Laws of Maryland read as follows:				
19	19 Article - Criminal Procedure				
20	3-123.				
21	(a)	(1)	In this s	section the following terms have the meanings indicated.	
22		(2)	"DEFE	NDANT" MEANS:	
23			(I)	A COMMITTED INDIVIDUAL;	
24			(II)	AN INDIVIDUAL FOUND COMPETENT TO STAND TRIAL; OR	
				AN INDIVIDUAL CHARGED WITH A CRIME AND THE ISSUE OF TAL IS INCOMPETENT TO STAND TRIAL HAS BEEN RAISED OR CRIMINALLY RESPONSIBLE HAS BEEN ENTERED.	
28 29	has filed a	[(2)] notification	(3) on reques	"Victim" means a victim of a crime of violence or a victim who t form under § 11-104 of this article.	
30 31	of a victim	[(3)] who is:	(4)	"Victim's representative" includes a family member or guardian	
32			(i)	a minor;	
33			(ii)	deceased; or	
34			(iii)	disabled.	





- 1 TO THE DEFENDANT OR THE DEFENDANT'S REPRESENTATIVE A COPY OF THE 2 WRITTEN FACTUAL STATEMENT TO BE ADMITTED. 3 (II)IF THE DEFENDANT OBJECTS TO THE ADMISSION OF THE 4 WRITTEN FACTUAL STATEMENT OF THE VICTIM OR VICTIM'S REPRESENTATIVE. THE 5 DEFENDANT SHALL NOTIFY THE HEALTH DEPARTMENT, STATE'S ATTORNEY, AND 6 COURT OR THE OFFICE IN WRITING NO LATER THAN 20 DAYS BEFORE THE HEARING 7 OR REVIEW. IF THE TIMELY AND PROPER NOTICE REQUIRED UNDER 8 (III)9 SUBPARAGRAPH (II) OF THIS PARAGRAPH IS PROVIDED BY THE DEFENDANT, THE 10 WRITTEN FACTUAL STATEMENT IS INADMISSIBLE WITHOUT THE TESTIMONY OF THE 11 VICTIM OR VICTIM'S REPRESENTATIVE. 12 (IV) FAILURE OF THE DEFENDANT TO GIVE THE TIMELY AND 13 PROPER NOTICE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS A WAIVER OF 14 THE DEFENDANT'S RIGHT TO THE PRESENCE AND TESTIMONY OF THE VICTIM OR 15 VICTIM'S REPRESENTATIVE AND THE WRITTEN FACTUAL STATEMENT OF THE VICTIM 16 OR VICTIM'S REPRESENTATIVE SHALL BE ADMITTED. IF A DEFENDANT PROVIDES NOTICE UNDER SUBPARAGRAPH 17 (V) 18 (II) OF THIS PARAGRAPH. THE HEALTH DEPARTMENT SHALL NOTIFY THE VICTIM 19 THAT: THE VICTIM'S OR VICTIM'S REPRESENTATIVE'S WRITTEN 20 1. 21 FACTUAL STATEMENT IS INADMISSIBLE AT THE HEARING WITHOUT THE TESTIMONY 22 OF THE VICTIM OR VICTIM'S REPRESENTATIVE; AND THE VICTIM OR VICTIM'S REPRESENTATIVE MAY ATTEND 23 24 THE HEARING AND TESTIFY. 25 [This] EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION, THIS (g) 26 section may not be construed to authorize the release to the victim or victim's 27 representative of any medical, psychological, or psychiatric information on a
- 28 [committed person] DEFENDANT.
- 29 (h) The [facility of the] Health Department [that has charge of a person
- 30 under § 3-111 of this title] shall promptly notify the State's Attorney and a victim or
- 31 a victim's representative who has requested notification REGARDING A DEFENDANT
- 32 under this section if:
- 33 (1) [the person] THE DEFENDANT is absent without authorization;
- 34 (2) A HOSPITAL WARRANT IS ISSUED FOR THE DEFENDANT; OR
- 35 (3) NOTIFICATION IS REQUIRED UNDER § 11-508 OF THIS ARTICLE.
- 36 (i) An agent or employee of the Health Department who acts in compliance
- 37 with this section shall have the immunity from liability described under § 5-522 of
- 38 the Courts Article.

- 1 (J) BEFORE A HEARING UNDER THIS ARTICLE RELATING TO A DEFENDANT,
- 2 THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED OF THE
- 3 PROCEEDING AS PROVIDED UNDER § 11-104 OR § 11-503 OF THIS ARTICLE.
- 4 (K) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
- 5 VICTIM OR VICTIM'S REPRESENTATIVE SHALL HAVE THE RIGHT TO ATTEND A
- 6 HEARING UNDER THIS ARTICLE RELATING TO A DEFENDANT AS PROVIDED UNDER §
- 7 11-102 OF THIS ARTICLE.
- 8 (2) AT THE REQUEST OF A DEFENDANT, THE OFFICE, IN A RELEASE
- 9 HEARING OR A VIOLATION HEARING UNDER THIS SUBTITLE FOR AN INDIVIDUAL
- 10 FOUND NOT CRIMINALLY RESPONSIBLE, MAY EXCLUDE A VICTIM OR VICTIM'S
- 11 REPRESENTATIVE FROM THE EXPERT TESTIMONY REGARDING THE DEFENDANT'S
- 12 MEDICAL, PSYCHOLOGICAL, OR PSYCHIATRIC INFORMATION IF THE OFFICE FINDS
- 13 THE MEDICAL, PSYCHOLOGICAL, OR PSYCHIATRIC INFORMATION IS:
- 14 (I) HIGHLY SENSITIVE TO THE DEFENDANT; AND
- 15 (II) NOT RELEVANT TO WHETHER THE DEFENDANT SHOULD BE
- 16 RELEASED OR HAS VIOLATED THE CONDITIONS OF RELEASE.
- 17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 18 effect October 1, 2001.