

# HOUSE BILL 1189

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9lr3217  
CF SB 618

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By: **Delegates Waldstreicher and Vallario**  
Introduced and read first time: February 13, 2009  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Violation of Crime Victim Rights – Sentencing**

3 FOR the purpose of requiring a trial or juvenile court, on the allegation by a certain  
4 crime victim or the victim’s representative that a certain right of the victim or  
5 victim’s representative was violated, to hold a hearing to determine if the right  
6 was violated; requiring the court, if a certain finding is made, to allow the  
7 victim or the victim’s representative to address the court or submit a certain  
8 impact statement or recommendation; requiring the court to consider certain  
9 information presented by the State, defendant, child respondent, victim, and  
10 victim’s representative; authorizing a court to reaffirm, modify, or vacate a prior  
11 sentence or disposition of a certain defendant or child respondent under certain  
12 circumstances; and generally relating to the rights of crime victims.

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Procedure  
15 Section 11–403  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume)

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

20 **Article – Criminal Procedure**

21 11–403.

22 (a) In this section, “sentencing or disposition hearing” means a hearing at  
23 which the imposition of a sentence, disposition in a juvenile court proceeding, or  
24 alteration of a sentence or disposition in a juvenile court proceeding is considered.

25 (b) In the sentencing or disposition hearing the court:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 (1) if practicable, shall allow the victim or the victim's representative  
2 to address the court under oath before the imposition of sentence or other disposition:

3 (i) at the request of the prosecuting attorney; or

4 (ii) if the victim has filed a notification request form under §  
5 11-104 of this title; and

6 (2) may allow the victim or the victim's representative to address the  
7 court under oath before the imposition of sentence or other disposition at the request  
8 of the victim or the victim's representative.

9 (c) (1) If the victim or the victim's representative is allowed to address the  
10 court, the defendant or child respondent may cross-examine the victim or the victim's  
11 representative.

12 (2) The cross-examination is limited to the factual statements made to  
13 the court.

14 (d) (1) A victim or the victim's representative has the right not to address  
15 the court at the sentencing or disposition hearing.

16 (2) A person may not attempt to coerce a victim or the victim's  
17 representative to address the court at the sentencing or disposition hearing.

18 **(E) (1) IF THE VICTIM OR THE VICTIM'S REPRESENTATIVE ALLEGES**  
19 **THAT A RIGHT OF THE VICTIM OR THE VICTIM'S REPRESENTATIVE UNDER THIS**  
20 **SECTION WAS VIOLATED, THE TRIAL OR JUVENILE COURT SHALL HOLD A**  
21 **HEARING UNDER THIS SECTION TO DETERMINE IF THE RIGHT WAS VIOLATED.**

22 **(2) IF THE COURT FINDS A VIOLATION OF A RIGHT OF THE VICTIM**  
23 **OR THE VICTIM'S REPRESENTATIVE, THE COURT SHALL ALLOW THE VICTIM OR**  
24 **THE VICTIM'S REPRESENTATIVE TO ADDRESS THE COURT OR SUBMIT A**  
25 **WRITTEN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION.**

26 **(3) AFTER HEARING FROM THE VICTIM OR THE VICTIM'S**  
27 **REPRESENTATIVE OR CONSIDERING A WRITTEN UPDATED VICTIM IMPACT**  
28 **STATEMENT OR RECOMMENDATION, THE COURT SHALL CONSIDER**  
29 **INFORMATION PRESENTED BY THE STATE, DEFENDANT, CHILD RESPONDENT,**  
30 **VICTIM, AND VICTIM'S REPRESENTATIVE, INCLUDING WHETHER THE**  
31 **DEFENDANT OR CHILD RESPONDENT HAS BEEN RELEASED AND HOW THE**  
32 **DEFENDANT OR CHILD RESPONDENT HAS CONFORMED BEHAVIOR TO THE**  
33 **CONDITIONS OF RELEASE, IF ANY.**

1           **(4) AFTER CONSIDERING THE INFORMATION PROVIDED TO THE**  
2 **COURT UNDER THIS SUBSECTION AND THE CONSTITUTIONAL AND STATUTORY**  
3 **RIGHTS OF THE DEFENDANT, CHILD RESPONDENT, VICTIM, OR VICTIM'S**  
4 **REPRESENTATIVE, THE COURT MAY REAFFIRM, MODIFY, OR VACATE A PRIOR**  
5 **SENTENCE OR DISPOSITION OF A DEFENDANT OR CHILD RESPONDENT IN THE**  
6 **INTERESTS OF JUSTICE.**

7           **[(e)] (F)** A victim or victim's representative who has been denied a right  
8 provided under this section may file an application for leave to appeal in the manner  
9 provided under § 11-103 of this title.

10           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
11 **October 1, 2009.**