

SENATE BILL 618

E2

9lr1869

By: **Senators Stone and Frosh**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

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:

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.**