

HOUSE BILL 1382

E2, R7

3lr1012

By: **Delegates McDermott, Cluster, Ready, and Stocksdale**

Introduced and read first time: February 14, 2013

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 26, 2013

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Motor Vehicle Accidents – Victim Impact Statement~~
3 Sentencing Procedures – Statement by Victim or Victim’s Representative
4 (Alex’s Law)

5 FOR the purpose of ~~authorizing a prosecuting attorney to prepare a certain victim~~
6 ~~impact statement under certain circumstances involving a motor vehicle~~
7 ~~accident; and generally relating to a victim impact statement involving a motor~~
8 ~~vehicle accident~~ requiring a court in a sentencing or disposition hearing to allow
9 a victim or the victim’s representative to address the court under oath before
10 the imposition of sentence or other disposition under certain circumstances; and
11 generally relating to a certain statement by a victim or the victim’s
12 representative in a sentencing or disposition hearing.

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Procedure
15 Section 11-401 and 11-403(a)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section ~~11-402~~ 11-403(b)
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Criminal Procedure**

4 11-401.

5 In this subtitle, “victim’s representative” means:

6 (1) a member of the victim’s immediate family; or

7 (2) another family member, the personal representative, or guardian
8 of the victim if the victim is:

9 (i) deceased;

10 (ii) under a mental, physical, or legal disability; or

11 (iii) otherwise unable to provide the required information.

12 ~~11-402.~~

13 ~~(a) A presentence investigation that the Division of Parole and Probation~~
14 ~~completes under § 6-112 of the Correctional Services Article or a predisposition~~
15 ~~investigation that the Department of Juvenile Services completes shall include a~~
16 ~~victim impact statement if:~~

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

20 ~~(2) the defendant caused serious physical injury or death to the victim~~
21 ~~in committing a misdemeanor.~~

22 ~~(b) If the court does not order a presentence investigation or predisposition~~
23 ~~investigation, the prosecuting attorney or the victim may prepare a victim impact~~
24 ~~statement to be submitted to the court and the defendant or child respondent in~~
25 ~~accordance with the Maryland Rules.~~

26 ~~(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE~~
27 ~~PROSECUTING ATTORNEY MAY PREPARE A VICTIM IMPACT STATEMENT TO BE~~
28 ~~SUBMITTED TO THE COURT AND THE DEFENDANT OR CHILD RESPONDENT IF:~~

29 ~~(1) THE DEFENDANT IS FOUND GUILTY OF A CRIMINAL OFFENSE~~
30 ~~ARISING OUT OF A MOTOR VEHICLE ACCIDENT; OR~~

1 ~~(2) THE CHILD RESPONDENT IS ADJUDICATED DELINQUENT FOR~~
2 ~~AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A CRIMINAL~~
3 ~~OFFENSE ARISING OUT OF A MOTOR VEHICLE ACCIDENT.~~

4 ~~[(e)] (D) (1) The prosecuting attorney shall notify a victim who has filed~~
5 ~~a notification request form under § 11-104 of this title of the victim's right to submit a~~
6 ~~victim impact statement to the court in a transfer hearing under § 4-202 of this article~~
7 ~~or a waiver hearing under § 3-8A-06 of the Courts Article.~~

8 ~~(2) This subsection does not preclude a victim who has not filed a~~
9 ~~notification request form under § 11-104 of this title from submitting a victim impact~~
10 ~~statement to the court.~~

11 ~~(3) The court may consider a victim impact statement in determining~~
12 ~~whether to transfer jurisdiction under § 4-202 of this article or waive jurisdiction~~
13 ~~under § 3-8A-06 of the Courts Article.~~

14 ~~[(d)] (E) The court shall consider the victim impact statement in~~
15 ~~determining the appropriate sentence or disposition and in entering a judgment of~~
16 ~~restitution for the victim under § 11-603 of this title.~~

17 ~~[(e)] (F) A victim impact statement for a crime or delinquent act shall:~~

18 ~~(1) identify the victim;~~

19 ~~(2) itemize any economic loss suffered by the victim;~~

20 ~~(3) identify any physical injury suffered by the victim and describe the~~
21 ~~seriousness and any permanent effects of the injury;~~

22 ~~(4) describe any change in the victim's personal welfare or familial~~
23 ~~relationships;~~

24 ~~(5) identify any request for psychological services initiated by the~~
25 ~~victim or the victim's family;~~

26 ~~(6) identify any request by the victim to prohibit the defendant or~~
27 ~~child respondent from having contact with the victim as a condition of probation,~~
28 ~~parole, mandatory supervision, work release, or any other judicial or administrative~~
29 ~~release of the defendant or child respondent; and~~

30 ~~(7) contain any other information related to the impact on the victim~~
31 ~~or the victim's family that the court requires.~~

1 ~~[(f)] (G) If the victim is deceased, under a mental, physical, or legal~~
 2 ~~disability, or otherwise unable to provide the information required under this section,~~
 3 ~~the information may be obtained from the victim's representative.~~

4 11-403.

5 (a) In this section, "sentencing or disposition hearing" means a hearing at
 6 which the imposition of a sentence, disposition in a juvenile court proceeding, or
 7 alteration of a sentence or disposition in a juvenile court proceeding is considered.

8 (b) In the sentencing or disposition hearing the court [:

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

11 [(i)] (1) at the request of the prosecuting attorney; [or]

12 (2) AT THE REQUEST OF THE VICTIM OR THE VICTIM'S
 13 REPRESENTATIVE; OR

14 [(ii)] (3) if the victim has filed a notification request form
 15 under § 11-104 of this title[; and

16 (2) may allow the victim or the victim's representative to address the
 17 court under oath before the imposition of sentence or other disposition at the request
 18 of the victim or the victim's representative].

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.