

HOUSE BILL 659

E2

6lr0899
CF SB 187

By: **Delegates Proctor, Angel, Atterbeary, D. Barnes, Conaway, Fennell, Knotts, McComas, Moon, Morales, Rosenberg, Sanchez, Smith, Sydnor, Valentino-Smith, and Vallario**

Introduced and read first time: February 4, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Victim’s Right to Restitution – Appeal**

3 FOR the purpose of authorizing a certain victim to file an application for leave to appeal to
4 the Court of Special Appeals from an interlocutory order or appeal to the Court of
5 Special Appeals from a final order that denies or fails to consider the victim’s right
6 to restitution after the filing of a certain motion requesting relief under a certain
7 provision of law; and generally relating to victims’ rights.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Procedure
10 Section 11–103
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2015 Supplement)

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

15 **Article – Criminal Procedure**

16 11–103.

17 (a) (1) In this section, “crime” means:

18 (i) a crime;

19 (ii) a delinquent act that would be a crime if committed by an adult;

20 or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) except as provided in paragraph (2) of this subsection, a crime or
2 delinquent act involving, causing, or resulting in death or serious bodily injury.

3 (2) "Crime" does not include an offense under the Maryland Vehicle Law
4 or under Title 8, Subtitle 7 of the Natural Resources Article unless the offense is punishable
5 by imprisonment.

6 (b) Although not a party to a criminal or juvenile proceeding, a victim of a crime
7 for which the defendant or child respondent is charged may file an application for leave to
8 appeal to the Court of Special Appeals from an interlocutory order or appeal to the Court
9 of Special Appeals from a final order that denies or fails to consider a right secured to the
10 victim by **SUBSECTION (E)(4) OF THIS SECTION**, § 4-202 of this article, § 11-102, §
11 11-104, § 11-302, § 11-402, § 11-403, or § 11-603 of this title, § 3-8A-06, § 3-8A-13, or §
12 3-8A-19 of the Courts Article, or § 6-112 of the Correctional Services Article.

13 (c) The filing of an application for leave to appeal under this section does not stay
14 other proceedings in a criminal or juvenile case unless all parties consent.

15 (d) (1) For purposes of this section, a victim's representative, including the
16 victim's spouse or surviving spouse, parent or legal guardian, child, or sibling, may
17 represent a victim of a crime who dies or is disabled.

18 (2) If there is a dispute over who shall be the victim's representative, the
19 court shall designate the victim's representative.

20 (e) (1) In any court proceeding involving a crime against a victim, the court
21 shall ensure that the victim is in fact afforded the rights provided to victims by law.

22 (2) If a court finds that a victim's right was not considered or was denied,
23 the court may grant the victim relief provided the remedy does not violate the constitutional
24 right of a defendant or child respondent to be free from double jeopardy.

25 (3) A court may not provide a remedy that modifies a sentence of
26 incarceration of a defendant or a commitment of a child respondent unless the victim
27 requests relief from a violation of the victim's right within 30 days of the alleged violation.

28 (4) (i) A victim who alleges that the victim's right to restitution under
29 § 11-603 of this title was not considered or was improperly denied may file a motion
30 requesting relief within 30 days of the denial or alleged failure to consider.

31 (ii) If the court finds that the victim's right to restitution under §
32 11-603 of this title was not considered or was improperly denied, the court may enter a
33 judgment of restitution.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2016.