

Chapter 540

(Senate Bill 187)

AN ACT concerning

Criminal Procedure – Victim’s Right to Restitution – Appeal

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

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

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

Article – Criminal Procedure

11–103.

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

(i) a crime;

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

or

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

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

(b) Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may file an application for leave to appeal to the Court of Special Appeals from an interlocutory order or appeal to the Court of Special Appeals from a final order that denies or fails to consider a right secured to the victim by **SUBSECTION (E)(4) OF THIS SECTION**, § 4–202 of this article, § 11–102, §

11-104, § 11-302, § 11-402, § 11-403, or § 11-603 of this title, § 3-8A-06, § 3-8A-13, or § 3-8A-19 of the Courts Article, or § 6-112 of the Correctional Services Article.

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 19, 2016.