

SENATE BILL 850

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2lr2723
CF 2lr1771

By: **Senator West**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Restorative Justice Program**

3 FOR the purpose of establishing the Restorative Justice Program within the Victim
4 Services Unit of the Governor’s Office of Crime Prevention, Youth, and Victim
5 Services; establishing the position of Restorative Justice Legal Specialist, the
6 Restorative Justice Program Revolving Fund, and the Maryland Restorative Justice
7 Council; and generally relating to restorative justice.

8 BY adding to

9 Article – Correctional Services

10 Section 9–618

11 Annotated Code of Maryland

12 (2017 Replacement Volume and 2021 Supplement)

13 BY adding to

14 Article – Criminal Procedure

15 Section 11–502; and 11–1201 through 11–1206 to be under the new subtitle “Subtitle
16 12. Restorative Justice Program”

17 Annotated Code of Maryland

18 (2018 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Criminal Procedure

21 Section 11–914(9)

22 Annotated Code of Maryland

23 (2018 Replacement Volume and 2021 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – State Government

26 Section 9–3209(a) and (b)(1)

27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2021 Replacement Volume)

2 BY repealing and reenacting, with amendments,
3 Article – State Government
4 Section 9–3209(b)(2)
5 Annotated Code of Maryland
6 (2021 Replacement Volume)

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

9 **Article – Correctional Services**

10 **9–618.**

11 **(A) (1) THE DEPARTMENT SHALL DEVELOP POSTERS INFORMING AN**
12 **INMATE OF THE RIGHT TO PARTICIPATE IN THE RESTORATIVE JUSTICE PROGRAM**
13 **UNDER TITLE 11, SUBTITLE 12 OF THE CRIMINAL PROCEDURE ARTICLE.**

14 **(2) EACH CORRECTIONAL FACILITY SHALL PROMINENTLY DISPLAY**
15 **THE POSTERS CREATED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

16 **(B) EACH CORRECTIONAL FACILITY SHALL IMPLEMENT STANDARDS SET BY**
17 **THE MARYLAND RESTORATIVE JUSTICE COUNCIL TO FACILITATE AN INMATE’S**
18 **PARTICIPATION IN THE RESTORATIVE JUSTICE PROGRAM.**

19 **Article – Criminal Procedure**

20 **11–502.**

21 **FOLLOWING CONVICTION OR ADJUDICATION AND SENTENCING OF A**
22 **DEFENDANT, OR DISPOSITION OF A CASE INVOLVING A CHILD RESPONDENT, THE**
23 **STATE’S ATTORNEY SHALL:**

24 **(1) NOTIFY THE VICTIM OR THE VICTIM’S REPRESENTATIVE OF THE**
25 **VICTIM’S RIGHT TO PARTICIPATE IN THE RESTORATIVE JUSTICE PROGRAM UNDER**
26 **SUBTITLE 12 OF THIS TITLE; AND**

27 **(2) PROVIDE THE VICTIM OR THE VICTIM’S REPRESENTATIVE WITH**
28 **THE INFORMATION DEVELOPED UNDER § 11–914(9) OF THIS TITLE REGARDING HOW**
29 **TO REQUEST PARTICIPATION IN THE RESTORATIVE JUSTICE PROGRAM.**

30 **11–914.**

31 Subject to the authority of the Executive Director, the Board shall:

1 (9) (i) develop pamphlets to notify victims and victim’s representatives
2 of the rights, services, and procedures provided under Article 47 of the Maryland
3 Declaration of Rights or State law, how to request information regarding an unsolved case,
4 [and] how to request that an offender be placed on electronic monitoring or electronic
5 monitoring with victim stay-away alert technology, **AND HOW TO REQUEST**
6 **PARTICIPATION IN THE RESTORATIVE JUSTICE PROGRAM UNDER SUBTITLE 12 OF**
7 **THIS TITLE**, including:

8 1. one pamphlet relating to the MDEC system protocol
9 registration process and the time before and after the filing of a charging document other
10 than an indictment or information in circuit court; and

11 2. a second pamphlet relating to the time after the filing of
12 an indictment or information in circuit court; and

13 (ii) develop a poster to notify victims of the right to request a private
14 room in a law enforcement agency or unit to report crimes under Title 3 of the Criminal
15 Law Article; and

16 **SUBTITLE 12. RESTORATIVE JUSTICE PROGRAM.**

17 **11-1201.**

18 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
19 **INDICATED.**

20 (B) **“COUNCIL” MEANS THE MARYLAND RESTORATIVE JUSTICE COUNCIL.**

21 (C) **“MDEC” MEANS THE MARYLAND ELECTRONIC COURTS SYSTEM.**

22 (D) **“OFFENDER” MEANS AN INDIVIDUAL:**

23 (1) **CHARGED WITH OR FOUND GUILTY OF A CRIME; OR**

24 (2) **ALLEGED TO HAVE COMMITTED OR FOUND TO HAVE COMMITTED**
25 **A DELINQUENT ACT.**

26 (E) **“OFFENSE” MEANS:**

27 (1) **A CHARGE LISTED IN A CHARGING DOCUMENT IN A CRIMINAL**
28 **CASE; OR**

29 (2) **A CHARGE LISTED IN A PETITION ALLEGING A DELINQUENT ACT.**

1 (F) "PROGRAM" MEANS THE RESTORATIVE JUSTICE PROGRAM
2 ESTABLISHED UNDER § 11-1203 OF THIS SUBTITLE.

3 (G) "TRAUMA-INFORMED METHODOLOGY" MEANS A METHODOLOGY:

4 (1) BASED ON AN UNDERSTANDING OF AND A RESPONSIVENESS TO
5 THE IMPACT OF TRAUMA ON AN INDIVIDUAL;

6 (2) THAT EMPHASIZES THE PHYSICAL, PSYCHOLOGICAL, AND
7 EMOTIONAL SAFETY OF PARTIES; AND

8 (3) THAT CREATES AN OPPORTUNITY FOR AN INDIVIDUAL TO
9 REBUILD A SENSE OF CONTROL AND EMPOWERMENT.

10 (H) (1) "VICTIM" INCLUDES A VICTIM'S REPRESENTATIVE AS DEFINED
11 UNDER § 11-401 OF THIS TITLE.

12 (2) "VICTIM" DOES NOT INCLUDE AN OFFENDER OR AN INDIVIDUAL
13 WHO ADVOCATES FOR AN OFFENDER.

14 (I) "VICTIM SERVICES UNIT" MEANS THE VICTIM SERVICES UNIT WITHIN
15 THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES
16 ESTABLISHED UNDER § 11-1102 OF THIS TITLE.

17 11-1202.

18 (A) THE PURPOSE OF THIS SUBTITLE IS TO:

19 (1) AMELIORATE THE HARMFUL EFFECTS OF OFFENSES ON A VICTIM
20 IN A MANNER THAT TREATS THE VICTIM WITH DIGNITY, RESPECT, AND SENSITIVITY;

21 (2) ADDRESS THE RATES OF INCARCERATION AND COMMITMENT OF
22 OFFENDERS;

23 (3) REINFORCE THAT:

24 (I) WHILE THE STATE IS A PARTY IN MATTERS OF THE JUSTICE
25 SYSTEM AND A VICTIM IS NOT A PARTY, A VICTIM HAS BEEN HARMED BY AN OFFENSE
26 AND THE VICTIM HAS PARTICIPATORY RIGHTS IN THE JUSTICE SYSTEM UNDER THE
27 CONSTITUTION AND LAWS OF THE STATE;

28 (II) A VICTIM HAS A CRITICAL NEED FOR ACKNOWLEDGMENT,

1 INFORMATION, PRIVACY, SAFETY, RESTITUTION, AND INVOLVEMENT IN MATTERS OF
2 THE JUSTICE SYSTEM;

3 (III) THERE IS A NEED TO CREATE MEANINGFUL CHANGE IN AN
4 OFFENDER AND THAT ALTERNATIVE OPTIONS ARE NEEDED TO IMPACT RATES OF
5 RECIDIVISM;

6 (IV) THERE IS A NEED TO FOCUS ON THE HARM TO A VICTIM AS
7 WELL AS THE NEEDS OF AN OFFENDER AND OF AFFECTED COMMUNITIES BY USING
8 TRAUMA-INFORMED METHODOLOGIES;

9 (V) THERE IS A NEED FOR AN OFFENDER AND COMMUNITIES TO
10 ACKNOWLEDGE AND TO MAKE A VICTIM AS WHOLE AS POSSIBLE TO MAKE RIGHT THE
11 HARM THAT HAS OCCURRED TO THE VICTIM;

12 (VI) DEVELOPING AN INCLUSIVE PROCESS THAT INVOLVES
13 VICTIMS AND OFFENDERS CREATES AN OPPORTUNITY FOR BETTER JUSTICE FOR
14 ALL; AND

15 (VII) RESTORATIVE JUSTICE AS A PRACTICE AND AS A POLICY
16 SOLUTION IS UNIQUELY SITUATED TO ADDRESS ISSUES IN THE JUSTICE SYSTEM AS
17 IT ATTEMPTS TO REPAIR THE HARM CAUSED TO THE VICTIM AND ENCOURAGES
18 BEHAVIORAL CHANGE IN OFFENDERS;

19 (4) CREATE A VICTIM-CENTERED APPROACH OF RESTORATIVE
20 JUSTICE THAT SEEKS AND OBTAINS POSITIVE OUTCOMES FOR VICTIMS, OFFENDERS,
21 AND COMMUNITIES;

22 (5) DEVELOP A RESTORATIVE JUSTICE APPROACH AS AN OPTION FOR
23 APPROPRIATE MATTERS OF THE JUSTICE SYSTEM THAT ENSURES THE BALANCING
24 OF:

25 (I) PUBLIC SAFETY AND THE PROTECTION OF THE COMMUNITY;

26 (II) ACCOUNTABILITY OF AN OFFENDER TO A VICTIM AND THE
27 COMMUNITY FOR AN OFFENSE COMMITTED;

28 (III) ACKNOWLEDGEMENT BY AN OFFENDER OF THE HARM
29 CAUSED TO A VICTIM AND REPAIRING THAT HARM TO THE EXTENT POSSIBLE; AND

30 (IV) UNDERSTANDING BY AN OFFENDER OF THE HARM CAUSED
31 AS A MEANS OF PROVIDING MEANINGFUL CHANGE IN THE BEHAVIOR OF THE
32 OFFENDER TO PREVENT RECIDIVISM; AND

1 **(6) DEVELOP A POSTADJUDICATORY RESTORATIVE JUSTICE**
2 **APPROACH THAT ADDRESSES THE NEED OF A VICTIM FOR ACKNOWLEDGMENT,**
3 **INFORMATION, PRIVACY, SAFETY, AND INVOLVEMENT IN MATTERS OF THE JUSTICE**
4 **SYSTEM.**

5 **(B) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE**
6 **PURPOSE SET FORTH IN SUBSECTION (A) OF THIS SECTION.**

7 **11-1203.**

8 **(A) (1) THERE IS A RESTORATIVE JUSTICE PROGRAM WITHIN THE**
9 **VICTIM SERVICES UNIT.**

10 **(2) THE PROGRAM SHALL CARRY OUT THE PURPOSES DESCRIBED IN**
11 **§ 11-1202 OF THIS SUBTITLE.**

12 **(B) (1) (I) A VICTIM MAY REQUEST PARTICIPATION IN THE PROGRAM**
13 **THROUGH THE VICTIM SERVICES UNIT.**

14 **(II) AN OFFENDER MAY REQUEST PARTICIPATION IN THE**
15 **PROGRAM THROUGH THE OFFENDER'S CASE MANAGER.**

16 **(2) ALL REQUESTS FOR PARTICIPATION IN THE PROGRAM SHALL BE**
17 **FORWARDED TO THE RESTORATIVE JUSTICE LEGAL SPECIALIST.**

18 **(3) IF ONLY ONE PARTY HAS REQUESTED TO PARTICIPATE IN THE**
19 **PROGRAM, THE RESTORATIVE JUSTICE LEGAL SPECIALIST SHALL PROVIDE**
20 **NOTICE TO THE OTHER PARTY STATING THAT:**

21 **(I) THERE IS A RESTORATIVE JUSTICE PROGRAM AVAILABLE;**

22 **(II) PARTICIPATION IN THE PROGRAM HAS BEEN REQUESTED**
23 **BY THE REQUESTING PARTY;**

24 **(III) PARTICIPATION IN THE PROGRAM IS VOLUNTARY AND**
25 **CONFIDENTIAL AND MAY NOT BE MANDATED BY ANY COURT OR AGENCY; AND**

26 **(IV) A PARTY MAY NOT BE COERCED INTO PARTICIPATING IN**
27 **THE PROGRAM AND WILL NOT FACE ANY PUNITIVE ACTION FOR**
28 **NON-PARTICIPATION.**

29 **(4) IF A PARTY DECLINES PARTICIPATION IN THE PROGRAM, THE**

1 REQUESTING PARTY MAY BE PLACED IN AN ALTERNATIVE RESTORATIVE JUSTICE
2 PROCESS DEVELOPED BY THE COUNCIL.

3 (5) IF BOTH PARTIES AGREE TO PARTICIPATE IN THE PROGRAM, THE
4 RESTORATIVE JUSTICE LEGAL SPECIALIST SHALL:

5 (I) ASSIGN A FACILITATOR OR FACILITATING ORGANIZATION;
6 AND

7 (II) CREATE A CONFIDENTIAL FILE IN MDEC CONTAINING THE
8 NAMES OF THE ASSIGNED FACILITATOR OR FACILITATING ORGANIZATION, THE
9 VICTIM, AND THE OFFENDER.

10 (6) IN ACCORDANCE WITH THE STANDARDS SET FORTH UNDER
11 MARYLAND RULE 17-105, INFORMATION SHARED BY A VICTIM OR AN OFFENDER
12 DURING PARTICIPATION IN THE PROGRAM IS PRIVILEGED, CONFIDENTIAL, AND
13 INADMISSIBLE IN ANY JUDICIAL, ADMINISTRATIVE, OR OTHER PROCEEDING.

14 (7) AFTER PROPER EVALUATION, A FACILITATOR OR FACILITATING
15 ORGANIZATION MAY DECLINE A REQUEST FOR PROGRAM PARTICIPATION IF, IN THE
16 FACILITATOR'S OR FACILITATING ORGANIZATION'S DISCRETION, PARTICIPATION IN
17 THE PROGRAM WOULD NOT BE APPROPRIATE.

18 (C) (1) WHEN APPROPRIATE, THE FACILITATOR OR FACILITATING
19 ORGANIZATION MAY BRING THE VICTIM AND THE OFFENDER TOGETHER, WHILE
20 ENSURING THE SAFETY OF THE VICTIM AND IN A MANNER CONSISTENT WITH
21 TRAUMA-INFORMED METHODOLOGIES AND THE RESTORATIVE JUSTICE PURPOSE
22 OF THIS SUBTITLE, IN AN ATTEMPT TO FACILITATE PROGRAM PARTICIPATION.

23 (2) THE FACILITATOR OR FACILITATING ORGANIZATION SHALL:

24 (I) ACT IN COMPLIANCE WITH THE GUIDELINES FOR
25 FACILITATION AND TRAINING IN TRAUMA-INFORMED VICTIM-OFFENDER DIALOGUE
26 SET BY THE COUNCIL;

27 (II) WHEN ENGAGED IN RESTORATIVE JUSTICE PROGRAMMING,
28 INFORM THE VICTIM AND THE OFFENDER THAT:

29 1. THE FACILITATOR REPRESENTS NEITHER THE VICTIM
30 NOR THE OFFENDER;

31 2. PARTICIPATION IN THE PROGRAM IS CONFIDENTIAL
32 AND CANNOT BE USED IN ANY LEGAL OR ADJUDICATIVE PROCESS, INCLUDING ANY

1 LEGAL PROCEEDING, HEARING, OR OTHER ACTION;

2 3. NO ATTORNEY-CLIENT RELATIONSHIP IS CREATED
3 BETWEEN THE FACILITATOR AND EITHER PARTY AND THAT INFORMATION GIVEN BY
4 THE FACILITATOR IS NOT LEGAL ADVICE; AND

5 4. EITHER PARTY MAY WITHDRAW THEIR
6 PARTICIPATION IN THE PROCESS AT ANY TIME WITHOUT CONSEQUENCE; AND

7 (III) SUBMIT REGULAR REPORTS TO THE RESTORATIVE JUSTICE
8 LEGAL SPECIALIST AS REQUIRED BY THE COUNCIL, WHICH MAY INCLUDE:

9 1. THE NUMBER, GENDER, RACE, AND AGE OF
10 PARTICIPANTS;

11 2. WHETHER THE PROGRAM WAS SUCCESSFULLY
12 COMPLETED; AND

13 3. ANY OTHER NONCONFIDENTIAL INFORMATION.

14 (D) (1) ON REQUEST OF THE FACILITATOR OR FACILITATING
15 ORGANIZATION, THE PROSECUTING ATTORNEY, THE VICTIM SERVICES UNIT,
16 COUNSEL FOR THE OFFENDER, COUNSEL FOR THE VICTIM, AND THE COURT MAY
17 PROVIDE THE FACILITATOR OR FACILITATING ORGANIZATION WITH INFORMATION
18 THAT MAY BE HELPFUL TO FACILITATE THE PROCESS.

19 (2) ON REQUEST OF THE FACILITATOR OR FACILITATING
20 ORGANIZATION, THE CLERK OF THE COURT SHALL PROVIDE THE FACILITATOR OR
21 FACILITATING ORGANIZATION ACCESS TO ALL MATERIALS IN A CASE FILE AT NO
22 COST.

23 (3) THE FACILITATOR OR FACILITATING ORGANIZATION MAY
24 REQUEST OTHER MATERIALS TO FACILITATE THE PROCESS.

25 11-1204.

26 (A) THERE IS A POSITION OF RESTORATIVE JUSTICE LEGAL SPECIALIST
27 WITHIN THE VICTIM SERVICES UNIT.

28 (B) THE DUTIES OF THE RESTORATIVE JUSTICE LEGAL SPECIALIST
29 INCLUDE ENSURING THE COMPLIANCE OF THE PROGRAM WITH ALL APPLICABLE
30 LAWS, REGULATIONS, AND ESTABLISHED POLICIES.

1 (C) THE RESTORATIVE JUSTICE LEGAL SPECIALIST SHALL HAVE
2 KNOWLEDGE OF RESTORATIVE JUSTICE PRACTICES.

3 (D) THE RESTORATIVE JUSTICE LEGAL SPECIALIST MAY FACILITATE
4 PARTNERSHIPS BETWEEN STATE AGENCIES AND RESTORATIVE JUSTICE
5 ORGANIZATIONS IN ORDER TO PROVIDE RESTORATIVE JUSTICE SERVICES.

6 (E) THE RESTORATIVE JUSTICE LEGAL SPECIALIST IS RESPONSIBLE FOR
7 THE MANAGEMENT OF THE PROGRAM WITHIN MDEC.

8 11-1205.

9 (A) IN THIS SECTION, "FUND" MEANS THE RESTORATIVE JUSTICE
10 PROGRAM REVOLVING FUND.

11 (B) THERE IS A RESTORATIVE JUSTICE PROGRAM REVOLVING FUND.

12 (C) THE PURPOSE OF THE FUND IS TO CARRY OUT THE PROVISIONS OF THIS
13 TITLE.

14 (D) THE VICTIM SERVICES UNIT SHALL ADMINISTER THE FUND.

15 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
16 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
18 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

19 (F) THE FUND CONSISTS OF:

20 (1) REVENUE DISTRIBUTED TO THE FUND FROM RESTITUTION
21 PAYMENTS BY AN OFFENDER;

22 (2) FEDERAL FUNDS RECEIVED BY THE STATE FOR THE PURPOSES OF
23 THIS SUBTITLE; AND

24 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
25 THE BENEFIT OF THE FUND.

26 (G) THE FUND MAY BE USED ONLY FOR COSTS AND ADMINISTRATIVE
27 EXPENSES ASSOCIATED WITH THE POSITION OF RESTORATIVE JUSTICE LEGAL
28 SPECIALIST UNDER THIS SUBTITLE.

1 **(I) DEVELOPING STANDARDS, POLICIES, AND PROCEDURES**
2 **FOR THE PROGRAM;**

3 **(II) DEVELOPING, IN CONSULTATION WITH THE RESTORATIVE**
4 **JUSTICE LEGAL SPECIALIST AND OTHER RELEVANT AUTHORITIES, RESTORATIVE**
5 **JUSTICE STANDARDS, POLICIES, TRAINING REQUIREMENTS, AND CERTIFICATIONS**
6 **FOR FACILITATORS, INCLUDING:**

7 **1. TRAINING IN CURRENT DISTRICT COURT OF**
8 **MARYLAND ALTERNATIVE DISPUTE RESOLUTION OFFICE ETHICS STANDARDS; AND**

9 **2. TRAINING IN TRAUMA-INFORMED VICTIM-OFFENDER**
10 **DIALOGUE; AND**

11 **(III) CREATING PROGRAM REPORTING REQUIREMENTS.**

12 **(2) THE COUNCIL MAY CREATE ALTERNATIVE RESTORATIVE JUSTICE**
13 **TRAINING TO INCLUDE DIRECTLY IMPACTED VICTIM-OFFENDER DIALOGUE OR**
14 **VICTIM RECONCILIATION PROGRAMMING WITH NONDIRECT VICTIMS.**

15 **(D) ON OR BEFORE DECEMBER 1, 2023, AND EACH DECEMBER 1**
16 **THEREAFTER, THE COUNCIL, IN COORDINATION WITH THE RESTORATIVE JUSTICE**
17 **LEGAL SPECIALIST, SHALL SUBMIT A REPORT ON THE STATUS OF THE PROGRAM TO**
18 **THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT**
19 **ARTICLE, THE GENERAL ASSEMBLY.**

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2022. Section 2 of this Act shall remain effective for a period of 5 years and, at
22 the end of September 30, 2027, Section 2 of this Act, with no further action required by the
23 General Assembly, shall be abrogated and of no further force and effect.