

# ASSEMBLY, No. 5726

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED NOVEMBER 20, 2023

**Sponsored by:**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**SYNOPSIS**

Makes various revisions to the Crime Victims' Bill of Rights.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning crime victims' rights and amending P.L.1985,  
2 c.249 and P.L.2012, c.27.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to  
8 read as follows:

9 3. The Legislature finds and declares that crime victims and  
10 witnesses are entitled to the following rights:

11 a. To be treated with dignity and compassion by the criminal  
12 justice system;

13 b. To be informed about the criminal justice process;

14 c. To be free from intimidation, harassment or abuse by any  
15 person including the defendant or any other person acting in support  
16 of or on behalf of the defendant, due to the involvement of the  
17 victim or witness in the criminal justice process;

18 d. To have inconveniences associated with participation in the  
19 criminal justice process minimized to the fullest extent possible;

20 e. To make at least one telephone call provided the call is  
21 reasonable in both length and location called;

22 f. To medical assistance reasonably related to the incident in  
23 accordance with the provisions of the "Criminal Injuries  
24 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.);

25 g. To be notified in a timely manner, if practicable, if presence  
26 in court is not needed or if any scheduled court proceeding has been  
27 adjourned or cancelled;

28 h. To be informed about available remedies, financial  
29 assistance and social services;

30 i. To be compensated for loss sustained by the victim  
31 whenever possible;

32 j. To be provided a secure, but not necessarily separate,  
33 waiting area during court proceedings;

34 k. To be advised of case progress and final disposition and to  
35 confer with the prosecutor's representative so that the victim may be  
36 kept adequately informed;

37 l. To the prompt return of property when no longer needed as  
38 evidence;

39 m. To submit a written statement, within a reasonable amount  
40 of time, about the impact of the crime to a representative of the  
41 prosecuting agency which shall be considered prior to the  
42 prosecutor's final decision concerning whether formal criminal  
43 charges will be filed, whether the prosecutor will consent to a  
44 request by the defendant to enter into a pre-trial program, and  
45 whether the prosecutor will make or agree to a negotiated plea;

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 n. To make, prior to sentencing, an in-person statement directly  
2 to the sentencing court concerning the impact of the crime.

3 This statement is to be made in addition to the statement  
4 permitted for inclusion in the presentence report by N.J.S.2C:44-6;

5 o. To have the opportunity to consult with the prosecuting  
6 **【authority】 attorney** prior to the **【conclusion】 beginning** of any plea  
7 negotiations, and to have the prosecutor advise the court of the  
8 consultation and the victim's position regarding the plea agreement  
9 **【, provided however that nothing】 .** If the victim is not present in  
10 court for the plea hearing, the court shall determine if the victim  
11 received adequate notice of the hearing. The court may, within its  
12 discretion, proceed with the plea hearing if the court determines the  
13 victim received adequate notice of the hearing. A court that  
14 determines the victim did not receive adequate notice of the plea  
15 hearing shall adjourn the hearing until such time as the victim can  
16 be present with the opportunity to be heard by the court. If the  
17 victim objects to the proposed plea bargain, the victim shall notify  
18 the court and the prosecutor within a reasonable time from receipt  
19 of notice of the proposed plea bargain from the prosecutor, and the  
20 court shall schedule a hearing on the victim's objection.

21 At the hearing, the victim, the prosecutor, and the defendant may  
22 present testimony and argument regarding the victim's opposition to  
23 the proposed plea bargain. The court may, within its discretion,  
24 reject the plea if the court finds that: (1) the proposed plea violates  
25 the victim's rights under Article I, paragraph 22 of the New Jersey  
26 Constitution, or any law of this State; (2) to permit the plea would  
27 cause a manifest injustice to the victim or the victim's survivors;  
28 and (3) a rejection of the plea offer does not violate the defendant's  
29 rights under the federal and State constitutions.

30 Nothing herein shall be construed to alter or limit the authority  
31 or discretion of the prosecutor to enter into any plea agreement  
32 which the prosecutor deems appropriate;

33 p. To be present and to be heard at any judicial proceeding  
34 involving a crime **【or】** , any juvenile proceeding involving a  
35 criminal offense, any municipal court proceeding, and any  
36 administrative law proceeding held in accordance with the  
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
38 seq.), except as otherwise provided by Article I, paragraph 22 of the  
39 New Jersey Constitution;

40 q. To be notified of any release or escape of the defendant;  
41 **【and】**

42 r. To appear in any court before which a proceeding  
43 implicating the rights of the victim is being held, with standing to  
44 file a motion or present argument on a motion filed to enforce any  
45 right conferred herein or by Article I, paragraph 22 of the New  
46 Jersey Constitution, and to receive an adjudicative decision by the  
47 court on any such motion **【.】 ; and**

1     s. To be represented in any court by a private attorney in  
2 connection with any rights conferred herein, by Article I, paragraph  
3 22 of the New Jersey Constitution, or by any other law or  
4 administrative regulation applicable to the matter before the court.  
5 (cf: P.L.2012, c.27, s.1)

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7     2. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to  
8 read as follows:

9     3. Pursuant to Article I, paragraph 22 of the New Jersey  
10 Constitution:

11     a. A crime victim shall not be required to pay the maintenance,  
12 support, rehabilitation, or other costs arising from the imprisonment  
13 or commitment of a victimizer as a result of the crime; and

14     b. A crime victim shall not be charged any fee otherwise  
15 prescribed by law or regulation to obtain copies of the victim's own  
16 records to which the victim is entitled to access as provided in  
17 section 1 of P.L.1995, c.23 (C.47:1A-1.1), including, but not  
18 limited to, any law enforcement agency incident report, domestic  
19 violence offense report, sexual assault offense report, and  
20 temporary or permanent restraining order.

21     c. In cases where there is a pending domestic violence  
22 restraining order pursuant to the "Prevention of Domestic Violence  
23 Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) or a pending  
24 sexual assault restraining order pursuant to "Sexual Assault  
25 Survivor Protection Act of 2015," P.L.2015, c.147 (C.2C:14-13 et  
26 al.), the law enforcement agency shall furnish the law enforcement  
27 agency incident report to the victim or the victim's attorney within  
28 the time required by section 3 of P.L.1963, c.73 (C.47:1A-3), but in  
29 no event more than five days after the date of receipt of the written  
30 request for such report.

31 (cf: P.L.2014, c.19, s.1)

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33     3. Section 4 of P.L.1985, c.249 (C.52:4B-37) is amended to  
34 read as follows:

35     4. As used in this act, "victim" means a person who suffers  
36 personal, physical or psychological injury or death or incurs loss of  
37 or injury to personal or real property as a result of a crime  
38 committed by an adult or an act of delinquency that would  
39 constitute a crime if committed by an adult, committed against that  
40 person.

41     "Victim" also includes the parent or legal guardian of a minor  
42 victim, anyone financially dependent on the victim, and the spouse,  
43 parent, legal guardian, grandparent, child, sibling, domestic partner  
44 or civil union partner of the decedent in the case of a criminal  
45 homicide or act of juvenile delinquency that would constitute a  
46 criminal homicide if committed by an adult.

47 (cf: P.L.2016, c.15, s.1)

1       4. This act shall take effect immediately.

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#### STATEMENT

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6       This bill makes various revisions to the Crime Victims' Bill of  
7 Rights.

8       The Victims' Rights Amendment to the New Jersey Constitution,  
9 enacted by the voters in 1991 as paragraph 22 of Article I, makes  
10 crime victims' rights a constitutional mandate and specifically  
11 provides that victims "shall be entitled to those rights and remedies  
12 as may be provided by the Legislature." Under the Crime Victims'  
13 Bill of Rights, crime victims and witnesses are to be free from  
14 intimidation, harassment, or abuse by any person including the  
15 defendant or any other person acting in support of or on behalf of  
16 the defendant, due to the involvement of the victim or witness in the  
17 criminal justice process.

18       This bill expands the Crime Victims' Bill of Rights by expanding  
19 the process for plea agreements. Under current law, victims and  
20 witnesses have the opportunity to consult with the prosecuting  
21 authority prior to the conclusion of plea negotiations. This bill  
22 grants victims and witnesses the opportunity to consult with the  
23 prosecuting attorney prior to the beginning of any plea negotiations.  
24 In addition, the bill provides that the court is to determine whether  
25 the victim received adequate notice of the hearing if the victim is  
26 not present in court for the plea hearing. If the court determines the  
27 victim received adequate notice of the hearing, the court may,  
28 within its discretion, proceed with the plea hearing. A court that  
29 determines the victim did not receive adequate notice of the  
30 proceeding would be required to adjourn the plea hearing until such  
31 time as the victim can be present with the opportunity to be heard  
32 by the court. If the victim objects to the proposed plea bargain, the  
33 victim would be required to notify the court and the prosecutor  
34 within a reasonable time of receiving the prosecutor's notice of the  
35 proposed plea bargain, and the court is to schedule a hearing on the  
36 victim's objection.

37       The bill also provides that at a hearing the victim, the prosecutor,  
38 and the defendant may present testimony and an argument regarding  
39 the victim's opposition to the proposed plea bargain. The court  
40 may, within its discretion, reject a plea agreement if it finds: (1) the  
41 proposed plea violates the victim's rights under Article I, paragraph  
42 22 of the New Jersey Constitution, or any law of this State; (2) to  
43 permit the plea would cause a manifest injustice to the victim or the  
44 victim's survivors; and (3) a rejection of the plea offer does not  
45 violate the defendant's rights under the federal and State  
46 constitutions.

47       The bill also allows victims and witnesses to be represented in  
48 any court by a private attorney in connection with any rights

1   afforded by Article I, paragraph 22 of the New Jersey Constitution  
2   or by any other law or administrative regulation applicable to the  
3   matter before the court.

4       In addition, the bill requires law enforcement agencies to furnish  
5   incident reports to a victim or the victim's attorney when there is a  
6   pending domestic violence restraining order or pending sexual  
7   assault restraining order within 24 hours or as soon as practicable  
8   but in no event more than five days after the date the report is  
9   requested.

10      Finally, the bill expands the definition of victim to include the  
11   parent or legal guardian of a minor victim and anyone financially  
12   dependent on the victim.