

ASSEMBLY, No. 1434

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

**Assemblymen Peterson, S.Kean, Assemblywoman N.Munoz, Assemblymen
Bramnick, DiMaio, Clifton and McGuckin**

SYNOPSIS

Clarifies that crime victim has a right to make a victim impact statement directly to defendant at sentencing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning crime victims and amending P.L.1985, c.249.

2

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

5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 n. To make, prior to sentencing, an in-person statement;

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) directly to the sentencing court concerning the impact of the crime; and

(2) directly to the defendant concerning the impact of the crime, unless the court finds good cause why the defendant should not be present during that portion of the proceedings. The court shall state on the record specific reasons for not permitting an in-person statement directly to the defendant.

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

o. To have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim's position regarding the plea agreement, provided however that nothing herein shall be construed to alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate;

p. To be present at any judicial proceeding involving a crime or any juvenile proceeding involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution;

q. To be notified of any release or escape of the defendant; and

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

(cf: P.L.2012, c.27, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill clarifies the right of a crime victim to make, prior to sentencing, an in-person statement directly to the sentencing court and directly to the defendant concerning the impact of the crime.

Under current law, a crime victim has the right to make an in-person statement directly to the court concerning the impact of the crime. This bill clarifies that the victim also has the right to make an in-person statement directly to the defendant unless the court finds good cause why the defendant should not be present during that portion of the proceedings. Finally, the bill provides that the court shall state on the record specific reasons for not permitting an in-person statement directly to the defendant.