ASSEMBLY, No. 3363

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Expands rights of crime victims.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/15/2020)

AN ACT concerning the rights of crime victims and amending P.L.1985, c.249.

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

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

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

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

b. To be informed about the criminal justice process;

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

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

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

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

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

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

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

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

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

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

m. To submit a written statement, within a reasonable amount of time, about the impact of the crime to a representative of the prosecuting agency which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed, whether the prosecutor will consent to a request by the defendant to enter into a pre-trial program, and 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 <u>thus</u> is new matter.

n. To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime. The court, in its discretion, may permit a non-victim to make a statement at sentencing if the court finds the non-victim has been in a close personal relationship with the victim or in the case of homicide, the survivor of the victim.

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. (1) 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; and

(2) To be present and give testimony to the court if the court determines that the victim's or witness's testimony is necessary to resolve an issue of material fact at a hearing: to review a request by a sex offender to be relieved of the registration requirements set forth in section 2 of P.L.1994, c.133 (C.2C:7-2); to consider the risk of re-offense of a sex offender pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); or involving the commitment of a person who was acquitted by reason of insanity pursuant to N.J.S.2C:4-8.

The court may exclude the victim from any portion of a hearing enumerated in paragraph (2) of this subsection if the court determines that the victim's presence would create an unreasonable invasion of the offender's right to privacy. The provisions of this subsection shall not limit a victim's right to otherwise provide testimony at any judicial proceeding, in accordance with the Rules of Court;

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 expands the rights of crime victims to include the right to allow certain non-victims to make an in-person statement at sentencing. The bill also allows victims and witnesses to provide testimony at certain post adjudication hearings.

Current law confers upon victims of crimes the right to make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime. This bill expands this right to give the court discretion to permit a non-victim to make a statement at sentencing if the court finds the non-victim has been in a close personal relationship with the victim or in the case of homicide, the survivor of the victim. It is the sponsor's understanding that most courts in this State currently allow non-victims to present victim impact statements. For example, in the death of a child, some courts will permit statements from the victim's school teacher, friend, athletic coach, or other person who may have had a close relationship with the victim. However, other courts have denied statements from these persons claiming they do not fall within the definition of a victim. Under the bill, this practice will be consistent throughout the courts and reinforce the intent behind allowing victim impact statements.

The bill also permits victims and witnesses of certain sex offenses to be present at post adjudication hearings. While current law provides that victims have the right to be present at any judicial proceeding involving a crime, it is the sponsor's understanding that victims and witnesses are excluded from hearings to determine whether a sex offender is eligible to be relieved of registration requirements after serving 15 years; hearings to determine a sex offender's risk of reoffense upon release; and what are commonly referred to as Krol hearings, during which it is determined whether a person who has been acquitted by reason of insanity should be civilly committed. The bill clarifies that a court may exclude a victim from these civil post adjudication proceedings if the court determines that the victim's presence would create an unreasonable invasion of the offender's right to privacy.