

ASSEMBLY, No. 5748

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 17, 2021

Sponsored by:

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District 15 (Hunterdon and Mercer)

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District 15 (Hunterdon and Mercer)

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District 31 (Hudson)

SYNOPSIS

Authorizes funding to protect safety of cooperating witnesses; expands Crime Victim's Bill of Rights to provide these witnesses with certain guarantees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning the rights of certain witnesses to crime and
2 amending P.L.2016, c.97; P.L.1985, c.249; and P.L.1991, c.329.

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

6
7 1. Section 1 of P.L.2016, c.97 (C.52:4B-12.1) is amended to
8 read as follows:

9 1. a. Notwithstanding the provisions of section 10 of P.L.1971,
10 c.317 (C.52:4B-10) or the provisions of section 12 of P.L.1971,
11 c.317 (C.52:4B-12), the Victims of Crime Compensation Office
12 may, upon application, order the payment of:

13 (1) relocation expenses for a witness and the family of the
14 witness; and

15 (2) expenses related to protecting the safety of a cooperating
16 witness.

17 b. As used in this section **["**, "witness"**"]**:

18 (1) "cooperating witness" means a witness who testifies for the
19 government to help prosecute a crime, and includes a confidential
20 informant; and

21 (2) "witness" means a person who witnessed the commission of
22 any of the offenses listed under section 11 of P.L.1971, c.317
23 (C.52:4B-11) and who has been threatened as a result.

24 (cf: P.L.2016, c.97, s.1)

25
26 2. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to
27 read as follows:

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

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

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

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

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

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

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

44 g. To be notified in a timely manner, if practicable, if presence

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 in court is not needed or if any scheduled court proceeding has been
2 adjourned or cancelled;

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

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

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

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

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

14 m. To submit a written statement, within a reasonable amount
15 of time, about the impact of the crime to a representative of the
16 prosecuting agency which shall be considered prior to the
17 prosecutor's final decision concerning whether formal criminal
18 charges will be filed, whether the prosecutor will consent to a
19 request by the defendant to enter into a pre-trial program, and
20 whether the prosecutor will make or agree to a negotiated plea;

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

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

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

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

36 q. To be notified of any release or escape of the defendant;
37 **[and]**

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

44 s. In the case of a cooperating witness, to be provided assistance
45 before and during trial to cope with the psychological and practical
46 obstacles of testifying; to receive protective measures before,
47 during, and after a hearing or trial; and to have established court

1 procedures ensuring safety while testifying.
2 (cf: P.L.2012, c.27, s.1)

3

4 3. Section 20 of P.L.1991, c.329 (C.52:4B-43.1) is amended to
5 read as follows:

6 20. a. The Victim and Witness Advocacy Fund, established in
7 the State Treasury by section 2 of P.L.1979, c.396 (C.2C:43-3.1),
8 administered by the Department of Law and Public Safety through
9 the Division of Criminal Justice, pursuant to rules and regulations
10 promulgated by the Director of the Division of Criminal Justice, to
11 support the development and provision of services to victims and
12 witnesses of crimes and for related administrative costs, is hereby
13 continued.

14 b. The division is authorized to continue disbursing moneys
15 deposited in the Victim and Witness Advocacy Fund to fund the
16 operation of the State Office of Victim and Witness Advocacy, to
17 fund the 21 county offices of Victim and Witness Advocacy, and to
18 provide funding to other public entities as deemed appropriate for
19 the implementation of the Attorney General Standards to Ensure the
20 Rights of Crime Victims.

21 c. In addition, the division, pursuant to rules and regulations to
22 be promulgated by the director to ensure that funds are given to
23 qualified entities that will provide services consistent with **【this**
24 **act】** P.L.1991, c.329 (C.2C:46-4.1 et al.), shall award grants to
25 qualified public entities and not-for-profit organizations that
26 provide direct services to victims and witnesses, including but not
27 limited to such services as:

- 28 (1) shelter, food and clothing;
29 (2) medical and legal advocacy services;
30 (3) 24-hour crisis response services and 24-hour hotlines;
31 (4) information and referral and community education;
32 (5) psychiatric treatment programs;
33 (6) expanded services for victims' families and significant
34 others;
35 (7) short and long term counseling and support groups;
36 (8) emergency locksmith and carpentry services;
37 (9) financial services; **【and】**
38 (10) medical testing ordered by a court pursuant to section 4 of
39 P.L.1993, c.364 (C.2C:43-2.2); and
40 (11) services to ensure the safety of cooperating witnesses and
41 their families.

42 d. Organizations eligible to apply for grants under subsection c.
43 of this section include, but are not limited to:

- 44 (1) member programs of the New Jersey Coalition for Battered
45 Women, including but not limited to:
46 (a) Atlantic County Women's Center;
47 (b) Shelter Our Sisters, (Bergen County);

- 1 (c) Providence House/ Willingboro Shelter, (Burlington
- 2 County);
- 3 (d) YWCA/SOLACE, (Camden County);
- 4 (e) Family Violence Project and The Safe House, (Essex
- 5 County);
- 6 (f) People Against Spouse Abuse, (Gloucester County);
- 7 (g) Battered Women's Program, (Hudson County);
- 8 (h) Women's Crisis Services, (Hunterdon County);
- 9 (i) Womanspace, Inc., (Mercer County);
- 10 (j) Women Aware, Inc., (Middlesex County);
- 11 (k) Women's Resource and Survival Center, (Monmouth
- 12 County);
- 13 (l) Jersey Battered Women's Services, Inc., (Morris County);
- 14 (m) Passaic County Women's Center, (Passaic County);
- 15 (n) Salem County Women's Services, (Salem County);
- 16 (o) Resource Center for Women and Their Families, (Somerset
- 17 County);
- 18 (p) Domestic Abuse Services, Inc., (Sussex County);
- 19 (q) Project Protect, (Union County);
- 20 (r) Domestic Abuse and Rape Crisis Center, Inc., (Warren
- 21 County); and
- 22 (s) Ocean County Women's Center; and
- 23 (2) rape care services and programs, including, but not limited
- 24 to:
- 25 (a) Atlantic County Women's Center, (Atlantic County);
- 26 (b) Bergen County Rape Crisis Center, (Bergen County);
- 27 (c) Women Against Rape, (Burlington County);
- 28 (d) Women Against Rape, (Camden County);
- 29 (e) Coalition against Rape and Abuse, (Cape May County);
- 30 (f) Cumberland County Guidance Center;
- 31 (g) North Essex Helpline and Sexual Assault Support Service,
- 32 (Essex County);
- 33 (h) Gloucester County Rape Assault Prevention Program;
- 34 (i) Christ Hospital Mental Health Center, serving Hudson
- 35 County;
- 36 (j) Women's Crisis Services, (Hunterdon County);
- 37 (k) Rape Crisis Program Mercer County YWCA, (Mercer
- 38 County);
- 39 (l) Rape Crisis Intervention Center Roosevelt Hospital,
- 40 (Middlesex County);
- 41 (m) Women's Resource Center, (Monmouth County);
- 42 (n) Parenting Center, Morristown Hospital, (Morris County);
- 43 (o) Ocean County Advisory Commission on the Status of
- 44 Women, (Ocean County);
- 45 (p) Passaic County Women's Center, (Passaic County);
- 46 (q) Salem County Rape Crisis Service, (Salem County);

1 (r) Rape Crisis Service of Somerset and Richard Hall Mental
2 Health Center Somerset County Coalition for the prevention and
3 Treatment of Sexual Abuse;

4 (s) Project Against Sexual Assault Abuse, (Sussex County);

5 (t) Union County Rape Crisis Center;

6 (u) Domestic Abuse and Rape Crisis Center, (Warren County);
7 and

8 (v) Alternatives to Domestic Violence of Hackensack, N.J.
9 (Bergen County).

10 e. The **Director** director shall report annually to the
11 Governor and the Legislature pursuant to section 2 of P.L.1991,
12 c.164 (C.52:14-19.1) concerning the administration of the Victim
13 and Witness Advocacy Fund and the administration and award of
14 grants authorized by this section.

15 (cf: P.L.1993, c.364, s.2)

16
17 4. This act shall take effect on the first day of the fourth month
18 next following enactment.

19
20
21 STATEMENT

22
23 This bill specifically authorizes the Victims of Crime
24 Compensation Office (VCCO) to pay expenses related to protecting
25 the safety of cooperating witnesses. The bill defines a “cooperating
26 witness” as a witness who testifies for the government to help
27 prosecute a crime, and includes a confidential informant.

28 The bill also authorizes the Division of Criminal Justice in the
29 Department of Law and Public Safety to award grants from the
30 Victim and Witness Advocacy Fund to public entities and not-for-
31 profit organizations to provide services that protect the safety of
32 cooperating witnesses.

33 Finally, the bill amends the Crime Victim’s Bill of Rights to
34 expand the rights of cooperating witnesses. The bill gives these
35 witnesses the right to be provided assistance before and during trial
36 to cope with the psychological and practical obstacles of testifying.
37 These witnesses also would be given the right to receive protective
38 measures before, during, and after a hearing or trial and to have
39 established court procedures ensuring their safety while testifying.

40 According to the sponsor, witnesses who risk their own safety
41 and well-being to aid in the prosecution of crimes, including gang-
42 related violence, often are retaliated against in the form of
43 intimidation, death threats, violence, and murder. This deters other
44 witnesses from testifying in criminal trials. This situation
45 necessitates additional funding to be dedicated to services that
46 provide these witnesses with enhanced protections. The Crime
47 Victim’s Bill of Rights also needs to specifically guarantee the
48 rights of this subgroup of witnesses.