

SENATE, No. 3860

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 3, 2021

Sponsored by:

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Expands Crime Victim's Bill of Rights in regard to certain post-conviction agreements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/10/2021)

1 AN ACT concerning victims' rights 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 or
45 post-conviction agreement pursuant to N.J.S.2C:35-12;

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 prior to the conclusion of any plea negotiations or post-
7 conviction agreements pursuant to N.J.S.2C:35-12, and to have the
8 prosecutor advise the court of the consultation and the victim's
9 position regarding the plea agreement or post-conviction agreement
10 pursuant to N.J.S.2C:35-12, provided however that nothing
11 **[herein]** in this subsection shall be construed to alter or limit the
12 authority or discretion of the prosecutor to enter into any plea
13 agreement or post-conviction agreement pursuant to N.J.S.2C:35-12
14 which the prosecutor deems appropriate;

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

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

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

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

27
28 2. This act shall take effect on the first day of the fourth month
29 next following enactment.

30 31 32 STATEMENT

33
34 This bill expands the rights of victims in relation to post-
35 conviction agreements in criminal cases involving non-violent drug
36 offenses for which a mandatory term of imprisonment is required.

37 Pursuant to Attorney General Law Enforcement Directive No.
38 2021-4 entitled "Directive Revising Statewide Guidelines
39 Concerning the Waiver of Mandatory Minimum Sentences in Non-
40 Violent Drug Cases Pursuant to N.J.S.A. 2C:35-12," issued April
41 19, 2021, the Attorney General has directed prosecutors to enter
42 into post-conviction agreements to waive mandatory minimum
43 terms associated with certain non-violent drug offenses. The
44 directive also requires the sentences of defendants who currently are
45 incarcerated due to a mandatory minimum sentence to be modified
46 to reflect the sentence that would have been imposed if there had
47 been no mandatory minimum requirement. The non-violent drug
48 offenses include: 1) leader of narcotics trafficking network; 2)

1 maintaining or operating a drug-producing facility; 3)
2 manufacturing, distributing or dispensing drugs; 4) employing a
3 juvenile in a drug distribution scheme; 5) distributing or possessing
4 with intent to distribute drugs within 1,000 feet of a school; and 6)
5 distributing drugs to a juvenile.

6 This bill amends the “Crime Victim’s Bill of Rights” to specify
7 that victims of these non-violent drug offenses have the right to
8 submit to the prosecutor a written statement concerning the impact
9 the crime has had on the victim and to have that statement
10 considered before the prosecutor makes a final decision on whether
11 to make or agree to a post-conviction agreement. Victims currently
12 have this right when the prosecutor considers whether to: 1) file
13 formal criminal charges; 2) consent to a request by the defendant to
14 enter into a pre-trial program; and 3) make or agree to a negotiated
15 plea.

16 The bill also specifies that these victims have the right to consult
17 with the prosecutor prior to the conclusion of a post-conviction
18 agreement. The prosecutor is required to advise the court of the
19 consultation and the victim's position regarding the post-conviction
20 agreement. Victims currently have this right regarding plea
21 negotiations.

22 According to the sponsor, victims of the non-violent drug
23 offenses enumerated in the Attorney General’s 2021-4 directive
24 should have the same rights to submit impact statements and
25 consult with the prosecutor as they have in relation to plea
26 agreements.