

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-11.01 of the Code of Virginia, relating to crime victim and witness*
3 *rights.*

[S 663]

Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 19.2-11.01 of the Code of Virginia is amended and reenacted as follows:**

8 § 19.2-11.01. Crime victim and witness rights.

9 A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the
10 purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of
11 the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity;
12 and that their privacy is protected to the extent permissible under law. It is the further purpose of this
13 chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws
14 of the Commonwealth; that they receive authorized services as appropriate; and that they have the
15 opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections
16 agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible
17 under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the
18 responsibility of a locality's crime victim and witness assistance program to provide the information and
19 assistance required by this chapter.

20 Following a crime, law-enforcement personnel shall provide the victim with a standardized form
21 listing the specific rights afforded to crime victims. The form shall include a telephone number by
22 which the victim can receive further information and assistance in securing the rights afforded crime
23 victims.

24 1. Victim and witness protection.

25 a. In order that victims and witnesses receive protection from harm and threats of harm arising out of
26 their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information
27 as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or
28 local program providing protection, and shall be assisted in obtaining this protection from the
29 appropriate authorities.

30 b. Victims and witnesses shall be provided, where available, a separate waiting area during court
31 proceedings that affords them privacy and protection from intimidation.

32 2. Financial assistance.

33 a. Victims shall be informed of financial assistance and social services available to them as victims
34 of a crime, including information on their possible right to file a claim for compensation from the Crime
35 Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of Title 19.2 and on other
36 available assistance and services.

37 b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary
38 purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

39 c. Victims shall be advised that restitution is available for damages or loss resulting from an offense
40 and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1
41 (§ 19.2-368.1 et seq.) of *this* title 19.2, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and
42 other applicable laws of the Commonwealth.

43 3. Notices.

44 a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to
45 ensure that employers of victims and witnesses will cooperate with the criminal justice process in order
46 to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii)
47 advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for
48 appearing in court pursuant to a summons or subpoena.

49 b. Victims shall receive advance notification when practicable from the attorney for the
50 Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of
51 any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current
52 addresses and telephone numbers.

53 c. *Victims shall receive notification, if requested, subject to such reasonable procedures as the*
54 *Attorney General may require pursuant to § 2.1-124, from the Attorney General of the filing and*
55 *disposition of any appeal or habeas corpus proceeding involving their case.*

56 d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent in

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whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 if they have provided their names, current addresses and telephone numbers in writing.

d. e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses and telephone numbers may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was fourteen years of age or younger on the date of the offense and is sixteen or under at the time of the trial, two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony or of assault and battery in violation of §§ 18.2-57, 18.2-57.1 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, maiming or driving while intoxicated in violation of § 18.2-51.4 or § 18.2-266, (ii) a spouse or child of such a person, (iii) a parent or legal guardian of such a person who is a minor, or (iv) a spouse, parent or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i) of this subsection.

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.