

ENROLLED  
HB2352ER

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.*

4 [H 2352]  
5 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 this title 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, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other  
42 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

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

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

63 4. Victim input.

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

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

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

73 d. *In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall*  
 74 *consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed*  
 75 *plea agreement and (ii) to obtain the victim's views concerning plea negotiations. However, nothing in*  
 76 *this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on*  
 77 *behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not*  
 78 *accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has*  
 79 *complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the*  
 80 *unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when*  
 81 *subpoenaed, or change of address without notice.*

82 *Upon the victim's written request, the victim shall be notified in accordance with subdivision A. 3. b.*  
 83 *of any proceeding in which the plea agreement will be tendered to the court.*

84 *The responsibility to consult with the victim under this subdivision shall not confer upon the*  
 85 *defendant any substantive or procedural rights and shall not affect the validity of any plea entered by*  
 86 *the defendant.*

87 5. Courtroom assistance.

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

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

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

97 B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological  
 98 or economic harm as a direct result of the commission of a felony or of assault and battery in violation  
 99 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  
 100 of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, maiming or driving while intoxicated  
 101 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  
 102 guardian of such a person who is a minor, or (iv) a spouse, parent, sibling or legal guardian of such a  
 103 person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim"  
 104 does not mean a parent, child, spouse, sibling or legal guardian who commits a felony or other  
 105 enumerated criminal offense against a victim as defined in clause (i) ~~of this subsection.~~

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