

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 682
RATIFIED BILL

AN ACT TO IMPLEMENT THE CONSTITUTIONAL AMENDMENT TO PROVIDE
BETTER PROTECTIONS AND SAFEGUARDS TO VICTIMS OF CRIME.

The General Assembly of North Carolina enacts:

PART I. VICTIMS OF CRIME

SECTION 1.(a) G.S. 15A-824 reads as rewritten:

"§ 15A-824. Definitions.

~~As used in this Article, unless the context clearly requires otherwise:~~The following definitions apply in this Article:

- (1) ~~"Crime" means a Crime.~~ Crime. – A felony or serious misdemeanor as determined in the sole discretion of the district attorney, except those included in Article 46 of this Chapter, or ~~any act committed by a juvenile that, if committed by a competent adult, would constitute a felony or serious misdemeanor.~~an act by a juvenile as provided in Article 20A of Chapter 7B of the General Statutes.
- (2) ~~"Family member" means a Family member.~~ Family member. – A spouse, child, ~~parent or legal guardian, or the closest living relative.~~parent, guardian, legal custodian, sibling, or grandparent of the victim. The term does not include the accused.
- (3) ~~"Victim" means a Victim.~~ Victim. – A person against whom there is probable cause to believe a crime has been committed.
- (4) ~~"Witness" means a Witness.~~ Witness. – A person who has been or is expected to be summoned to testify for the prosecution in a criminal action concerning a felony, or who by reason of having relevant information is subject to being called or is likely to be called as a witness for the prosecution in such an action, whether or not an action or proceeding has been commenced."

SECTION 1.(b) G.S. 15A-825 reads as rewritten:

"§ 15A-825. Treatment due victims and witnesses.

(a) To the extent reasonably possible and subject to available resources, the employees of ~~law enforcement~~law enforcement agencies, the prosecutorial system, the judicial system, and the correctional system should make a reasonable effort to assure that each victim and witness within their jurisdiction:

- (1) Is provided information regarding immediate medical assistance when needed and is not detained for an unreasonable length of time before having such assistance administered.
- (2) Is provided information about available protection from harm and threats of harm arising out of cooperation with ~~law enforcement~~law enforcement and prosecution efforts, and receives such protection.
- (2a) Is provided information that testimony as to one's home address is not relevant in every case, and that the victim or witness may request the district attorney to ~~raise an objection should he/she deem it appropriate to this line of questioning in the case at hand.~~object to that line of questioning when appropriate.



- (3) Has any stolen or other personal property expeditiously returned by ~~law enforcement~~ law enforcement agencies when it is no longer needed as evidence, and ~~its~~ the property's return would not impede an investigation or prosecution of the case. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property whose ownership is disputed, should be photographed and returned to the owner within a reasonable period of time of being recovered by ~~law enforcement~~ law enforcement officials.
- (4) Is provided appropriate employer intercession services to seek the employer's cooperation with the criminal justice system and minimize the employee's loss of pay and other benefits resulting from such cooperation whenever possible.
- (5) Is provided, whenever practical, a secure waiting area during court proceedings that does not place the victim or witness in close proximity to defendants and families or friends of defendants.
- (6) Is informed of the procedures to be followed to apply for and receive any appropriate witness fees or victim compensation.
- (6a) Is informed of the right to be present throughout the entire trial of the defendant, subject to the right of the court to sequester witnesses.
- (7) Is given the opportunity to be present during the final disposition of the case or is informed of the final disposition of the case, if ~~he~~ the victim or witness has requested to be present or be informed.
- (8) Is notified, whenever possible, that a court proceeding to which ~~he~~ the victim or witness has been subpoenaed will not occur as scheduled.
- (9) ~~Has a~~ Is given the opportunity to prepare a victim impact statement ~~prepared~~ for consideration by the court.
- (9a) Prior to trial, is provided information about plea bargaining procedures and is ~~told~~ informed that the district attorney may recommend a plea bargain to the court.
- (10) Is informed that civil remedies may be available and that statutes of limitation apply in civil cases.
- (11) Upon the victim's written request, is notified before a proceeding is held at which the release of the offender from custody is considered, if the crime for which the offender was placed in custody is a Class G or more serious felony.
- (12) Upon the victim's written request, is notified if the offender escapes from custody or is released from custody, if the crime for which the offender was placed in custody is a Class G or more serious felony.
- (13) Has family members of a homicide victim offered all the guarantees in this section, except those in subdivision (1).

(b) Nothing in this section shall be construed to create a cause of action for failure to comply with ~~its requirements~~ the requirements described in this section."

SECTION 1.5. G.S. 8-53.12 reads as rewritten:

"§ 8-53.12. Communications with agents of rape crisis centers and domestic violence programs privileged.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Agent. – An employee or agent of a center who has completed a minimum of 20 hours of training as required by the center, or a volunteer, under the direct supervision of a center supervisor, who has completed a minimum of 20 hours of training as required by the center.
 - (2) Center. – A domestic violence program or rape crisis center.
 - (3) Domestic violence program. – A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims.

- (4) Domestic violence victim. – Any person alleging domestic violence as defined by G.S. 50B-1, who consults an agent of a domestic violence program for the purpose of obtaining, for himself or herself, advice, counseling, or other services concerning mental, emotional, or physical injuries suffered as a result of the domestic violence. The term shall also include those persons who have a significant relationship with a victim of domestic violence and who have sought, for themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by the domestic violence against the victim.
- (5) Rape crisis center. – Any publicly or privately funded agency, institution, organization, or facility that offers counseling and other services to victims of sexual assault and their families.
- (6) Services. – Includes, but is not limited to, crisis hotlines; safe homes and shelters; assessment and intake; children of violence services; individual counseling; support in medical, administrative, and judicial systems; transportation, relocation, and crisis intervention. The term does not include investigation of physical or sexual assault of children under the age of 16.
- (7) Sexual assault. – Any alleged violation of G.S. 14-27.21, 14-27.22, 14-27.24, 14-27.25, 14-27.26, 14-27.27, 14-27.29, 14-27.30, 14-27.31, 14-27.32, or 14-202.1, whether or not a civil or criminal action arises as a result of the alleged violation.
- (8) Sexual assault victim. – Any person alleging sexual assault, who consults an agent of a rape crisis center for the purpose of obtaining, for themselves, advice, counseling, or other services concerning mental, physical, or emotional injuries suffered as a result of sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who have sought, for themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by sexual assault of a victim.
- (9) Victim. – A sexual assault victim or a domestic violence victim.

(b) Privileged Communications. – No agent of a center shall be required to disclose any information which the agent acquired during the provision of services to a victim and which information was necessary to enable the agent to render the services; provided, however, that this subsection shall not apply where the victim waives the privilege conferred. Any agent or center that receives a request for such information shall make every effort to inform the victim of the request and provide the victim a copy of the request if the request was in writing. Any resident or presiding judge in the district in which the action is pending shall compel disclosure, either at the trial or prior thereto, if the court finds, by a preponderance of the evidence, a good faith, specific and reasonable basis for believing that (i) the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, (ii) the evidence is not sought merely for character impeachment purposes, and (iii) the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party's counsel. If the case is in district court, the judge shall be a district court judge, and if the case is in superior court, the judge shall be a superior court judge.

The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement. Before requiring production of records, the court

must find that the party seeking disclosure has made a sufficient showing that the records are likely to contain information subject to disclosure under this subsection. If the court finds a sufficient showing has been made, the court shall order that the records be produced for the court under seal, shall examine the records in camera, and may allow disclosure of those portions of the records which the court finds contain information subject to disclosure under this subsection. After all appeals in the action have been exhausted, any records received by the court under seal shall be returned to the center, unless otherwise ordered by the court. The privilege afforded under this subsection terminates upon the death of the victim.

(c) Duty in Case of Abuse or Neglect. – Nothing in this section shall be construed to relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as required by law."

SECTION 2. G.S. 15A-830 reads as rewritten:

"§ 15A-830. Definitions.

- (a) The following definitions apply in this Article:
- (1) Accused. – A person who has been arrested and charged with committing a crime covered by this Article.
 - (2) Arresting law enforcement agency. – The law enforcement agency that makes the arrest of an accused.
 - (2a) Court proceeding. – A critical stage of the post-arrest process heard by a judge in open court involving a plea that disposes of the case or the conviction, sentencing, or release of the accused, including the hearings described in G.S. 15A-837. The term does not include the preliminary proceedings described in Article 29 of Chapter 15A of the General Statutes. If it is known by law enforcement and the district attorney's office that (i) the defendant and the victim have a personal relationship as defined in G.S. 50B-1(b) and (ii) the hearing may result in the defendant's release, efforts will be made to contact the victim.
 - (3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, facilities designated under G.S. 122C-252 for the custody and treatment of involuntary clients, or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
 - (3a) Family member. – A spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim. The term does not include the accused.
 - (3b) Felony property crime. – An act which constitutes a felony violation of one of the following:
 - a. Subchapter IV of Chapter 14 of the General Statutes.
 - b. Subchapter V of Chapter 14 of the General Statutes.
 - (4) Investigating law enforcement agency. – The law enforcement agency with primary responsibility for investigating the crime committed against the victim.
 - (5) Law enforcement agency. – An arresting law enforcement agency, a custodial agency, or an investigating law enforcement agency.
 - (6) ~~Next of kin. – The victim's spouse, children, parents, siblings, or grandparents. The term does not include the accused unless the charges are dismissed or the person is found not guilty.~~
 - (6a) Offense against the person. – An offense against or involving the person of the victim which constitutes a violation of one of the following:
 - a. Subchapter III of Chapter 14 of the General Statutes.
 - b. Subchapter VII of Chapter 14 of the General Statutes.

- c. Article 39 of Chapter 14 of the General Statutes.
 - d. Chapter 20 of the General Statutes, if an element of the offense involves impairment of the defendant, or injury or death to the victim.
 - e. A valid protective order under G.S. 50B-4.1, including, but not limited to, G.S. 14-134.3 and G.S. 14-269.8.
 - f. Article 35 of Chapter 14 of the General Statutes, if the elements of the offense involve communicating a threat or stalking.
 - g. An offense that triggers the enumerated victims' rights, as required by the North Carolina Constitution.
- (7) Victim. – A person against whom there is probable cause to believe ~~one of the following crimes was committed:~~
- a. ~~A Class A, B1, B2, C, D, or E felony.~~
 - b. ~~A Class F felony if it is a violation of one of the following: G.S. 14-16.6(b); 14-16.6(e); 14-18; 14-32.1(e); 14-32.2(b)(3); 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(e); 14-41; 14-43.3; 14-43.11; 14-202.1; 14-277.3A; 14-288.9; 20-138.5; former G.S. 14-190.19; or former G.S. 14-277.3.~~
 - e. ~~A Class G felony if it is a violation of one of the following: G.S. 14-32.3(b); 14-51; 14-58; or 14-87.1.~~
 - d. ~~A Class H felony if it is a violation of one of the following: G.S. 14-32.3(a); 14-33.2; 14-34.6(b); 14-190.17A; 14-277.3A; former G.S. 14-32.3(e); or former G.S. 14-277.3.~~
 - e. ~~A Class I felony if it is a violation of G.S. 14-32.3(b).~~
 - f. ~~An attempt of any of the felonies listed in this subdivision if the attempted felony is punishable as a felony.~~
 - g. ~~Any of the following misdemeanor offenses when the offense is committed between persons who have a personal relationship as defined in G.S. 50B-1(b): G.S. 14-33(e)(1); 14-33(e)(2); 14-33(a); 14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.~~
 - h. Any violation of a valid protective order under G.S. 50B-4.1 ~~an~~ offense against the person or a felony property crime has been committed.

~~(b) If the victim is deceased, then the next of kin, in the order set forth in the definition contained in this section, is entitled to the victim's rights under this Article. However, the right contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's estate. If the victim is a minor or is legally incapacitated, a parent, guardian, or legal custodian may assert the victim's rights under this Article. The accused may not assert the victim's rights. If the victim is deceased, then a family member, in the order set forth in the definition contained in this section, may assert the victim's rights under this Article, with the following limitations:~~

- ~~(1) The guardian or legal custodian of a deceased minor has priority over a family member.~~
- ~~(2) The right contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's estate.~~

~~(c) An individual entitled to exercise the victim's rights as a member of the class of next of kin the appropriate family member in accordance with this section may designate anyone in the class to act on behalf of the class any family member to act on behalf of the victim.~~

~~(d) An individual who, in the determination of the district attorney, would not act in the best interests of the victim shall not be entitled to assert or exercise the victim's rights. An individual may petition the court to review this determination by the district attorney.~~

SECTION 3. Article 46 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-830.5. Victim's rights.

(a) A victim of crime shall be treated with dignity and respect by the criminal justice system.

(b) A victim has the following rights:

- (1) The right, upon request, to reasonable, accurate, and timely notice of court proceedings of the accused.
- (2) The right, upon request, to be present at court proceedings of the accused.
- (3) The right to be reasonably heard at court proceedings involving a plea that disposes of the case or the conviction, sentencing, or release of the accused.
- (4) The right to receive restitution in a reasonably timely manner, when ordered by the court.
- (5) The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
- (6) The right, upon request, to receive information about the conviction or final disposition and sentence of the accused.
- (7) The right, upon request, to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.
- (8) The right to present the victim's views and concerns in writing to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
- (9) The right to reasonably confer with the district attorney's office.

(c) This Article does not create a claim for damages against the State, any county or municipality, or any State or county agencies, instrumentalities, officers, or employees."

SECTION 4. G.S. 15A-831 reads as rewritten:

"§ 15A-831. Responsibilities of law enforcement agency.

(a) As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with at least the following information: information in writing, on a form created by the Conference of District Attorneys:

- (1) The availability of medical services, if needed.
- (2) The availability of crime victims' compensation funds under Chapter 15B of the General Statutes and the address and telephone number of the agency responsible for dispensing the funds.
- (3) The address and telephone number of the district attorney's office that will be responsible for prosecuting the victim's case.
- (4) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency.
- (5) Information about an accused's opportunity for pretrial release.
- (6) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact to find out whether the accused has been released from custody.
- (7) The informational sheet described in G.S. 50B-3(c1), if there was a personal relationship, as defined in G.S. 50B-1(b), with the accused.
- (8) A list of each right enumerated under G.S. 15A-830.5(b).
- (9) Information about any other rights afforded to victims by law.

(b) ~~As soon as practicable but within~~ Within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting law enforcement agency shall inform the investigating law enforcement agency of the arrest. ~~As soon as practicable but within~~

~~72 hours of being notified of the arrest.~~ Following receipt of this information, the investigating law enforcement agency shall notify the victim of the ~~arrest.~~ arrest within an additional 72 hours.

(c) ~~As soon as practicable but within~~ Within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall also forward to the district attorney's office that will be responsible for prosecuting the case the defendant's name and the victim's name, address, ~~date of birth, social security number, race, sex,~~ and telephone ~~number,~~ number or other contact information, unless the victim refuses to disclose any or all of the information, in which case, the investigating law enforcement agency shall so inform the district attorney's office.

(d) Upon receiving the information in subsection (a) of this section, the victim shall, on a form created by the Conference of District Attorneys and provided by the investigating law enforcement agency, indicate whether the victim wishes to receive any further notices from the investigating law enforcement agency on the status of the accused during the pretrial process. If the victim elects to receive further notices during the pretrial process, the victim shall return the form to the investigating law enforcement agency within 10 business days of receipt of the form. The victim shall be responsible for notifying the investigating law enforcement agency of any changes in the victim's name, address, and telephone number.

(e) Upon receiving a form from the victim pursuant to subsection (d) of this section, the investigating law enforcement agency shall promptly share the form with the district attorney's office to facilitate compliance with the victim's preferences on notification."

SECTION 5. G.S. 15A-832 reads as rewritten:

"§ 15A-832. Responsibilities of the district attorney's office.

(a) Within 21 days after the arrest of the accused, but not less than 24 hours before the accused's first scheduled probable-cause hearing, the district attorney's office shall provide to the victim a pamphlet or other written material that explains in a clear and concise manner the following:

- (1) The victim's rights under this Article, including the right to reasonably confer with the ~~attorney prosecuting the case~~ district attorney's office about the disposition of the case and the right to provide a victim impact statement.
- (2) The responsibilities of the district attorney's office under this Article.
- (3) The victim's eligibility for compensation under the Crime Victims Compensation Act and the deadlines by which the victim must file a claim for compensation.
- (4) The steps generally taken by the district attorney's office when prosecuting a ~~felony case.~~ crime.
- (5) Suggestions on what the victim should do if threatened or intimidated by the accused or someone acting on the accused's behalf.
- (6) The name and telephone number of a victim and witness assistant in the district attorney's office whom the victim may contact for further information.

(b) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the district attorney's office, indicate whether the victim wishes to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused. If the victim elects to receive notices, the victim shall be responsible for notifying the district attorney's office or any other department or agency that has a responsibility under this Article of any changes in the victim's address and telephone ~~number.~~ number or other contact information. The victim may alter the request for notification at any time by notifying the district attorney's office and completing the form provided by the district attorney's office.

(c) The district attorney's office shall notify a victim of the date, time, and place of all ~~trial-court~~ proceedings of the type that the victim has elected to receive notice. All notices required to be given by the district attorney's office shall be reasonable, accurate, and timely. The notices shall be given in a manner that is reasonably calculated to be received by the victim prior

to the date of the court proceeding. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The notifications required by this section shall be documented by the district attorney's office.

(d) Whenever practical, the district attorney's office shall provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family.

~~(e) When the victim is to be called as a witness in a court proceeding, the court shall make every effort to permit the fullest attendance possible by the victim in the proceedings. This subsection shall not be construed to interfere with the defendant's right to a fair trial.~~

~~(f) Prior to the disposition of the case, the~~ The district attorney's office shall offer the victim the opportunity to ~~consult~~ reasonably confer with the prosecuting attorney ~~an attorney from the district attorney's office~~ to obtain the views of the victim about the disposition of the case, including the victim's views about, at a minimum, dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.

(g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy of a form containing the identifying information set forth in G.S. 15A-831(c) about any victim's electing to receive further notices under this Article. The clerk of superior court shall include the form with the final judgment and commitment, or judgment suspending sentence, transmitted to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or other agency receiving custody of the defendant and shall be maintained by the custodial agency as a confidential file.

(h) When a person is a victim of a human trafficking offense and is entitled to benefits and services pursuant to G.S. 14-43.11(d), the district attorney's office shall so notify the Office of the Attorney General and Legal Aid of North Carolina, Inc., in addition to providing services under this Article.

(i) The district attorney's office shall make every effort to ensure that a victim's personal information is not disclosed unless otherwise required by law. The district attorney's office shall inform the victim that personal information such as the victim's telephone number, home address, and bank account number are not relevant in every case and that the victim may request the district attorney to object to that line of questioning when appropriate.

(j) The responsibilities of the district attorney's office extend to a victim of an act of delinquency if the juvenile's case is transferred to criminal court."

SECTION 6. G.S. 15A-832.1 reads as rewritten:

"§ 15A-832.1. Responsibilities of judicial officials issuing arrest warrants.officials.

(a) In issuing a ~~warrant for the arrest of an offender pleading as provided in G.S. 15A-921,~~ for any ~~of the misdemeanor offenses set forth in G.S. 15A-830(a)(7)g.,~~ offense against the person based on testimony or evidence from a complaining witness rather than from a law enforcement officer, a judicial official shall record the defendant's name and the victim's name, address, and telephone number electronically or on a form separate from the ~~warrant pleading~~ and developed by the Administrative Office of the Courts for the purpose of recording that information, unless the victim refuses to disclose any or all of the information, in which case the judicial official shall so indicate.

(b) A judicial official issuing a ~~warrant for the arrest of an offender pleading~~ for any ~~of the misdemeanor offenses set forth in G.S. 15A-830(a)(7)g.,~~ offense against the person based on testimony or evidence from a complaining witness rather than from a law enforcement officer shall deliver the court's copy of the warrant and the victim-identifying information to the office of the clerk of superior court by the close of the next business day. ~~As soon as practicable, but within~~ Within 72 hours, the office of the clerk of superior court shall forward to the district attorney's office the victim-identifying information set forth in subsection (a) of this section.

(c) The judge, in any court proceeding subject to this Article, shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the

court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) A judge notified by the clerk of court that a victim has filed a motion alleging a violation of the rights provided in this Article shall review the motion. The judge involved in the criminal proceeding that gave rise to the rights in question may, on the judge's own motion, recuse himself or herself if justice requires it and report the recusal to the Administrative Office of the Courts. The judge, or a judge appointed by the Administrative Office of the Courts in the event of recusal, shall dispose of the motion or set the motion for hearing as required by G.S. 15A-834.5.

(e) The court shall make every effort to provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family."

SECTION 7. Article 46 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-834.5. Enforcement of the rights of a victim.

(a) A victim may assert the rights provided in this Article pursuant to Section 37 of Article I of the North Carolina Constitution. In no event shall any underlying proceeding be subject to undue delay for the enforcement provided in this section. The procedure by which a victim may assert the rights provided under this Article shall be by motion to the court of jurisdiction. For the purposes of this section, the term "victim" includes the following individuals acting on behalf of the victim:

- (1) The victim's attorney.
- (2) The prosecutor, at the request of the victim.
- (3) A parent, guardian, or legal custodian, if the victim is a minor or is legally incapacitated, as provided in G.S. 15A-830.
- (4) A family member, if the victim is deceased, as provided in G.S. 15A-830.

(b) A victim may allege a violation of the rights provided in this Article by filing a motion with the office of the clerk of superior court. The motion must be filed within the same criminal proceeding giving rise to the rights in question.

(c) If the motion involves an allegation that the district attorney failed to comply with the rights of a victim provided by this Article, the victim must first file a written complaint with the district attorney's office, to afford the district attorney's office an opportunity to resolve the issue stated in the written complaint in a timely manner.

(c1) If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim provided by this Article, the victim must first file a written complaint with that agency, to afford the agency an opportunity to resolve the issue stated in the written complaint in a timely manner.

(d) A victim has the right to consult with an attorney regarding an alleged violation of the rights provided in this Article, but the victim does not have the right to counsel provided by the State.

(e) The Administrative Office of the Courts shall create a form to serve as the motion and enable a victim to allege a violation of the rights provided in this Article. The form will indicate what specific right has allegedly been violated. The form will also provide the victim the opportunity to describe the substance of the alleged violation in detail. If the motion involves an allegation that the district attorney failed to comply with the rights of a victim provided in this Article, the victim must attach a copy of the written complaint that was previously filed with the district attorney as required by subsection (c) of this section. If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim provided in this Article, the victim must attach a copy of the written complaint that was previously filed with that law enforcement agency as required by subsection (c1) of this section.

(f) The clerk of superior court of each county shall provide the form created by the Administrative Office of the Courts to enable a victim to allege a violation of the rights provided in this Article. No fees shall be assessed for the filing of this motion. A copy of the motion required in subsection (b) of this section shall be given to the prosecutor if other than the elected District Attorney, the elected District Attorney, and the judge involved in the criminal proceeding that gave rise to the rights in question. If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim provided by this Article, a copy of the motion required in subsection (b) of this section shall also be provided to the head of the law enforcement agency referenced in the motion.

(g) The judge shall review the motion and dispose of it or set it for hearing in a timely manner. Review may include conferring with the victim, the prosecutor if other than the District Attorney, and the District Attorney in order to inquire as to compliance with this Article. If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim provided by this Article, the judge may confer with the head of that law enforcement agency as part of the review. At the conclusion of the review, the judge shall dispose of the motion or set the motion for hearing.

(h) If the judge fails to review the motion and dispose of it or set it for hearing in a timely manner, a victim may petition the North Carolina Court of Appeals for a writ of mandamus. The petition shall be filed without unreasonable delay. The court for good cause shown may shorten the time for filing a response.

(i) The failure or inability of any person to provide a right or service under this Article, including a service provided through the Statewide Automated Victim Assistance and Notification System established by the Governor's Crime Commission, may not be used by a defendant in a criminal case, by an inmate, by any other accused, or by any victim or any family member of a victim, as a ground for relief in any criminal or civil proceeding, except as provided in Section 37 of Article I of the North Carolina Constitution."

SECTION 7.5. G.S. 15A-835 reads as rewritten:

"§ 15A-835. Posttrial responsibilities.

(a) Within 30 days after the final ~~trial~~-court proceeding in the case, the district attorney's office shall notify the victim, in writing, of:

- (1) The final disposition of the case.
- (2) The crimes of which the defendant was convicted.
- (3) The defendant's right to appeal, if any.
- (4) The telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

(b) Upon a defendant's giving notice of appeal to the Court of Appeals or the Supreme Court, the district attorney's office shall forward to the Attorney General's office the defendant's name and the victim's name, address, and telephone number. Upon receipt of this information, and thereafter as the circumstances require, the Attorney General's office shall provide the victim with the following:

- (1) A clear and concise explanation of how the appellate process works, including information about possible actions that may be taken by the appellate court.
- (2) Notice of the date, time, and place of any appellate proceedings involving the defendant. Notice shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the proceedings.
- (3) The final disposition of an appeal.

(b1) Although the victim does not have a right to be heard, the victim is permitted to be present at any appellate proceeding that is an open hearing.

(c) If the defendant has been released on bail pending the outcome of the appeal, the agency that has custody of the defendant shall notify the investigating law enforcement agency

as soon as practicable, and within 72 hours of receipt of the notification the investigating law enforcement agency shall notify the victim that the defendant has been released.

(d) If the defendant's conviction is overturned, and the district attorney's office decides to retry the case or the case is remanded to superior court for a new trial, the victim shall be entitled to the same rights under this Article as if the first trial did not take place.

(e) Repealed by Session Laws 2001-302, s. 1."

SECTION 8. G.S. 15A-836 reads as rewritten:

"§ 15A-836. Responsibilities of agency with custody of defendant.

(a) When a form is included with the final judgment and commitment pursuant to G.S. 15A-832(g), or when the victim has otherwise filed a written request for notification with the custodial agency, the custodial agency shall notify the victim of:

- (1) The projected date by which the defendant can be released from custody. The calculation of the release date shall be as exact as possible, including earned time and disciplinary credits if the sentence of imprisonment exceeds 90 days.
- (2) An inmate's assignment to a minimum custody unit and the address of the unit. This notification shall include notice that the inmate's minimum custody status may lead to the inmate's participation in one or more community-based programs such as work release or supervised leaves in the community.
- (3) The victim's right to submit any concerns to the agency with custody and the procedure for submitting such concerns.
- (4) The defendant's escape from custody, within 72 hours, except that if a victim has notified the agency in writing that the defendant has issued a specific threat against the victim, the agency shall notify the victim as soon as possible and within 24 hours at the latest.
- (5) The defendant's capture, within 24 hours.
- (6) The date the defendant is scheduled to be released from the facility. Whenever practical, notice shall be given 60 days before release. In no event shall notice be given less than seven days before release.
- (7) The defendant's death.
- (8) The procedure for alleging a failure of the custodial agency to notify the victim as required by this section.

(b) Notifications required in this section shall be provided within 60 days of the date the custodial agency takes custody of the defendant or within 60 days of the event requiring notification, or as otherwise specified in subsection (a) of this section."

SECTION 9. G.S. 15A-840 and G.S. 15A-841 are repealed.

PART II. VICTIMS OF DELINQUENT ACTS

SECTION 10. Subchapter II of Chapter 7B of the General Statutes is amended by adding a new Article to read:

"Article 20A.

"Rights of Victims of Delinquent Acts.

"§ 7B-2051. Definitions.

(a) The following definitions apply in this Article:

- (1) Court proceeding. – Any open hearing authorized or required by this Subchapter and any closed hearing or portion of a closed hearing in which the victim, in accordance with G.S. 7B-2402, is permitted to be present. The term shall not include the first appearance described in G.S. 7B-1808 if the juvenile is in secure or nonsecure custody. If it is known by the juvenile court counselor and the district attorney's office that (i) the juvenile and the victim have a personal relationship as defined in G.S. 50B-1(b) and (ii) the hearing may

result in the juvenile's release from custody, efforts will be made to contact the victim.

- (2) Family member. – A spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim. The term does not include the accused.
- (3) Felony property offense. – An offense that, if committed by an adult, would constitute a felony violation of one of the following:
 - a. Subchapter IV of Chapter 14 of the General Statutes.
 - b. Subchapter V of Chapter 14 of the General Statutes.
- (4) Offense against the person. – An offense against or involving the person of the victim that, if committed by an adult, would constitute a violation of one of the following:
 - a. Subchapter III of Chapter 14 of the General Statutes.
 - b. Subchapter VII of Chapter 14 of the General Statutes.
 - c. Article 39 of Chapter 14 of the General Statutes.
 - d. Chapter 20 of the General Statutes, if an element of the act of delinquency involves impairment of the defendant, or injury or death to the victim.
 - e. A valid protective order under G.S. 50B-4.1, including, but not limited to, G.S. 14-134.3 and G.S. 14-269.8.
 - f. Article 35 of Chapter 14 of the General Statutes, if the elements of the act of delinquency involve communicating a threat or stalking.
 - g. An offense that triggers the enumerated victims' rights, as required by the North Carolina Constitution.
- (5) Victim. – A person against whom there is probable cause to believe a juvenile has committed an offense against the person or a felony property offense.

(b) If the victim is a minor or is legally incapacitated, a parent, guardian, or legal custodian may assert the victim's rights under this Article. The accused may not assert the victim's right. If the victim is deceased, then a family member, in the order set forth in the definition contained in this section, may assert the victim's rights under this Article, with the following limitations:

- (1) The guardian or legal custodian of a deceased minor has priority over a family member.
- (2) The right contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's estate.

(c) An individual entitled to exercise the victim's rights as the appropriate family member in accordance with this section may designate any family member to act on behalf of the victim.

(d) An individual who, in the determination of the district attorney's office, would not act in the best interests of the victim shall not be entitled to assert or exercise the victim's rights. An individual may petition the court to review this determination by the district attorney's office.

"§ 7B-2052. Victim's rights.

(a) A victim of a juvenile offense shall be treated with dignity and respect by the juvenile justice system.

(b) A victim has the following rights:

- (1) The right, upon request, to reasonable, accurate, and timely notice of court proceedings of the juvenile.
- (2) The right, upon request, to be present at court proceedings of the juvenile.
- (3) The right to be reasonably heard at court proceedings involving the adjudication, disposition, or release of the juvenile.
- (4) The right to receive restitution in a reasonably timely manner, when ordered by the court.

- (5) The right to be given information about the offense, how the juvenile justice system works, the rights of victims, and the availability of services for victims.
- (6) The right, upon request, to receive information about the adjudication of the juvenile or disposition of the case.
- (7) The right, upon request, to receive notification of the escape or release of the juvenile.
- (8) The right to reasonably confer with the district attorney's office.

(c) This Article does not create a claim for damages against the State, any county or municipality, or any State or county agencies, instrumentalities, officers, or employees.

"§ 7B-2053. Responsibilities of the district attorney's office.

(a) Within 72 hours of the filing of a petition, the district attorney's office shall provide the victim with the following information:

- (1) The victim's rights under this Article, including the right to reasonably confer with the district attorney's office.
- (2) The responsibilities of the district attorney's office under this Article.
- (3) The steps generally taken by the district attorney's office in cases involving juvenile offenses.
- (4) Suggestions on what the victim should do if threatened or intimidated by the juvenile or someone acting on the juvenile's behalf.
- (5) The name and telephone number of a victim and witness assistant in the district attorney's office whom the victim may contact for further information.
- (6) A list of each right enumerated under G.S. 7B-2052(b).
- (7) Information about any other rights afforded to victims by law.

(b) On a form provided by the district attorney's office for this purpose, the victim shall indicate whether the victim requests to receive notices of some, all, or none of the court proceedings included under this Article. The form shall also indicate whether the victim wishes to receive information about the adjudication and disposition of the case. If the victim elects to receive notices or information by requesting it on the form provided, the victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The victim may alter the request for notification or information at any time by notifying the district attorney's office and completing the form provided by the district attorney's office.

(b1) The district attorney's office shall make every effort to ensure that a victim's personal information is not disclosed unless otherwise required by law. The district attorney's office shall inform the victim that personal information such as the victim's telephone number, home address, and bank account number are not relevant in every case, and that the victim may request the district attorney to object to that line of questioning when appropriate.

(c) The district attorney's office shall offer the victim the opportunity to reasonably confer with an attorney in the district attorney's office to obtain the views of the victim about, at a minimum, dismissal, plea or negotiations, disposition, and any dispositional alternatives.

(d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, the district attorney's office shall notify the victim of the date, time, and place of court proceedings as requested by the victim under subsection (b) of this section. All notices required to be given by the district attorney's office shall be reasonable, accurate, and timely and shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the court proceeding. The district attorney's office shall consider all hearings open, pursuant to G.S. 7B-2402, for the purpose of providing notice to the victim. The district attorney shall inform the victim if the entire hearing has been closed to the victim by the court. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The notifications required by this section shall be documented by the district attorney's office.

(e) Whenever practical, the district attorney's office shall provide a secure waiting area during court proceedings that does not place the victim in close proximity to the juvenile or the juvenile's family.

(f) Prior to the dispositional hearing, the district attorney's office shall notify the victim that the victim may request in writing to be notified (i) in advance of the juvenile's scheduled release date, if the juvenile is committed to the Division for placement in a youth development center or (ii) in the event that the juvenile escapes, if the juvenile is being held in secure custody or is committed to the Division for placement in a youth development center.

(g) At the dispositional hearing, the prosecutor shall submit to the court a form containing the victim's request for further notices under subsection (f) of this section and any necessary identifying information about the victim, if applicable. The chief court counselor shall include the form with the final disposition and commitment transmitted to the Division, and the form shall be maintained by the Division as a confidential file. The victim shall be responsible for notifying the Division of any changes in the victim's address and telephone number.

(h) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, following the completion of the dispositional hearing, the district attorney's office shall provide the victim with information about the adjudication and disposition of the juvenile as requested by the victim pursuant to G.S. 7B-2053(b). The information provided shall be limited to (i) whether or not the juvenile was adjudicated delinquent, and if so, the offense classification, the dispositions available to the court as provided in G.S. 7B-2508, and (ii) no-contact orders as they relate to the victim, and (iii) any order for restitution.

"§ 7B-2054. Responsibilities of judicial officials.

(a) In any court proceeding subject to this Article in which the victim may be present, the court shall inquire as to whether a victim is present and wishes to be heard and, if so, shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(b) In the event that an entire hearing has been closed to the victim by the court, the victim shall have the opportunity to be heard by the court regarding the right to be present, if the court has not previously provided this opportunity to the victim.

(c) A judge notified by the clerk of court that a victim has filed a motion alleging a violation of the rights provided in this Article shall review the motion. The judge involved in the proceeding that gave rise to the rights in question may, on the judge's own motion, recuse himself or herself if justice requires it, and report the recusal to the Administrative Office of the Courts. The judge, or a judge appointed by the Administrative Office of the Courts in the event of recusal, shall dispose of the motion or set the motion for hearing as required by G.S. 7B-2058.

(d) The court shall make every effort to provide a secure waiting area during court proceedings that does not place the victim in close proximity to the juvenile or the juvenile's family.

"§ 7B-2055. Responsibilities of the Division of Adult Correction and Juvenile Justice.

(a) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, if a victim has requested to be notified of the juvenile's release pursuant to G.S. 7B-2053, at least 45 days before releasing to post-release supervision a juvenile who was committed to the Division for placement in a youth development center, the Division shall notify the victim as requested. The notification shall include only the juvenile's initials, offense, date of commitment, projected release date, and any no-contact release conditions related to the victim.

(b) When determining whether a juvenile is ready for release pursuant to G.S. 7B-2514, the Division shall provide the victim an opportunity to be reasonably heard by the Division and shall consider the victim's views regarding release of the juvenile. If the Division determines that the juvenile is ready for release, the victim's views shall be considered during the post-release supervision planning conference process.

(c) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, if a victim has requested in writing to be notified of the juvenile's escape pursuant to G.S. 7B-2053, within 24 hours of the time the juvenile escapes from a youth development center or from secure custody, the Division shall notify the victim. If, pursuant to G.S. 7B-3102, disclosure of information about the escaped juvenile will be released to the public, the Division may provide to the victim the same information that will be released to the public, but the Division shall make a reasonable effort to notify the victim prior to releasing the information to the public. The Division shall notify the victim within 24 hours of the juvenile's return to custody, even if the juvenile is returned to custody before the notification of escape is required.

(d) When a form is included with the final disposition and commitment pursuant to G.S. 7B-2053(g), or when the victim has otherwise filed a written request for notification with the Division, the Division shall notify the victim of the procedure for alleging a failure of the Division to notify the victim as required by this section.

"§ 7B-2056. Right to restitution.

A victim has the right to receive restitution when ordered by the court pursuant to G.S. 7B-2506(4) and G.S. 7B-2506(22).

"§ 7B-2057. Confidentiality of a juvenile record.

No rights under this Article provide grounds for a victim to examine or obtain confidential juvenile records. In providing notice or information to any victim, no agency, department, or official shall permit a victim to examine or obtain copies of any part of the juvenile record. Except as provided in G.S. 7B-2055(c), any agency, department, or official that provides a victim written notice or information under this Article shall not identify the juvenile by name in the notice or information, but shall identify the juvenile by the juvenile's first and last initials only. This Article shall not be construed to require or permit disclosing to any victim any information contained in juvenile records except as specifically provided.

"§ 7B-2058. Enforcement of rights.

(a) A victim may assert the rights provided in this Article pursuant to Section 37 of Article I of the North Carolina Constitution. In no event shall any underlying proceeding be subject to undue delay for the enforcement provided in this section. The procedure by which a victim may assert the rights provided under this Article shall be by motion to the court of jurisdiction. For the purposes of this section, the term "victim" includes the following individuals acting on behalf of the victim:

- (1) The victim's attorney.
- (2) The prosecutor, at the request of the victim.
- (3) A parent, guardian, or legal custodian, if the victim is a minor or is legally incapacitated, as provided in G.S. 7B-2051.
- (4) A family member, if the victim is deceased, as provided in G.S. 7B-2051.

(b) A victim may allege a violation of the rights provided in this Article by filing a motion with the office of the clerk of superior court. The motion must be filed within the same proceeding giving rise to the rights in question.

(c) If the motion involves an allegation that the district attorney failed to comply with the rights of a victim provided by this Article, the victim must first file a written complaint with the district attorney, to afford the district attorney an opportunity to resolve the issue stated in the written complaint in a timely manner.

(d) A victim has the right to consult with an attorney regarding an alleged violation of the rights provided in this Article, but the victim does not have the right to counsel provided by the State.

(e) The Administrative Office of the Courts shall create a form to serve as the motion to enable a victim to allege a violation of the rights provided in this Article. The form will indicate what specific right has allegedly been violated. The form will also provide the victim the opportunity to describe the substance of the alleged violation in detail. If the motion involves an

allegation that the district attorney failed to comply with the rights of a victim provided in this Article, the victim must attach a copy of the written complaint previously filed with the district attorney as required by subsection (c) of the section.

(f) The clerk of superior court of each county shall provide the form necessary to enable a victim to allege a violation of the rights provided in this Article. No fees shall be assessed for the filing of this motion. A copy of the motion required in subsection (b) of this section shall be given to the prosecutor if other than the elected District Attorney, the elected District Attorney, and the judge involved in the criminal proceeding that gave rise to the rights in question.

(g) The judge shall review the motion and dispose of it or set it for hearing in a timely manner. Review may include conferring with the victim, the prosecutor if other than the District Attorney, and the District Attorney, in order to inquire as to compliance with this Article. At the conclusion of the review, the judge shall dispose of the motion or set the motion for hearing.

(h) If the judge fails to review the motion and dispose of it or set it for a hearing in a timely manner, a victim may petition the North Carolina Court of Appeals for a writ of mandamus. The petition shall be filed without unreasonable delay. The court for good cause shown may shorten the time for filing a response.

(i) The failure or inability of any person to provide a right or service under this Article, including a service provided through the Statewide Automated Victim Assistance and Notification System established by the Governor's Crime Commission, may not be used by a juvenile, by any other accused, or by any victim or family member of a victim, as a ground for relief in any criminal, juvenile, or other civil proceeding, except as provided in Section 37 of Article I of the North Carolina Constitution."

SECTION 11. G.S. 7B-2514(d) reads as rewritten:

"(d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, and in addition to any notice to the victim required pursuant to G.S. 7B-2055, at least 45 days before releasing to post-release supervision a juvenile who was committed for a Class A or B1 felony, the Division shall ~~notify, notify~~ by first-class mail at the last known ~~address; address~~ all of the following:

- (1) The ~~juvenile; juvenile.~~
- (2) The juvenile's parent, guardian, or ~~eustodian; custodian.~~
- (3) The district attorney of the district where the juvenile was ~~adjudicated; adjudicated.~~
- (4) The head of the enforcement agency that took the juvenile into ~~eustody; and custody.~~
- (5) ~~The victim and any of the victim's immediate family members who have requested in writing to be notified.~~

The notification shall include only the juvenile's name, offense, date of commitment, and date proposed for release. A copy of the notice shall be sent to the appropriate clerk of superior court for placement in the juvenile's court file."

SECTION 12. G.S. 7B-3000(b) reads as rewritten:

"(b) All juvenile records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. Except as provided in subsection (c) of this section, the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

- (1) The juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Court counselors; and
- (5) Probation officers in the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, as provided in subsection (e1) of this section and in G.S. 15A-1341(e).

Except as provided in subsection (c) of this section, the prosecutor may, in the prosecutor's discretion, share information obtained from a juvenile's record with magistrates and law enforcement officers sworn in this State, but may not allow a magistrate or law enforcement officer to photocopy any part of the record. A prosecutor shall share information with a victim only as provided in Article 20A of this Chapter and shall not allow a victim to examine or photocopy any part of the record."

SECTION 13. G.S. 7B-3100(b) reads as rewritten:

"(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents and except as provided in Article 20A of this Chapter and G.S. 7B-3102."

SECTION 14. G.S. 7B-3102(e) reads as rewritten:

"(e) Before information is released to the public under this section, the Division shall make a reasonable effort to notify a parent, legal guardian, or custodian of the ~~juvenile~~-juvenile, and shall also make a reasonable effort to provide notification to the victim in accordance with G.S. 7B-2055."

SECTION 15. G.S. 7B-2513(j) is repealed.

PART III. DIRECTION TO STATE AGENCIES, APPLICABILITY, AND EFFECTIVE DATE

SECTION 16. No later than August 31, 2019, the Conference of District Attorneys and the Administrative Office of the Courts shall develop and disseminate the forms required by this act.

SECTION 16.5. The Administrative Office of the Courts shall, in consultation with the Conference of District Attorneys, develop procedures to automate the court date notifications required by this act.

SECTION 17. Part III of this act is effective when this act becomes law. The remainder of this act becomes effective August 31, 2019, and applies to offenses and acts of delinquency committed on or after that date.

In the General Assembly read three times and ratified this the 29th day of August, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2019