

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 682
Judiciary Committee Substitute Adopted 7/2/19

Short Title: Implement Crime Victim Rights Amendment.

(Public)

Sponsors:

Referred to:

June 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE CONSTITUTIONAL AMENDMENT TO PROVIDE
3 BETTER PROTECTIONS AND SAFEGUARDS TO VICTIMS OF CRIME.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. VICTIMS OF CRIME**

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

8 **"§ 15A-824. Definitions.**

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

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

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

28 **"§ 15A-825. Treatment due victims and witnesses.**

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

- 33 (1) Is provided information regarding immediate medical assistance when needed
34 and is not detained for an unreasonable length of time before having such
35 assistance administered.



- 1 (2) Is provided information about available protection from harm and threats of
2 harm arising out of cooperation with ~~law enforcement~~ law enforcement and
3 prosecution efforts, and receives such protection.
- 4 (2a) Is provided information that testimony as to one's home address is not relevant
5 in every case, and that the victim or witness may request the district attorney
6 to ~~raise an objection should he/she deem it appropriate to this line of~~
7 ~~questioning in the case at hand.~~ object to that line of questioning when
8 appropriate.
- 9 (3) Has any stolen or other personal property expeditiously returned by
10 ~~law enforcement~~ law enforcement agencies when it is no longer needed as
11 evidence, and ~~its~~ the property's return would not impede an investigation or
12 prosecution of the case. When feasible, all such property, except weapons,
13 currency, contraband, property subject to evidentiary analysis, and property
14 whose ownership is disputed, should be photographed and returned to the
15 owner within a reasonable period of time of being recovered by
16 ~~law enforcement~~ law enforcement officials.
- 17 (4) Is provided appropriate employer intercession services to seek the employer's
18 cooperation with the criminal justice system and minimize the employee's loss
19 of pay and other benefits resulting from such cooperation whenever possible.
- 20 (5) Is provided, whenever practical, a secure waiting area during court
21 proceedings that does not place the victim or witness in close proximity to
22 ~~defendants and families or friends of defendants.~~ any defendant or the family
23 of any defendant.
- 24 (6) Is informed of the procedures to be followed to apply for and receive any
25 appropriate witness fees or victim compensation.
- 26 (6a) Is informed of the right to be present throughout the entire trial of the
27 defendant, subject to the right of the court to sequester witnesses.
- 28 (7) Is given the opportunity to be present during the final disposition of the case
29 or is informed of the final disposition of the case, if ~~he~~ the victim or witness
30 has requested to be present or be informed.
- 31 (8) Is notified, whenever possible, that a court proceeding to which ~~he~~ the victim
32 or witness has been subpoenaed will not occur as scheduled.
- 33 (9) Has a victim impact statement prepared for consideration by the court.
- 34 (9a) Prior to trial, is provided information about plea bargaining procedures and is
35 told that the district attorney may recommend a plea bargain to the court.
- 36 (10) Is informed that civil remedies may be available and that statutes of limitation
37 apply in civil cases.
- 38 (11) Upon the victim's written request, is notified before a proceeding is held at
39 which the release of the offender from custody is considered, if the crime for
40 which the offender was placed in custody is a Class G or more serious felony.
- 41 (12) Upon the victim's written request, is notified if the offender escapes from
42 custody or is released from custody, if the crime for which the offender was
43 placed in custody is a Class G or more serious felony.
- 44 (13) ~~Has family members of a homicide victim offered all the guarantees in this~~
45 ~~section, except those in subdivision (1).~~
- 46 (b) Nothing in this section shall be construed to create a cause of action for failure to
47 comply with its requirements."

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

49 **"§ 15A-830. Definitions.**

- 50 (a) The following definitions apply in this Article:

- 1 (1) Accused. – A person who has been arrested and charged with committing a
2 crime covered by this Article.
- 3 (2) Arresting law enforcement agency. – The law enforcement agency that makes
4 the arrest of an accused.
- 5 (2a) Court proceeding. – A critical stage of the post-arrest process heard by a judge
6 in open court involving the plea, conviction, sentencing, or release of the
7 accused, including appellate hearings and the hearings described in
8 G.S. 15A-837, but not including the preliminary proceedings described in
9 Article 29 of Chapter 15A of the General Statutes.
- 10 (3) Custodial agency. – The agency that has legal custody of an accused or
11 defendant arising from a charge or conviction of a crime covered by this
12 Article including, but not limited to, local jails or detention facilities, regional
13 jails or detention facilities, facilities designated under G.S. 122C-252 for the
14 custody and treatment of involuntary clients, or the Division of Adult
15 Correction and Juvenile Justice of the Department of Public Safety.
- 16 (3a) Family member. – A spouse, child, parent, sibling, or grandparent of the
17 victim. The term does not include the accused, unless the charges are
18 dismissed or the person is found not guilty.
- 19 (3b) Felony property crime. – An act which constitutes a felony violation of one of
20 the following:
21 a. Subchapter IV of Chapter 14 of the General Statutes.
22 b. Subchapter V of Chapter 14 of the General Statutes.
- 23 (4) Investigating law enforcement agency. – The law enforcement agency with
24 primary responsibility for investigating the crime committed against the
25 victim.
- 26 (5) Law enforcement agency. – An arresting law enforcement agency, a custodial
27 agency, or an investigating law enforcement agency.
- 28 ~~(6) Next of kin. – The victim's spouse, children, parents, siblings, or grandparents.~~
29 ~~The term does not include the accused unless the charges are dismissed or the~~
30 ~~person is found not guilty.~~
- 31 (6a) Offense against the person. – An offense against or involving the person of
32 the victim which constitutes a violation of one of the following:
33 a. Subchapter III of Chapter 14 of the General Statutes.
34 b. Subchapter VII of Chapter 14 of the General Statutes.
35 c. Article 39 of Chapter 14 of the General Statutes.
36 d. Chapter 20 of the General Statutes, if the offense involves impairment
37 of the defendant, or injury or death to the victim.
38 e. A valid protective order under G.S. 50B-4.1.
39 f. Article 35 of Chapter 14 of the General Statutes, if the offense involves
40 communicating a threat or stalking.
- 41 (7) Victim. – A person against whom there is probable cause to believe ~~one of the~~
42 ~~following crimes was committed:~~
43 a. ~~A Class A, B1, B2, C, D, or E felony.~~
44 b. ~~A Class F felony if it is a violation of one of the following:~~
45 ~~G.S. 14-16.6(b); 14-16.6(e); 14-18; 14-32.1(e); 14-32.2(b)(3);~~
46 ~~14-32.3(a); 14-32.4; 14-34.2; 14-34.6(e); 14-41; 14-43.3; 14-43.11;~~
47 ~~14-202.1; 14-277.3A; 14-288.9; 20-138.5; former G.S. 14-190.19; or~~
48 ~~former G.S. 14-277.3.~~
49 e. ~~A Class G felony if it is a violation of one of the following:~~
50 ~~G.S. 14-32.3(b); 14-51; 14-58; or 14-87.1.~~

- 1 d. ~~A Class H felony if it is a violation of one of the following:~~
 2 ~~G.S. 14-32.3(a); 14-33.2; 14-34.6(b); 14-190.17A; 14-277.3A; former~~
 3 ~~G.S. 14-32.3(e); or former G.S. 14-277.3.~~
- 4 e. ~~A Class I felony if it is a violation of G.S. 14-32.3(b).~~
- 5 f. ~~An attempt of any of the felonies listed in this subdivision if the~~
 6 ~~attempted felony is punishable as a felony.~~
- 7 g. ~~Any of the following misdemeanor offenses when the offense is~~
 8 ~~committed between persons who have a personal relationship as~~
 9 ~~defined in G.S. 50B-1(b): G.S. 14-33(e)(1); 14-33(e)(2); 14-33(a);~~
 10 ~~14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.~~
- 11 h. ~~Any violation of a valid protective order under G.S. 50B-4.1; an~~
 12 ~~offense against the person or a felony property crime has been~~
 13 ~~committed.~~

14 (b) ~~If the victim is deceased, then the next of kin, in the order set forth in the definition~~
 15 ~~contained in this section, is entitled to the victim's rights under this Article. However, the right~~
 16 ~~contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's~~
 17 ~~estate. If the victim is a minor or is legally incapacitated, a parent, guardian, or legal custodian~~
 18 ~~may assert the victim's rights under this Article. If the victim is deceased, then a family member,~~
 19 ~~in the order set forth in the definition contained in this section, may assert the victim's rights~~
 20 ~~under this Article, with the following limitations:~~

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

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

28 (d) ~~An individual who, in the determination of the court, would not act in the best interests~~
 29 ~~of the victim shall not be entitled to assert or exercise the victim's rights."~~

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

32 "**§ 15A-830.5. Victim's rights.**

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

35 (b) ~~A victim has the following rights:~~

- 36 (1) ~~The right, upon request, to reasonable, accurate, and timely notice of court~~
 37 ~~proceedings of the accused.~~
- 38 (2) ~~The right, upon request, to be present at court proceedings of the accused.~~
- 39 (3) ~~The right to be reasonably heard at court proceedings involving the plea,~~
 40 ~~conviction, sentencing, or release of the accused.~~
- 41 (4) ~~The right to receive restitution in a reasonably timely manner, when ordered~~
 42 ~~by the court.~~
- 43 (5) ~~The right to be given information about the crime, how the criminal justice~~
 44 ~~system works, the rights of victims, and the availability of services for victims.~~
- 45 (6) ~~The right, upon request, to receive information about the conviction or final~~
 46 ~~disposition, and sentence of the accused.~~
- 47 (7) ~~The right, upon request, to receive notification of escape, release, proposed~~
 48 ~~parole or pardon of the accused, or notice of a reprieve or commutation of the~~
 49 ~~accused's sentence.~~

1 (8) The right to present the victim's views and concerns in writing to the Governor
2 or agency considering any action that could result in the release of the accused,
3 prior to such action becoming effective.

4 (9) The right to reasonably confer with the prosecution.

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

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

11 "**§ 15A-831. Responsibilities of law enforcement agency.**

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

16 (1) The availability of medical services, if needed.

17 (2) The availability of crime victims' compensation funds under Chapter 15B of
18 the General Statutes and the address and telephone number of the agency
19 responsible for dispensing the funds.

20 (3) The address and telephone number of the district attorney's office that will be
21 responsible for prosecuting the victim's case.

22 (4) The name and telephone number of an investigating law enforcement agency
23 employee whom the victim may contact if the victim has not been notified of
24 an arrest in the victim's case within six months after the crime was reported to
25 the law enforcement agency.

26 (5) Information about an accused's opportunity for pretrial release.

27 (6) The name and telephone number of an investigating law enforcement agency
28 employee whom the victim may contact to find out whether the accused has
29 been released from custody.

30 (7) The informational sheet described in G.S. 50B-3(c1), if there was a personal
31 relationship, as defined in G.S. 50B-1(b), with the accused.

32 (8) A list of each right enumerated under G.S. 15A-830.5(b).

33 (9) Information about any other rights afforded to victims by law.

34 (b) ~~As soon as practicable but within~~ Within 72 hours after the arrest of a person believed
35 to have committed a crime covered by this Article, the arresting law enforcement agency shall
36 inform the investigating law enforcement agency of the arrest. ~~As soon as practicable but within~~
37 ~~72 hours of being notified of the arrest.~~ Following receipt of this information, the investigating
38 law enforcement agency shall notify the victim of the arrest within an additional 72 hours.

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

46 (d) Upon receiving the information in subsection (a) of this section, the victim shall, on
47 a form provided by the investigating law enforcement agency, indicate whether the victim wishes
48 to receive any further notices from the investigating law enforcement agency on the status of the
49 accused during the pretrial process. If the victim elects to receive further notices during the
50 pretrial process, the victim shall return the form to the investigating law enforcement agency
51 within 10 business days of receipt of the form. The victim shall be responsible for notifying the

1 investigating law enforcement agency of any changes in the victim's name, address, and
2 telephone number.

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

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

7 **"§ 15A-832. Responsibilities of the district attorney's office.**

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

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

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

33 (c) The district attorney's office shall notify a victim of the date, time, and place of all
34 trial court proceedings of the type that the victim has elected to receive notice. All notices
35 required to be given by the district attorney's office shall be accurate and timely. The notices shall
36 be given in a manner that is reasonably calculated to be received by the victim prior to the date
37 of the court proceeding. With the victim's consent, the district attorney's office may provide the
38 required notification electronically or by telephone.

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

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

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

50 (g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy
51 of a form containing the identifying information set forth in G.S. 15A-831(c) about any victim's

1 electing to receive further notices under this Article. The clerk of superior court shall include the
2 form with the final judgment and commitment, or judgment suspending sentence, transmitted to
3 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or other
4 agency receiving custody of the defendant and shall be maintained by the custodial agency as a
5 confidential file.

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

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

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

13 "**§ 15A-832.1. Responsibilities of judicial officials issuing arrest warrants.**

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

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

28 (c) The judge, in any court proceeding subject to this Article, shall inquire as to whether
29 the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the
30 court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably
31 heard may be exercised, at the victim's discretion, through an oral statement, submission of a
32 written statement, or submission of an audio or video statement.

33 (d) A judge notified by the clerk of court that a victim has filed a motion alleging a
34 violation of the rights provided in this Article shall inquire as to compliance with the
35 requirements of this Article and shall timely dispose of the motion or set the motion for hearing.

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

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

41 "**§ 15A-834.5. Enforcement of the rights of a victim.**

42 (a) A victim or a victim's attorney may assert the rights provided in this Article. The
43 following individuals may assert the victim's rights under this Article on behalf of the victim:

44 (1) Upon request of the victim, the prosecutor.

45 (2) If the victim is a minor or is legally incapacitated, a parent, guardian, or legal
46 custodian, as provided in G.S. 15A-830.

47 (3) If the victim is deceased, a family member, as provided in G.S. 15A-830.

48 (b) The procedure by which a victim may assert the rights provided under this Article
49 shall be by motion to the court of jurisdiction within the same criminal proceeding giving rise to
50 the rights. The victim, family member, guardian, or legal custodian has the right to counsel at the
51 hearing but does not have the right to counsel provided by the State.

1 (c) If the matter involves an allegation that the district attorney failed to comply with the
2 rights of a victim when obligated to do so by law, the victim must first file a written complaint
3 with the district attorney to afford the district attorney with jurisdiction over the criminal action
4 an opportunity to resolve the issue stated in the written complaint in a timely manner."

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

6 **"§ 15A-836. Responsibilities of agency with custody of defendant.**

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

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

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

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

34 **PART II. VICTIMS OF DELINQUENT ACTS**

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

37 "Article 20A.

38 "Rights of Victims of Delinquent Acts.

39 **"§ 7B-2051. Definitions.**

40 (a) For the purposes of this Article, the following definitions apply:

- 41 (1) Court proceeding. – Any open hearing authorized or required by this
42 Subchapter and any closed hearing or portion of a closed hearing in which the
43 victim, in accordance with G.S. 7B-2402, is permitted to be present. The term
44 shall not include the first appearance described in G.S. 7B-1808 if the juvenile
45 is in secure or nonsecure custody.
- 46 (2) Family member. – A spouse, child, parent, sibling, or grandparent of the
47 victim. The term does not include the accused unless the charges are dismissed
48 or the person is found not guilty.
- 49 (3) Felony property offense. – An offense that, if committed by an adult, would
50 constitute a felony violation of one of the following:
51

- 1 a. Subchapter IV of Chapter 14 of the General Statutes.
2 b. Subchapter V of Chapter 14 of the General Statutes.
3 (4) Offense against the person. – An offense committed by a juvenile against or
4 involving the person of the victim that, if committed by an adult, would
5 constitute a violation of one of the following:
6 a. Subchapter III of Chapter 14 of the General Statutes.
7 b. Subchapter VII of Chapter 14 of the General Statutes.
8 c. Article 39 of Chapter 14 of the General Statutes.
9 d. Chapter 20 of the General Statutes, if the offense involves impairment
10 of the defendant, or injury or death to the victim.
11 e. A valid protective order under G.S. 50B-4.1.
12 f. Article 35 of Chapter 14 of the General Statutes, if the offense involves
13 communicating a threat or stalking.
14 (5) Victim. – A person against whom there is probable cause to believe a juvenile
15 has committed an offense against the person or a felony property offense.
16 (b) If the victim is a minor or is legally incapacitated, a parent, guardian, or legal
17 custodian may assert the victim's rights under this Article. If the victim is deceased, then a family
18 member, in the order set forth in the definition contained in this section, may assert the victim's
19 rights under this Article, with the following limitations:
20 (1) The guardian or legal custodian of a deceased minor has priority over a family
21 member.
22 (2) The right contained in G.S. 7B-2056 may only be exercised by the personal
23 representative of the victim's estate.
24 (c) An individual entitled to exercise the victim's rights as the appropriate family member
25 in accordance with this section may designate any family member to act on behalf of the victim.
26 (d) An individual who, in the determination of the court, would not act in the best interests
27 of the victim shall not be entitled to assert or exercise the victim's rights.
28 **"§ 7B-2052. Victim's rights.**
29 (a) A victim of a juvenile offense shall be treated with dignity and respect by the juvenile
30 justice system.
31 (b) A victim has the following rights:
32 (1) The right, upon request, to reasonable, accurate, and timely notice of court
33 proceedings of the juvenile.
34 (2) The right, upon request, to be present at court proceedings of the juvenile.
35 (3) The right to be reasonably heard at court proceedings involving the plea,
36 adjudication, disposition, or release of the juvenile.
37 (4) The right to receive restitution in a reasonably timely manner, when ordered
38 by the court.
39 (5) The right to be given information about the offense, how the juvenile justice
40 system works, the rights of victims, and the availability of services for victims.
41 (6) The right, upon request, to receive information about the adjudication of the
42 juvenile or disposition of the case.
43 (7) The right, upon request, to receive notification of the escape or release of the
44 juvenile.
45 (8) The right to reasonably confer with the prosecution.
46 (c) The failure or inability of any person to provide a right or service under this Article
47 may not be used by a juvenile, by any accused, or by any victim as a ground for relief in any
48 criminal, juvenile, or other civil proceeding.
49 **"§ 7B-2053. Responsibilities of the district attorney's office.**
50 (a) Within 72 hours of the filing of a petition, the district attorney's office shall provide
51 the victim with the following information:

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

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

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

24 (d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, the district
25 attorney's office shall notify the victim of the date, time, and place of court proceedings as
26 requested by the victim under subsection (b) of this section. All notices required to be given by
27 the district attorney's office shall be accurate and timely and shall be given in a manner that is
28 reasonably calculated to be received by the victim prior to the date of the court proceeding. The
29 district attorney's office shall consider all hearings open, pursuant to G.S. 7B-2402, for the
30 purpose of providing notice to the victim. The district attorney shall inform the victim if the entire
31 hearing has been closed to the victim by the court. With the victim's consent, and consistent with
32 this Article, the district attorney's office may provide the required notification electronically as
33 technology allows or by telephone.

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

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

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

48 (h) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, following the
49 completion of the dispositional hearing, the district attorney's office shall provide the victim with
50 information about the adjudication and disposition of the juvenile as requested by the victim
51 pursuant to G.S. 7B-2053(b). The information provided shall be limited to (i) whether or not the

1 juvenile was adjudicated delinquent, and if so, the class of the offense and the level, description,
2 and duration of disposition ordered, (ii) no-contact orders as they relate to the victim, and (iii)
3 any order for restitution.

4 **"§ 7B-2054. Responsibilities of judicial officials.**

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

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

13 (c) A judge notified by the clerk of court that a victim has filed a motion alleging a
14 violation of the rights provided in this Article shall inquire as to compliance with the
15 requirements of this Article and shall timely dispose of the motion or set the motion for hearing.

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

19 **"§ 7B-2055. Responsibilities of the Division of Adult Correction and Juvenile Justice.**

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

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

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

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

44 **"§ 7B-2056. Right to restitution.**

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

47 **"§ 7B-2057. Limitations.**

48 (a) No rights under this Article provide grounds for a victim to examine or obtain
49 confidential juvenile records. In providing notice or information to any victim, no agency,
50 department, or official shall permit a victim to examine or obtain copies of any part of the juvenile
51 record. Any agency, department, or official that provides a victim written notice or information

1 under this Article shall not identify the juvenile by name in the notice or information, but shall
2 identify the juvenile by the juvenile's first and last initials only. This Article shall not be construed
3 to require or permit disclosing to any victim any information contained in juvenile records except
4 as specifically provided.

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

7 **"§ 7B-2058. Enforcement of rights.**

8 (a) A victim or a victim's attorney may assert the rights provided in this Article. The
9 following individuals may assert the victim's rights under this Article on behalf of the victim:

10 (1) Upon request of the victim, the prosecutor.

11 (2) If the victim is a minor or is legally incapacitated, a parent, guardian, or legal
12 custodian, as provided in G.S. 7B-2051.

13 (3) If the victim is deceased, a family member, as provided in G.S. 7B-2051.

14 (b) The procedure by which a victim may assert the rights provided under this Article
15 shall be by motion to the court of jurisdiction within the same proceeding giving rise to the rights.
16 The victim, family member, guardian, or legal custodian has the right to counsel at the hearing
17 but does not have the right to counsel provided by the State.

18 (c) If the matter involves an allegation that the district attorney failed to comply with the
19 rights of a victim when obligated to do so by law, the victim must first file a written complaint
20 with the district attorney to afford the district attorney with jurisdiction over the criminal action
21 an opportunity to resolve the issue stated in the written complaint in a timely manner."

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

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

27 (1) The ~~juvenile~~;juvenile.

28 (2) The juvenile's parent, guardian, or ~~eustodian~~;custodian.

29 (3) The district attorney of the district where the juvenile was
30 ~~adjudicated~~;adjudicated.

31 (4) The head of the enforcement agency that took the juvenile into ~~eustody~~;
32 ~~and~~custody.

33 (5) ~~The victim and any of the victim's immediate family members who have~~
34 ~~requested in writing to be notified.~~

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

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

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

43 (1) The juvenile or the juvenile's attorney;

44 (2) The juvenile's parent, guardian, or custodian, or the authorized representative
45 of the juvenile's parent, guardian, or custodian;

46 (3) The prosecutor;

47 (4) Court counselors; and

48 (5) Probation officers in the Section of Community Corrections of the Division
49 of Adult Correction and Juvenile Justice of the Department of Public Safety,
50 as provided in subsection (e1) of this section and in G.S. 15A-1341(e).

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

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

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

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

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

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

18
19 **PART III. DIRECTION TO STATE AGENCIES, APPLICABILITY, AND EFFECTIVE**
20 **DATE**

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

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