



SPONSOR: Sen. Townsend & Sen. Pettyjohn & Sen. Gay &
Rep. Romer
Sens. Hansen, Mantzavinos, Sokola, Wilson; Reps.
Osienski, Yearick

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 17

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO VICTIMS' BILL OF RIGHTS AND
THE VICTIMS' COMPENSATION ASSISTANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 94, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and redesignating accordingly:

3 Chapter 94. Crime Victims' Bill of Rights

4 Subchapter I. ~~Victims Generally~~ Victims' Rights

5 § 9401. Definitions.

6 ~~As used in this chapter, unless the context otherwise requires:~~ For purposes of this chapter:

7 (1) ~~"Court" means the Superior Court, Family Court, Court of Common Pleas, or the Justice of the Peace~~
8 ~~Court.~~ "Biological evidence" means the contents of a sexual assault evidence kit or any item that contains blood,
9 semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material that
10 was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for
11 the offense. "Biological evidence" includes any of the following:

12 a. Material that is catalogued separately, such as on a slide, swab, or in a test tube.

13 b. Material that is present on other evidence, including clothing, ligatures, bedding or other household
14 material, drinking cups, cigarettes, or other items.

15 (2) "Crime" means any of the following:

16 a. An offense against the person under subchapter II of Chapter 5 of this title.

17 b. Under subchapter III of Chapter 5 of this title, any of the following offenses involving property:

18 1. A felony under Subpart A through Subpart E.

19 2. An offense under §§ 811, 820, 823, 840, 841, 848, 851, 861, 900, or 903.

20 c. Under Subpart A of subchapter V of Chapter 5 of this title, an offense relating to children or a
21 vulnerable adult.

22 d. Under Subpart F of subchapter VI of Chapter 5 of this title, an offense relating to judicial or similar
23 proceedings under §§ 1261, 1263, 1263A, 1264, 1271, or 1271A.

24 e. Under Subpart A of subchapter VII of Chapter 5 of this title, an offense against public health, order or
25 decency under §§ 1311 through 1313, or 1339.

26 f. Under Chapter 21 of this title, noncompliance with conditions of release bond under § 2113.

27 g. Under Chapter 35 of this title, intimidation of a victim or witness under § 3532 or § 3533 of this title.

28 h. Operation of a vehicle causing death under § 4176A of Title 21.

29 i. Any offense when any of the following apply:

30 1. The act was committed against an individual who is in a protected class as defined in § 1041(2) of
31 Title 10.

32 2. The conduct constitutes abuse under § 1041(1) of Title 10.

33 3. The conduct is grounds for a sexual violence protective order under Chapter 72 of Title 10.

34 an act or omission committed by a person, whether or not competent or an adult, which, if committed by a
35 competent adult, is punishable by incarceration and which violates 1 or more of the following sections of this title:

36 *OFFENSES AGAINST THE PERSON*

37 ~~601. Offensive touching; unclassified misdemeanor.~~

38 ~~602. Menacing; unclassified misdemeanor.~~

39 ~~603. Reckless endangering in the second degree; class A misdemeanor.~~

40 ~~604. Reckless endangering in the first degree; class E felony.~~

41 ~~611. Assault in the third degree; class A misdemeanor.~~

42 ~~612. Assault in the second degree; class D felony.~~

43 ~~613. Assault in the first degree; class C felony.~~

44 ~~621. Terroristic threatening.~~

45 ~~628A. Vehicular assault in the second degree; class B misdemeanor.~~

46 ~~629. Vehicular assault in the first degree; class A misdemeanor.~~

47 ~~630. Vehicular homicide in the second degree; class F felony; minimum sentence; juvenile offenders.~~

48 ~~631. Criminally negligent homicide; class E felony.~~

49 ~~631A. Vehicular homicide in the first degree; class E felony; minimum sentence; juvenile offenders.~~

50 ~~632. Manslaughter; class C felony.~~

51 ~~635. Murder in the second degree; class B felony.~~

52 636. Murder in the first degree; class A felony.

53 645. Promoting suicide; class F felony.

54 764. Indecent exposure in the second degree; unclassified misdemeanor.

55 765. Indecent exposure in the first degree; class A misdemeanor.

56 766. Incest; class A misdemeanor.

57 767. Unlawful sexual contact in the third degree; class A misdemeanor.

58 768. Unlawful sexual contact in the second degree; class G felony.

59 769. Unlawful sexual contact in the first degree; class F felony.

60 [Former] 770. Unlawful sexual penetration in the third degree; class E felony.

61 [Former] 771. Unlawful sexual penetration in the second degree; class D felony.

62 [Former] 772. Unlawful sexual penetration in the first degree; separate charges; class C felony.

63 [Former] 773. Unlawful sexual intercourse in the third degree; class C felony.

64 [Former] 774. Unlawful sexual intercourse in the second degree; class B felony.

65 [Former] 775. Unlawful sexual intercourse in the first degree; class A felony.

66 770. Rape in the fourth degree; class C felony.

67 771. Rape in the third degree; class B felony.

68 772. Rape in the second degree; class B felony.

69 773. Rape in the first degree; class A felony.

70 781. Unlawful imprisonment in the second degree; class A misdemeanor.

71 782. Unlawful imprisonment in the first degree; class G felony.

72 783. Kidnapping in the second degree; class C felony.

73 783A. Kidnapping in the first degree; class B felony.

74 785. Interference with custody; class G felony; class A misdemeanor.

75 787. Trafficking of an individual, forced labor and sexual servitude.

76 *OFFENSES INVOLVING PROPERTY*

77 801. Arson in the third degree; affirmative defense; class G felony.

78 802. Arson in the second degree; affirmative defense; class D felony.

79 803. Arson in the first degree; class C felony.

80 811. Criminal mischief; felony.

81 823. Criminal trespass in the first degree; class A misdemeanor.

82 824. Burglary in the third degree; class F felony.

83 825. Burglary in the second degree; class D felony.

84 826. Burglary in the first degree; class C felony.

85 [Former] 826A. Home invasion; class B felony.

86 831. Robbery in the second degree; class E felony.

87 832. Robbery in the first degree.

88 [Former] 835. Carjacking in the second degree; class E felony; class D felony.

89 [Former] 836. Carjacking in the first degree; class C felony; class B felony.

90 840. Shoplifting; class G felony; class A misdemeanor.

91 841. Theft; class G felony; class A misdemeanor.

92 846. Extortion; class E felony.

93 848. Misapplication of property; class G felony; class A misdemeanor.

94 851. Receiving stolen property; class G felony; class A misdemeanor.

95 854. Identity theft; class E felony; class D felony.

96 861. Forgery; class F felony; class G felony; class A misdemeanor; restitution required.

97 900. Issuing a bad check; class A misdemeanor; class G felony.

98 903. Unlawful use of payment card; class G felony; class A misdemeanor.

99 *OFFENSES RELATING TO CHILDREN AND VULNERABLE ADULTS*

100 1101. Abandonment of child; class A misdemeanor.

101 1102. Endangering the welfare of a child; class A misdemeanor or higher.

102 1103. Child abuse in the fourth degree; class A misdemeanor.

103 1103A. Child abuse in the third degree; class D felony.

104 1103B. Child abuse in the second degree; class B felony.

105 1103C. Child abuse in the first degree; class A felony.

106 1103D. Child torture; a class B felony.

107 1103E. Continuous child abuse; class G or B felony.

108 1105. Crime against a vulnerable adult; class A misdemeanor or higher.

109 1108. Sexual exploitation of a child; class B felony.

110 1112A. Sexual solicitation of a child; class C felony; class B felony.

111 1112B. Promoting sexual solicitation of a child; class C felony; class B felony.

112 *OFFENSES RELATING TO JUDICIAL AND SIMILAR PROCEEDING*

113 1261. Bribing a witness; class E felony.

114 1263. Tampering with a witness; class E felony.

115 1263A. Interfering with child witness.

116 1264. Bribing a juror; class E felony.

117 1312. Aggravated harassment; class B misdemeanor.

118 1312A. Stalking; class F felony.

119 *OFFENSES AGAINST PUBLIC HEALTH*

120 1339. Adulteration; class G felony; class E felony; class A felony.

121 *RELEASE OF PERSONS ACCUSED OF CRIMES*

122 2113. Penalties for noncompliance with conditions of recognizance; bond or conditions.

123 *WITNESS AND EVIDENCE*

124 3532. Act of intimidation; class E felony.

125 3533. Aggravated act of intimidation; class D felony.

126 (3) “DNA” means deoxyribonucleic acid.

127 (4)a. “Individual with a cognitive disability” means an individual with a developmental disability that
128 substantially impairs an individual’s cognitive abilities including delirium, dementia, and other organic brain disorders
129 for which there is an identifiable pathologic condition, as well as nonorganic brain disorders commonly called
130 functional disorders. “Individual with a cognitive disability” includes conditions of mental retardation, severe cerebral
131 palsy, and any other condition found to be closely related to mental retardation because such condition results in the
132 impairment of general intellectual functioning or adaptive behavior similar to that of individuals who have been
133 diagnosed with mental retardation or a condition that requires treatment and services similar to those required by
134 individuals who have been diagnosed with mental retardation.

135 b. “Individual with a cognitive disability” does not include an individual with a cognitive disability
136 accused of committing a felony, however, at the court’s discretion, “individual with a cognitive disability” may
137 include any of the following:

138 1. An individual with a cognitive disability when the individual’s participation in a felony appears to
139 have been induced, coerced, or unwilling.

140 2. An individual with a cognitive disability who participated in the felony, but who has subsequently
141 and voluntarily agreed to testify on behalf of the State.

142 (5) “Law-enforcement agency” means any of the following:

143 a. A police department.

144 b. The Department of Justice.

145 c. The Department of Correction, including Probation and Parole.

146 (3) ~~(6)~~ “Member of the victim’s family” means the a spouse, a child by birth or adoption, a child, stepchild, a

147 parent, a stepparent, a sibling or an individual designated by the victim or by a court in which the crime is being or

148 could be prosecuted, but or sibling. “Member of the family” does not include an individual who is accountable for the

149 crime or a crime arising from the same conduct, criminal episode episode, or plan.

150 (4) ~~(7)~~ “Person” means an individual, corporation, statutory trust, business trust, estate, trust, partnership,

151 association, joint venture, government, governmental subdivision, agency agency, or instrumentality or any other legal

152 or commercial entity.

153 (5) ~~“Prosecutor” means a representative of the office of the Attorney General.~~

154 (6) ~~(8)a.~~ “Representative of the a victim” means a member of the victim’s family or an any of the following:

155 1. An individual designated by the victim or by a court in which the crime is being or could be

156 prosecuted. court.

157 2. If the victim is deceased, a member of the victim’s family. If the member of the family is a sibling

158 is in the custody of the Department of Services for Children, Youth and their Families (DSCYF) under

159 Chapter 25 of Title 13, DSCYF or the sibling’s attorney appointed under § 9007A of Title 29.

160 3. The parent, guardian, or custodian of a victim who is unable to meaningfully understand or

161 participate in the proceedings because the victim is a child or an individual with a physical, psychological, or

162 mental impairment.

163 4. If the victim is a child in the custody of the DSCYF under Chapter 25 of Title 13, DSCYF or the

164 child’s attorney appointed under § 9007A of Title 29.

165 b. “Representative of a victim” does not include an individual who is accountable for the crime or a crime

166 arising from the same conduct, criminal episode, or plan.

167 (9) “Sex offense” means all offenses under Chapter 5, subchapter II, subpart D of this title.

168 (10) “Supervisor” means an employee or official of an agency who has legal authority to issue directives to

169 subordinate employees or officials.

170 (7) ~~(11)~~ “Victim” means the victim of a crime and includes any of the following:

171 a. The person, organization, partnership, business, corporation, agency or governmental entity person
172 identified as the victim of a crime in a police report, a criminal complaint or warrant, an indictment or information
173 or other charging instrument. “Victim” includes a parent, guardian or custodian of a victim who is unable to
174 meaningfully understand or participate in the legal process due to physical, psychological or mental impairment.
175 “Victim” includes the following relations of a deceased victim if the relation is not the defendant, codefendant or
176 conspirator:

177 a. The spouse;

178 b. An adult child or stepchild;

179 e. A parent; or

180 d. A sibling.

181 e. “Victim” includes qualifying neighborhood or homeowners associations as defined by § 9419 of this
182 title. b. The representative of a victim.

183 (12) “Victim advocate” means an individual who is an employee or in a formal volunteer role with a victim
184 services agency to provide victim services to victims, and includes victim services professionals.

185 (13) “Victim services” means any of the following, including by referral to another entity:

186 a. Crisis intervention services, including a crisis hotline.

187 b. Emergency assistance, which includes food, shelter, housing assistance, clothing, financial assistance,
188 and legal assistance.

189 c. Orientation to and information about the criminal justice system, including court proceedings.

190 d. Information about legal rights, protections, and the criminal justice process.

191 e. Trauma-informed counseling.

192 f. Advocacy regarding legal protection provided to victims of crime, including legal assistance.

193 g. Assistance with understanding and completing civil court documents.

194 h. Assistance with an application to the Victims’ Compensation Assistance Program.

195 i. Assistance with safety planning.

196 j. Support during any meeting, process, or proceeding necessary as a result of the crime.

197 (14) “Victim services agency” means a public or private organization that provides victim services.

198 (15) “Victim services professional” means an individual who is employed by a law-enforcement agency to
199 provide victim services.

200 (8) (16)a. "Witness" means any person an individual other than a law-enforcement officer or probation officer
201 who for whom any of the following apply:

202 1. Who has knowledge of the existence or nonexistence of any fact related to any ~~crime, or any~~
203 ~~person crime.~~

204 2. Who has reported any crime to ~~any a~~ law-enforcement officer or probation officer, ~~or any person~~
205 ~~officer.~~

206 3. Who has been designated for service with a subpoena issued by any court or by the Attorney
207 General, ~~or any person other than a law-enforcement officer or probation officer who subpoena.~~

208 4. Who would be believed by any reasonable person to be an individual ~~described by this paragraph.~~
209 under paragraphs (16)a.1. through (16)a.3. of this section.

210 b. "Witness" does not include a law-enforcement officer or probation officer in the performance of their
211 official duties.

212 § 9402. Compliance with ~~chapter.~~ chapter.

213 (a) ~~This chapter shall apply to the victims of the crimes defined in § 9401(2) of this title, and to witnesses to such~~
214 ~~crimes, as specified in § 9403 of this title, and to qualifying neighborhood or homeowners associations where illegal drug~~
215 ~~activity occurs as defined in § 9419 of this title. Consistent with the duty to represent the interests of the public as a whole,~~
216 ~~the Attorney General~~ The Department of Justice shall enforce compliance with this chapter on behalf of victims, ~~witnesses~~
217 witnesses, and members of their families.

218 (1) Each law-enforcement agency shall designate a supervisor who shall receive, review, and promptly
219 address complaints of noncompliance with this chapter.

220 (2) A complaint under paragraph (a)(1) of this section may be filed by the victim, witness, or by an individual
221 on behalf of a victim or witness.

222 (3)a. At the conclusion of the investigation of a complaint under paragraph (a)(2) of this section, the law-
223 enforcement agency shall send the complainant a written summary of the investigation that states whether or not the
224 law-enforcement agency complied with this chapter.

225 b. If the law-enforcement agency finds that it complied with this chapter, the written summary under
226 paragraph (a)(3)a. of this section must include information regarding how a complaint against the law-enforcement
227 agency may be made to the Department of Justice.

228 (b) ~~Failure~~ (1) The failure to comply with this chapter does not create a claim for damages against a government
229 employee, ~~official~~ official, or entity.

230 (2) In addition to the administrative remedy under subsection (a) of this section, the sole civil or criminal
231 remedy available to a victim or witness for a law-enforcement agency's failure to fulfill its responsibilities under this
232 chapter is standing to file a writ of mandamus under § 564 of Title 10 to require compliance with those requirements.

233 (c) ~~Failure (1) The failure~~ to provide a right, ~~privilege~~ privilege, or notice to a victim or witness under this chapter
234 ~~shall not be grounds for the defendant to seek to have a conviction or sentence set aside.~~ does not affect the validity of an
235 agreement between the State and the defendant or of an amendment, dismissal, plea, pretrial diversion, or other disposition
236 of the case.

237 (2) A defendant or person accused or convicted of a crime against the victim does not have standing to object
238 to any failure to comply with the requirements under this chapter.

239 § 9403. ~~Nondisclosure of information about victim.~~ Rights of victims.

240 (a) ~~Unless a victim or witness waives confidentiality in writing, neither a law enforcement agency, the prosecutor,~~
241 ~~nor the corrections department may disclose, except among themselves or as authorized by law, the residential address,~~
242 ~~telephone number or place of employment of the victim or a member of the victim's family, or the identity, residential~~
243 ~~address, telephone number or place of employment of a witness or a member of the witness's family, except to the extent~~
244 ~~that disclosure is of the site of the crime, is required by law or the Rules of Criminal Procedure, is necessary for law-~~
245 ~~enforcement purposes, or is permitted by the court for good cause.~~

246 A victim of crime has all of the following rights:

247 (1) To maintain the confidentiality of their personal information as follows:

248 a. A law-enforcement agency may not disclose the residential address, telephone number, school, or place
249 of employment of the victim or a member of the victim's family, except as allowed under paragraph (1)d. of this
250 section:

251 (b) b. A court may not compel a victim or ~~witness~~ or a member of the victim's ~~or witness's~~ family
252 testifying in a criminal ~~justice~~ proceeding to disclose a their residential address address, school, or place of
253 employment on the record unless ~~the court finds that disclosure of the information is necessary.~~ allowed under
254 paragraph (1)d. of this section.

255 (c) ~~The victim's address, place of employment and telephone number and any witness's identity, address, place of~~
256 ~~employment and telephone number, maintained by a court, prosecutor or law enforcement agency pursuant to this chapter~~
257 ~~is exempt from disclosure~~

258 c. The information about a victim or a member of the victim’s family under paragraphs (1)a. and (1)b. of
259 this section is not a public record under the Freedom of Information Act [Chapter 100 of Title 29]. Act, Chapter
260 100 of Title 29.

261 (d) ~~An exception to this section is whenever a “peace officer” as defined in § 1901 of this title or an “emergency-~~
262 ~~care provider” as defined in § 2503A of Title 16 alerts a school district or charter school about the presence of a minor child~~
263 ~~or a child that has reached the age of 18 that continues to be enrolled in high school that has been identified at the scene of a~~
264 ~~traumatic event. The peace officer or emergency care provider may only release the student’s name directly to the school~~
265 ~~district or charter school and state that the student was present at the scene of a traumatic event.~~

266 d. A law-enforcement agency may disclose, or a court may compel testimony about, the information
267 under paragraphs (1)a. through (1)b. of this section if any of the following apply:

268 1. The individual waives confidentiality in writing.

269 2. The individual’s residential address, school, or place of employment is the site of the crime.

270 3.a. Disclosure of the information is required by law or the Rules of Criminal Procedure, necessary
271 for law-enforcement purposes, or a court finds that there is good cause and the disclosure is necessary.

272 b. To alert a school district or charter school, under § 8502(8)e. of this title, that a minor child or
273 a child that has reached the age of 18 that continues to be enrolled in high school has been identified at
274 the scene of a traumatic event.

275 (2) To the expeditious disposition of the criminal action.

276 a. The court shall consider the interest of the victim in a speedy prosecution.

277 b. If the victim is a child, the trial must be expedited, especially if the case involves child abuse or child
278 sexual abuse.

279 c. If the victim is an individual with a cognitive disability, the court and the prosecution shall take
280 appropriate action to ensure a prompt trial to minimize the length of time the victim must endure the stress of the
281 victim’s involvement in the proceedings. In ruling on any motion or other request for a delay or continuance of
282 proceedings, the court shall consider and give weight to any adverse impact the delay or continuance might have
283 on the well-being of any victim who is an individual with a cognitive disability.

284 (3) To be safe.

285 a. A law-enforcement agency shall provide information to a victim about the procedures to follow if the
286 victim is threatened, intimidated, or harassed.

287 b. The court shall provide a waiting area for victims separate and secure from the defendant, defendant's
288 relatives, and defense witnesses if available and the use of the area is practicable. If a separate and secure waiting
289 area is not available or practicable, the court shall provide other safeguards to minimize the victim's contact with
290 the defendant, defendant's relatives, and defense witnesses during proceedings.

291 c. When attending proceedings at a court, a victim has the right to express safety concerns and to request
292 reasonable measures to ensure their safety, including modifications to standard practices, policies, and procedures.

293 d. A law-enforcement agency must provide a victim notice of the availability of information concerning
294 pretrial release.

295 e. Post-conviction, a victim has a right to notice of the defendant's projected release date and actual date
296 of release or release to a community-based program.

297 (4)a. To confer with the prosecutor.

298 b. If the victim is an individual with a cognitive disability, to an explanation, in language the victim
299 understands, of all proceedings in which the victim will be involved.

300 (5) To review the portions of body camera footage that includes statements made by the victim.

301 (6) To be present at all stages of criminal proceedings for the crime.

302 a. A victim must be promptly informed of the date, time, and place of each proceeding at which the
303 victim has a right to be present or if a proceeding has been rescheduled, unless the victim requests that notice of
304 proceedings not be provided.

305 b. A member of the victim's family has the right to attend proceedings with the victim.

306 c. A victim may designate another individual to attend proceedings if the victim chooses not to attend.

307 d. At the victim's request, the court shall permit the presence of an individual to provide support to the
308 victim at a proceeding unless the court determines that the exclusion of the individual is necessary to protect the
309 defendant's right to a fair trial.

310 e. If the victim is an individual with a cognitive disability, the individual who attends the proceedings
311 under paragraph (6)d. of this section may advise the judge, when appropriate, as a friend of the court, regarding the
312 victim's cognitive disability and the victim's ability to understand proceedings and questions.

313 (7) To be notified of significant developments regarding the defendant or the case, including any of the
314 following:

315 a. If the Department of Justice chooses not to pursue prosecution and the legal basis for the decision.

316 b. Any appeal or request for post-conviction remedy, information about related hearings, and the decision
317 from any such hearing.

318 c. If there is a change or a pending change in the defendant's custody status.

319 (8) To have a voice in the sentencing and post-sentencing process, including all of the following:

320 a. To confer with the Investigative Services Officer during a presentence investigation under § 4331 of
321 this title.

322 b. To be present at sentencing and to make a victim-impact statement. This statement may be made in
323 addition to the statement under § 4331 of this title.

324 c. To address, in writing or in person, the Board of Parole under § 4347 of this title and the Board of
325 Pardons under § 4361 of this title.

326 (9) To have a victim advocate present with them during any of the following:

327 a. A medical exam.

328 b. Meetings with law-enforcement, including when reporting and during interviews.

329 c. Trial preparation.

330 d. Court appearances, including a hearing for a Protection From Abuse or Sexual Violence Protective
331 order, a trial and ancillary discussions, or sentencing.

332 e. A hearing of the Board of Parole or the Board of Pardons.

333 (10) To the prompt return of property from a law-enforcement agency when the property is no longer needed
334 for evidentiary purposes unless the property is illegal or subject to forfeiture.

335 (11)a. To information about victim services.

336 b. If a victim is an individual with a cognitive disability, the victim's family is also entitled to the
337 information under paragraph (11)a. of this section and to specific information regarding coping with the emotional
338 impact of the crime and the subsequent proceedings in which the victim will be involved.

339 (12)a. To notice of the rights of victims under this chapter.

340 b. To file a complaint against the law-enforcement agency under § 9402 of this title for non-compliance
341 with this chapter.

342 § 9403A. Rights of victims; prohibition against detaining a victim exclusively for immigration violation or to turn
343 over to federal immigration authorities absent warrant.

344 (a) It is the public policy of this State to protect the public from crime and violence by encouraging all persons
345 who are victims of crimes to cooperate with the criminal justice system and not to penalize these persons for being victims
346 or for cooperating with the criminal justice system.

347 (b) If an individual is a victim of a crime and the individual is not charged with or convicted of committing any
348 crime under state law, a law-enforcement officer may not detain the individual exclusively for any actual or suspected
349 immigration violation or turn the individual over to federal immigration authorities absent a judicial warrant.

350 § 9403B. Rights of victims; location, status, and preservation of biological evidence.

351 (a) Upon the request of a victim or the victim's designee, the law-enforcement agency that is investigating the
352 victim's case shall inform the victim of any of the following:

353 (1) The location of biological evidence, including the sexual assault evidence kit, from the victim's case.

354 (2) The status of the DNA testing of the biological evidence from the victim's case.

355 (b) A law-enforcement agency shall respond to the victim's request under subsection (a) of this section as soon as
356 possible, but no more than 7 calendar days after the request. The law-enforcement agency's response may be provided
357 orally or in writing, including electronically by email, if an email address is available.

358 (c) In addition to the rights provided under §§ 9402 through 9403A of this title, a victim has the following rights:

359 (1) To be informed by the law-enforcement agency handling the case whether a DNA profile was obtained
360 from the testing of the biological evidence.

361 (2) To be informed whether the DNA profile developed from the biological evidence has been entered into the
362 State DNA Index System or NDIS.

363 (3) To be informed whether there is a match between the DNA profile developed from the biological evidence
364 and a DNA profile contained in the State DNA Index System, provided that this disclosure would not impede or
365 compromise an ongoing investigation.

366 (d)(1) If the law-enforcement agency intends to destroy or dispose of biological evidence, including the sexual
367 assault evidence kit, from an unsolved sexual assault case, the law-enforcement agency must provide the victim with
368 written notice of the intent to destroy or dispose of the evidence at least 20 days before the evidence is destroyed or
369 disposed.

370 (2) The written notice under paragraph (d)(1) of this section must explain that the victim may request that the
371 evidence or its probative contents be preserved and how the victim can make that request.

372 (3) If a victim requests that the evidence or its probative contents be preserved, the law-enforcement must not
373 destroy or dispose of the evidence.

374 (e) A law-enforcement agency may not destroy or dispose of biological evidence from an unsolved sexual assault
375 case until at least 20 years after the collection of the evidence of the crime or, if the victim was under 18 years of age at the
376 time of the alleged offense, before the victim is 40 years of age.

377 (f) A sexual assault victim may designate a sexual assault victim advocate, or other support person of the victim's
378 choosing, to act as a recipient of the information a law-enforcement agency is required to provide under this section.

379 § 9404. ~~Victim's interest in speedy prosecution; child victim or witness~~

380 (a) ~~The court shall consider the interest of the victim in a speedy prosecution.~~

381 (b) ~~Proceedings shall be expedited in cases involving a child victim or witness particularly in child abuse and~~
382 ~~sexual abuse cases. [Transferred.]~~

383 § 9405. ~~Prosecutor to confer with victim.~~

384 ~~Consistent with the duty to represent the interests of the public as a whole, the prosecutor shall confer with a~~
385 ~~victim before amending or dismissing a charge or agreeing to a negotiated plea or pretrial diversion. Failure of the Attorney~~
386 ~~General to confer with the victim does not affect the validity of an agreement between the State and the defendant or of an~~
387 ~~amendment, dismissal, plea, pretrial diversion or other disposition of the case. [Transferred.]~~

388 § 9406. ~~Safety of victim.~~

389 (a) ~~The court shall provide a waiting area for victims separate from the defendant, defendant's relatives and~~
390 ~~defense witnesses if such an area is available and the use of the area is practicable. If a separate waiting area is not available~~
391 ~~or practical, the court shall provide other available safeguards to minimize the victim's contact with the defendant,~~
392 ~~defendant's relatives and defense witnesses during court proceedings.~~

393 (b) ~~At the initial contact, the victim shall be provided written information by the investigating law enforcement~~
394 ~~agency to whom the victim can contact to ascertain if the defendant is released from custody, and the procedures that the~~
395 ~~victim may follow if threatened, intimidated or if conditions of bail or custody are not complied with. [Transferred.]~~

396 § 9407. ~~Presence at court proceedings; notice.~~

397 (a) ~~A victim or an individual designated by the victim may be present whenever a defendant has a right to be~~
398 ~~present during a court proceeding concerning the crime charged other than a grand jury proceeding, unless good cause can~~
399 ~~be shown by the defendant to exclude the victim. If the victim is present, the court, at the victim's request, shall permit the~~
400 ~~presence of an individual to provide support to the victim, unless the court determines that exclusion of the individual is~~
401 ~~necessary to protect the defendant's right to a fair trial.~~

402 (b) The victim shall promptly be informed of the date, time and place of each court proceeding relative to the
403 disposition of the case at which the victim has a right to be present, unless a victim requests that notice of proceedings not
404 be provided under this chapter. [Transferred.]

405 § 9408. ~~Prompt return of property.~~

406 The agency holding the property shall promptly return the property to the victim when it is no longer needed for
407 evidentiary purposes unless it is contraband or subject to forfeiture. [Transferred.]

408 § 9409. Limitations on employer.

409 (a) An employer may not discharge or discipline a victim or a representative of ~~the~~ a victim for: any of the
410 following:

411 (1) Participation at the prosecutor's request in preparation for a ~~criminal justice proceeding;~~ proceeding.

412 (2) Attendance at a ~~criminal justice~~ proceeding if the attendance is reasonably necessary to protect the
413 interests of the ~~victim;~~ or victim.

414 (3) Attendance at a ~~criminal justice~~ proceeding in response to a subpoena.

415 (b) An employer must comply with other applicable laws protecting victims or witnesses, including all of the
416 following:

417 (1) For a subpoenaed school employee, § 1318(f)(2)a. of Title 14.

418 (2) For a victim of domestic violence, a sexual offense, or stalking, § 711(i) of Title 19.

419 § 9410. Information from ~~a law-enforcement agency.~~ agency at initial contact.

420 (a) At the initial contact between the victim of a reported crime and the law-enforcement agency ~~having~~
421 ~~responsibility~~ responsible for investigating that crime, ~~that~~ the law-enforcement agency shall promptly give in writing to the
422 ~~victim;~~ provide the victim all of the following:

423 (1) ~~An explanation of the victim's rights under this chapter;~~ A copy of the initial incident report with the
424 explanation of a victim's rights created under § 9414 of this title.

425 (2) Information concerning the availability of social service and other assistance to victims;

426 (3) A copy of the initial incident report;

427 (4) Notice of the availability of a victim service unit within the Department or, in the absence of a unit within
428 that law-enforcement agency, the availability of the Statewide Victim Center; Center.

429 (5) ~~Notice of~~ (3) Information about the Victims' Compensation Assistance Program; Program under Chapter
430 90 of this title.

431 (6) ~~Notice of availability of information concerning pretrial release;~~ and

432 (7) Source of information at the investigating law enforcement agency where
433 (4) How the victim can obtain the information about the status of any arrest or pretrial release.
434 (5) The procedures that the victim may follow if threatened, intimidated, or if the defendant fails to comply
435 with conditions of bail or custody.
436 (6) How to file a complaint under § 9402(a) of this title.
437 (b) Before speaking with a victim, a victim services professional must inform a victim if the victim services
438 professional is required to share information disclosed by the victim that is relevant to the investigation and to whom that
439 information must be disclosed.
440 § 9411. Information concerning pretrial and trial matters; from the Department of Justice; responsibilities.
441 (a) ~~After a prosecution is commenced by the Attorney General in the Superior Court, the Attorney General shall~~
442 ~~promptly inform a victim of:~~
443 (1) ~~A statement of the procedural steps in the processing of a criminal case; case;~~
444 (2) ~~Rights under this chapter;~~
445 (3) ~~Procedures if the victim is threatened or harassed;~~
446 (4) ~~Victim compensation information when appropriate;~~
447 (5) ~~The right of the victim to confer with the prosecutor prior to trial;~~
448 (6) ~~The right of the victim to consult with the prosecutor about the disposition of the case, including the~~
449 ~~victim's views on dismissal, plea negotiations or diversion programs;~~
450 (7) ~~The right of the victim to be present at trial and sentencing;~~
451 (8) ~~Notice of the scheduling of court proceedings and changes including trial date, case review and sentencing~~
452 ~~hearings;~~
453 (9) ~~Notice of the crime or crimes of which the defendant is convicted;~~
454 (10) ~~Notice of the specifics of any sentencing order;~~
455 (11) ~~Notice of sentence reduction or modification order; and~~
456 (12) ~~Notice of a reversal upon appeal of a conviction.~~
457 (b) ~~In all other courts, the Attorney General shall give the victim:~~
458 (1) ~~Notice of the scheduling of the court proceedings and changes, including trial date, case review and~~
459 ~~sentencing hearings;~~
460 (2) ~~Notice of the crime or crimes of which the defendant is convicted;~~
461 (3) ~~Notice of the specifics of any sentencing order; and~~

462 (4) ~~Notice of sentence reduction or modification order.~~

463 The Department of Justice shall make a reasonable attempt to notify a victim of all of the following information, if
464 the information is applicable to the victim:

465 (1) All of the victim's rights under this chapter, including how to access the website under § 9414(d) of this
466 title.

467 (2) A statement of the procedural steps in the processing of a criminal case.

468 (3) Procedures if the victim is threatened or harassed.

469 (4) Victim compensation information.

470 (5) A decision to decline prosecution and the legal basis for the decision.

471 (6) The right to be present at all stages of proceedings for the crime under § 3512 of this title, except as
472 follows:

473 a. A grand jury proceeding.

474 b. If the defendant shows good cause to exclude the victim or the victim's family.

475 (7) The right of the victim to consult with the prosecutor about the disposition of the case, including the
476 victim's views on dismissal, plea negotiations, or a diversion program.

477 a. In felony cases, reasonable attempts to notify a victim of the terms of any plea or resolution must be
478 communicated in advance of the plea being offered.

479 b. In misdemeanor cases, victims must be provided notice that pleas may be negotiated at case review
480 hearings.

481 (8) Notice of the scheduling of court proceedings and changes including trial date, case review, and
482 sentencing hearings.

483 (9) Notice of the crime or crimes of which the defendant is convicted.

484 (10) Notice of the specifics of any sentencing order.

485 (11) Notice of sentence reduction or modification order.

486 (12) Notice of any appeal or request for post-conviction remedy, information about related hearings, and the
487 decision from any such hearing.

488 ~~§ 9412. Information concerning appeal or post-conviction remedies.~~

489 ~~If the defendant appeals or pursues a post-conviction remedy from any court, the Attorney General shall promptly~~
490 ~~inform any victim of the date, time and place of any hearing and of the decision. [Transferred.]~~

491 ~~§ 9413. Information concerning confinement.~~

492 (a) For purposes of this section, “department” means the Department of Correction or the Department of Services
493 for Children, Youth and Their Families. ~~The Department of Correction and the Department of Services for Children, Youth~~
494 ~~and Their Families~~

495 (b) ~~The department shall notify in writing those victims~~ a victim of the following regarding ~~defendants in their a~~
496 defendant in the department’s custody:

497 (1) ~~Projected release date;~~ date.

498 (2) ~~Release or release to a community-based program; and program.~~

499 (3) ~~Parole Board hearing date.~~ A hearing date before the Board of Parole or the Board of Pardons.

500 (b) ~~In the event of an escape of the defendant, the Department of Correction and the Department of Services for~~
501 ~~Children, Youth and Their Families, shall notify immediately, by telephone or in person, any victim of the escape of the~~
502 ~~defendant.~~ (4) Escape from the custody of the department. A notification under this paragraph (b)(4) must be made, the
503 department shall immediately notify all victims of the defendant by telephone or in-person.

504 (c) ~~Notwithstanding any provision to the contrary, upon~~ Upon the request of the victim, the ~~Department of~~
505 ~~Correction and the Department of Services for Children, Youth and Their Families~~ the department shall provide the victim
506 with ~~information concerning~~ the terms of a defendant’s probation, parole parole, or other condition of release and the
507 defendant’s compliance or noncompliance with the sentence, probation, parole parole, or other ~~conditions imposed on the~~
508 ~~defendant. The Department of Correction shall have the authority to promulgate rules and regulations to implement this~~
509 ~~subsection.~~ conditions.

510 § 9414. General requirements for ~~information.~~ information from law-enforcement agencies.

511 (a)(1) Unless the form of notice is ~~expressly set forth by this chapter,~~ is specifically required, information required
512 ~~to be furnished under this chapter may be furnished orally or in written form.~~ provided verbally, electronically, or as printed
513 material.

514 (2) A victim is responsible for providing a law-enforcement agency with any changes to the victim’s contact
515 information.

516 (3) A victim may indicate and change their preferred method of contact by law-enforcement agencies. A law-
517 enforcement agency must use the victim’s preferred method of contact when possible.

518 (4) The Delaware Criminal Justice Information System (DELJIS) shall create a mechanism that allows law-
519 enforcement agencies to provide notice required under this chapter by e-mail.

520 (b) A person responsible for ~~furnishing~~ information required under this chapter must make all reasonable efforts to
521 provide the information required under this chapter to victims, and may rely upon the most recent name, address and
522 telephone number furnished information provided by the victim. victim.

523 (c)(1) The Department of Justice shall create a summary of the rights under §§ 9403 through 9403B of this title.
524 This summary must also include all of the following:

525 a. The address of the website under subsection (d) of this section.

526 b. Notice that the rights under this chapter do not always apply to a victim.

527 c. A victim must provide changes in the victim's contact information to a law-enforcement agency
528 investigating or prosecuting the crime.

529 (2) DELJIS must provide that the summary under paragraph (c)(1) of this section is printed on the back of the
530 victim's copy of the initial incident report.

531 (d) The Department of Justice shall maintain a website that provides all of the following:

532 (1) The rights under this chapter explained in a user-friendly manner. At a minimum, the information required
533 under subsections (c) and (d) of this section must be provided as follows:

534 a. In English and Spanish.

535 b. In a format that is as accessible as possible for individuals with disabilities.

536 (2)a. Information about victim services, including contact information for victim services personnel at each
537 law-enforcement agency and as provided by each victim services agency.

538 b. Information for the family of a victim with a cognitive disability about victim services, including
539 specific information regarding coping with the emotional impact of the crime and the subsequent court
540 proceedings in which the victim will be involved.

541 (3) Information about the Victims' Compensation Assistance Program under Chapter 90 of this title.

542 (4) Information about a victim's rights under § 4347 of this title when the defendant applies for parole and
543 under § 4361 of this title when the defendant applies for a pardon.

544 (5) Information about the rights of witnesses under all of the following:

545 a. Subchapter II of this chapter.

546 b. Chapter 35 of this title.

547 c. School employees under § 1318 of Title 14.

548 d. Board of Pardons under § 4361 of this title.

549 (6) Information about other rights a victim may have under state law, including all of the following:

550 a. Chapter 35 of this title.

551 b. For employees who are victims of domestic violence, a sexual offense, or stalking under § 711 of Title

552 19.

553 c. For tenants who are victims of domestic violence, sexual assault, or stalking under §§ 5314 and § 5316

554 of Title 25.

555 § 9415. Presentence report.

556 ~~In preparing a presentence report, the~~ (a) An Investigative Services Officer shall make a reasonable effort to confer

557 with the ~~victim.~~ victim during a presentence investigation under § 4331 of this title.

558 (b) If the victim is not available or declines to confer, the Investigative Services Officer shall record that

559 information in the report. The victim shall have the right to present a victim impact statement pursuant to § 4331 of this

560 title.

561 § 9416. ~~Consideration of victim impact statement at Board of Parole hearing or Board of Pardons hearing.~~

562 (a) The Board of Parole shall inform the victim in writing of:

563 (1) The right of the victim to address the Parole Board in writing or in person; and

564 (2) The decision of the Parole Board.

565 (b) The Board of Pardons shall inform the victim in writing of:

566 (1) The right of the victim to address the Board of Pardons in writing or in person;

567 (2) Any commutation of sentence that is recommended by the Board; and

568 (3) Any pardon or commutation that is granted. [Repealed.]

569 § 9417. Requirement of state agencies to file annual Annual reports.

570 ~~All agencies given duties by this chapter~~ (a) Each law-enforcement agency shall submit compile an annual report

571 ~~with related statistics~~ outlining compliance with this chapter. The annual report shall be submitted chapter at the end of

572 each calendar year ~~to the Governor and to the Criminal Justice Council. Unless prevented by the failure of a victim to~~

573 ~~cooperate by furnishing a current address and telephone number, an agency shall make all reasonable efforts to provide~~

574 ~~notification and participation rights to victims.~~ year that includes all of the following:

575 (1) The number of complaints received of noncompliance with this chapter.

576 (2) A summary of the results of investigations of complaints of noncompliance that includes all of the

577 following:

578 a. The number of investigations of complaints that found that the law-enforcement agency had complied

579 with this chapter.

580 b. The number of investigations of complaints that found that the law-enforcement agency failed to
581 comply with this chapter.

582 (3) Steps taken to increase compliance with this chapter, including steps taken in response to complaints listed
583 under paragraph (a)(2)b. of this section. If the requirements stated in this chapter cannot be achieved by an agency for
584 any reason, the agency shall so state in the annual report and shall explain in detail the nature of the obstacles to
585 comply with this chapter or other causes for the inability to achieve the objectives.

586 (4) If a law-enforcement agency cannot comply with a requirement under this chapter, the specific
587 requirement that cannot be met and a detailed explanation of the reasons for noncompliance. The Governor shall advise
588 state agencies of any statutory changes that require an amendment to this chapter.

589 (b) Beginning February 1, 2025, a law-enforcement agency shall submit the report required under subsection (a) of
590 this section to the Criminal Justice Council (CJC) for the CJC's annual report.

591 (c) Beginning April 30, 2025, the CJC shall compile an annual report that provides all of the following:

592 (1) The total number of complaints law-enforcement agency reports identified under paragraphs (a)(1) and
593 (a)(2) of this section.

594 (2) A list of steps taken by law-enforcement agencies to improve compliance with this chapter under
595 paragraph (a)(3) of this section.

596 (3) A list of requirements that cannot be met, as identified by law-enforcement agencies under paragraph
597 (a)(4) of this section, and which law-enforcement agencies were unable to meet each requirement.

598 (4) Any recommendations to strengthen the rights of victims or witnesses under this chapter or to improve
599 law-enforcement compliance with this chapter.

600 (5) An appendix with the reports submitted by law-enforcement agencies under subsection (b) of this section.

601 (d) The CJC's report under subsection (c) of this section shall be posted on the CJC's website and submitted to the
602 Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies to all
603 members of the General Assembly, the Director and the Librarian of the Division of Research of Legislative Council, and
604 the Delaware Public Archives.

605 ~~§ 9418. Victims' Rights Fund.~~

606 ~~All fines collected under Chapter 48 of Title 21 shall be deposited into a Victims' Rights Fund established within~~
607 ~~the State Treasurer's Office. Proceeds of this Fund are to be used for the establishment of necessary infrastructure and~~
608 ~~systems development in support of victim notification initiatives. [Repealed.]~~

609 ~~§ 9419. Rights of qualifying neighborhood or homeowners' associations.~~

610 (a) Residents of neighborhoods where illegal drug activity occurs shall collectively be entitled to all of the rights,
611 privileges and notice requirements otherwise provided to victims under this chapter, provided that

612 (1) There exists within the residents' neighborhood a neighborhood or homeowners' association, which shall
613 serve as the residents' designated agent for all purposes under this chapter;

614 (2) The neighborhood or homeowners' association has been legally incorporated in accordance with
615 Delaware's General Corporation Law;

616 (3) The neighborhood or homeowners' association has been recognized by its local government jurisdiction,
617 through actual practice or by specific designation, as duly representative of the residents of its surrounding
618 neighborhood; and

619 (4) The neighborhood or homeowners' association has given prior written notice to all state and local police
620 authorities whose jurisdiction encompasses all or any portion of the geographical area represented by the association,
621 specifying its election to prevail itself of the rights, privileges and notice requirements provided under this chapter and
622 the name, address and telephone number of the representative of the neighborhood or homeowners' association to
623 whom all notices or other communications required under this chapter shall be given. Any police authority so notified
624 shall thereafter identify the neighborhood or homeowners' association as a victim for purposes of this chapter in any
625 police report, criminal complaint, warrant, indictment, information or other charging document in which any person is
626 subsequently charged with violating any provision of subchapter IV of Chapter 47 of Title 16 or any successor law
627 within the geographical area represented by the association.

628 (b) For purposes of this section, "illegal drug activity" means the unlawful selling, serving, storing, giving away or
629 manufacturing of (which includes production, preparation, compounding, conversion, processing, packaging or
630 repackaging) of any drug, which includes all narcotic or psychoactive drugs, cannabis, cocaine and all controlled substances
631 as defined in the Delaware Uniform Controlled Substances Act [Chapter 47 of Title 16]. [Repealed.]

632 § 9420. Polygraph testing of a victim.

633 (a) A law-enforcement officer, ~~prosecuting officer~~ prosecutor, or other government official shall may not ask or
634 require an adult, youth or child a victim of an alleged sex offense as defined in Chapter 5, subchapter II, subpart D of this
635 title, to submit to a polygraph examination or truth telling device as a condition for proceeding with the investigation.

636 (b) ~~In any event, If a law-enforcement officer, prosecutor, or other government official violates subsection (a) of~~
637 this section, the refusal of a victim to submit to a polygraph examination or other truth telling device shall does not prevent
638 the investigation, ~~charging~~ charging, or prosecution of an alleged sex offense, ~~defined in Chapter 5, subchapter II, subpart D~~
639 ~~of this title, against the victim. offense.~~

640 Subchapter II. Victims and Rights of Witnesses with Cognitive Disabilities to Crime

641 § 9421. Legislative intent.

642 ~~The General Assembly finds that it is necessary to provide every victim and witness with a cognitive disability,~~
643 ~~particularly those whose disability renders them the emotional or mental equivalent of a child, with additional consideration~~
644 ~~and different treatment than that usually required for adult victims and witnesses who are not cognitively disabled. It is~~
645 ~~therefore the intent of the General Assembly to provide each victim and witness with a cognitive disability who is involved~~
646 ~~in a criminal proceeding with certain fundamental rights and protections. [Repealed.]~~

647 § 9422. Definitions.

648 ~~The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in~~
649 ~~this section, except where the context clearly indicates a different meaning:~~

650 (1) ~~“Cognitive disability” means a developmental disability that substantially impairs an individual’s~~
651 ~~cognitive abilities including, but not limited to, delirium, dementia and other organic brain disorders for which there is~~
652 ~~an identifiable pathologic condition, as well as nonorganic brain disorders commonly called functional disorders.~~

653 ~~“Cognitive disability” also includes conditions of mental retardation, severe cerebral palsy, and any other condition~~
654 ~~found to be closely related to mental retardation because such condition results in the impairment of general~~
655 ~~intellectual functioning or adaptive behavior similar to that of persons who have been diagnosed with mental~~
656 ~~retardation, or such condition requires treatment and services similar to those required for persons who have been~~
657 ~~diagnosed with mental retardation.~~

658 (2) ~~“Victim” or “witness” shall not include any person with a cognitive disability accused of committing a~~
659 ~~felony; provided however, that the word “victim” or “witness” may, in the court’s discretion, include:~~

660 a. ~~A person with a cognitive disability where such person’s participation in a felony appears to have been~~
661 ~~induced, coerced or unwilling; or~~

662 b. ~~with a cognitive disability who has participated in the felony, but who has subsequently and voluntarily~~
663 ~~agreed to testify on behalf of the State. [Transferred.]~~

664 § 9423. Expedited proceedings: Rights of witnesses to crime.

665 In all criminal proceedings involving a victim or

666 A witness to a crime has all of the following rights:

667 (1) To maintain the confidentiality of their personal information as follows:

668 a. A law-enforcement agency may not disclose the identity, residential address, telephone number,
669 school, or place of employment of a witness or a member of the witness' family, except as allowed under
670 paragraph (1)d. of this section.

671 b. A court may not compel a witness or a member of the witness's family testifying in a criminal
672 proceeding to disclose their residential address, school, or place of employment on the record unless allowed under
673 paragraph (1)d. of this section.

674 c. The information about a witness or a member of the witness's family under paragraphs (1)a. and (1)b.
675 of this section is not a public record under the Freedom of Information Act, Chapter 100 of Title 29.

676 d. A law-enforcement agency may disclose, or a court may compel testimony about, the information
677 under paragraphs (1)a. and (1)b. of this section if any of the following apply:

678 1. The individual waives confidentiality in writing.

679 2. The individual's residential address, school, or place of employment is the site of the crime.

680 3.a. Disclosure of the information is required by law or the Rules of Criminal Procedure, necessary
681 for law-enforcement purposes, or a court finds that there is good cause and the disclosure is necessary.

682 b. To alert a school district or charter school, under § 8502(8)e. of this title, that a minor child or
683 a child that has reached the age of 18 that continues to be enrolled in high school has been identified at
684 the scene of a traumatic event.

685 (2) If the witness is a child, to an expedited trial, especially if the case involves child abuse or child sexual
686 abuse.

687 (3) If the witness is an individual with a cognitive disability, all of the following apply:

688 a. The witness has a right to an explanation, in language the witness understands, of all legal proceedings
689 in which the witness will be involved.

690 b. The witness, and the witness's family, to information about appropriate social services and programs to
691 assist witnesses, specifically information regarding coping with the emotional impact of the crime and the
692 subsequent court proceedings in which the witness will be involved.

693 c. ~~the~~ The court and the prosecution shall take appropriate action to ensure a prompt trial in order to
694 minimize the length of time the ~~victim~~ or witness must endure the stress of the ~~victim's~~ or witness's involvement
695 in the proceedings. In ruling on any motion or other request for a delay or continuance of proceedings, the court
696 shall consider and give weight to any adverse impact such delay or continuance might have on the well-being of
697 any ~~victim~~ or a witness with a cognitive disability.

698 d. The court shall provide a waiting area for a witness separate and secure from the defendant,
699 defendant's relatives, and defense witnesses if available and the use of the area is practicable. If a separate and
700 secure waiting area is not available or practicable, the court shall provide other safeguards to minimize the
701 witness's contact with the defendant, defendant's relatives, and defense witnesses during court proceedings.

702 e. When attending proceedings at a court, a witness has the right to express safety concerns and to request
703 reasonable measures to ensure their safety, including modifications to standard practices, policies, and procedures.

704 f. At the witness's request, the court shall permit the presence of an individual to provide support to the
705 witness at a proceeding unless the court determines that the exclusion of the individual is necessary to protect the
706 defendant's right to a fair trial.

707 g. If the witness is an individual with a cognitive disability, the individual who attends the proceedings
708 under paragraph (3)f. of this section may advise the judge, when appropriate, as a friend of the court, regarding the
709 witness's cognitive disability and the witness's ability to understand proceedings and questions.

710 (4) To the prompt return of property from a law-enforcement agency when the property is no longer needed to
711 evidentiary purposes unless the property is illegal or subject to forfeiture.

712 § 9424. ~~Additional rights and services.~~

713 ~~(a) A victim or witness with a cognitive disability is entitled to an explanation, in language the victim or witness~~
714 ~~understands, of all legal proceedings in which the victim or witness is to be involved.~~

715 ~~(b) A victim or witness with a cognitive disability is entitled to be accompanied, in all proceedings, by a "friend"~~
716 ~~or other person in whom the victim or witness trusts, which person shall be permitted to advise the judge, when appropriate~~
717 ~~and as a friend of the court, regarding the person with a cognitive disability and that person's ability to understand~~
718 ~~proceedings and questions.~~

719 ~~(c) A victim or witness with a cognitive disability is entitled to information about, and referrals to, appropriate~~
720 ~~social services and programs to assist the victim or witness, and in the victim's or witness's family, coping with the~~
721 ~~emotional impact of the crime, and the subsequent court proceedings in which the victim or witness is to become involved.~~

722 [Transferred.]

723 § 9425. Prohibition against detaining a witness exclusively for immigration violation or to turn over to federal
724 immigration authorities absent warrant.

725 (a) It is the public policy of this State to protect the public from crime and violence by encouraging all persons
726 who are witnesses to crimes, or who otherwise can give evidence in a criminal investigation, to cooperate with the criminal
727 justice system and not to penalize these persons for cooperating with the criminal justice system.

728 (b) If an individual is a witness to a crime or can otherwise give evidence in a criminal investigation and the
729 individual is not charged with or convicted of committing any crime under state law, a law-enforcement officer may not
730 detain the individual exclusively for any actual or suspected immigration violation or turn the individual over to federal
731 immigration authorities absent a judicial warrant.

732 § 9426. Requirements for information from law-enforcement agencies.

733 (a) The Department of Justice shall create a summary of the rights under §§ 9423 and 9425 of this title.

734 (b) The summary under subsection (a) of this section must include the address of the website under § 9414(d) of
735 this title and at a minimum, must be in English and Spanish and in a format that is as accessible as possible for individuals
736 with disabilities.

737 (c) A law-enforcement agency must provide the information under this section to a witness.

738 Section 2. Amend § 9002, Title 11 of the Delaware Code by making deletions as shown by strike through and
739 insertions as shown by underline as follows:

740 § 9002. Definitions.

741 For purposes of this chapter:

742 (10) "Pecuniary loss" means any expenses actually and necessarily incurred as a result of personal injury or
743 death resulting from a crime, but it does not include property damage. "Pecuniary loss" includes the following, except
744 that for secondary victims, "pecuniary loss" means what is in paragraphs (10)d. and (10)o. of this section, and for
745 claimants in homicide cases, "pecuniary loss" means what is in paragraphs (10)b., (10)c., (10)d., (10) f., (10)h., (10)o.,
746 (10)s., ~~(10)t.~~, and (10)u. of this section:

747 s. Funeral expenses and burial expenses not to exceed ~~\$5,000.~~ \$7,500.

748 ~~t. Burial expenses not to exceed \$2,500.~~ [Transferred.]

749 Section 3. Amend § 9003, Title 11 of the Delaware Code by making deletions as shown by strike through and
750 insertions as shown by underline as follows:

751 § 9003. Advisory Council.

752 ~~(a) This hereby establishes within the Department of Justice, the~~ The Victims' Compensation Assistance Program
753 ~~Advisory Council, hereafter "the Council," consisting of 11 members with at large members appointed by the Governor.~~

754 ~~Membership of the Council is as follows:~~ Council ("Council") is comprised of the following members, or a designee
755 selected by the member serving by virtue of position:

756 (1) ~~The Attorney General or the Attorney General's designee.~~ General.

757 (2) ~~The Chairperson of the Victim's Rights Task Force or the Chairperson's designee.~~ Force.

758 (3) The Chairperson of the Domestic Violence Task Force ~~or the Chairperson's designee.~~ Force.

759 (4) [Repealed.]

760 (5) Seven at-large members ~~with 1~~ appointed by the Governor as follows:

761 a. One member from the medical profession, 1 profession.

762 b. One member from the mental health profession, 1 profession.

763 c. One member who is a law-enforcement police-based advocate, and 1 member employed by a police

764 agency as a victim services professional as defined in § 9401 of this title.

765 d. Four members of the public each public, 1 member from the each of the following:

766 1. City of Wilmington, New Wilmington.

767 2. New Castle County, outside of the city limits of Wilmington.

768 3. Kent County, and County.

769 4. Sussex County.

770 (6) The Executive Director of the Delaware Alliance Against Sexual Violence ~~or the Executive Director's~~

771 ~~designee.~~ Violence.

772 (b)(1) ~~The term of Council members appointed by the Governor under paragraph (a)(5) of this section is 3 years~~

773 ~~and terminates on the Governor's appointment of a new replacement member to the Council. A~~

774 (2) Notwithstanding paragraph (b)(1) of this section, the term of an appointed member shall continue to serve

775 continues until that member's successor is duly appointed but a holdover under this provision does not affect the

776 expiration date of a succeeding term. appointed.

777 (c) ~~In case of a vacancy on the Council before the expiration of a member's term, term under subsection (b) of this~~

778 ~~section, the Governor must appoint a successor must be appointed by the Governor within 30 days of the vacancy vacancy.~~

779 A member appointed under this subsection serves for the remainder of the unexpired term.

780 (d) ~~The Council shall elect 1 of its members as Chairperson to serve for a 1-year term and may be eligible for~~

781 ~~reelection. The Attorney General or the Attorney General's designee serves as chair.~~

782 (e)(1) A quorum of the Council is a majority of its members.

783 (2) Official action by the Council, including making findings and recommendations, requires the approval of a

784 quorum of the Council.

785 (3) The Council may adopt rules necessary for its operation.

786 (4) The chair of the Council may invite individuals with relevant expertise to participate in Council

787 discussions.

788 (5) A member of the Council with the ability to designate another individual to attend a Council meeting must
789 provide the designation in writing to the chair. An individual attending a meeting for a member as a designee has the
790 same duties and rights as the member.

791 (6) The Council shall meet at the call of the Chair chair but no fewer less than 4 times a year.

792 (f) The Department of Justice is responsible for providing reasonable and necessary support staff and materials for
793 the Council.

794 Section 4. Amend § 9016, Title 11 of the Delaware Code by making deletions as shown by strike through and
795 insertions as shown by underline as follows:

796 § 9016. Penalty assessment.

797 (b) ~~Upon collection of the penalty assessment, the~~ The penalty assessment under subsection (a) of this section
798 ~~must be paid over to the prothonotary or clerk of court, as the case may be, who shall collect the penalty assessment~~
799 applicable, and transmit it transmitted to the State Treasury to be deposited in a separate account for the administration of
800 this chapter, ~~which account must be designated the "Victims' Compensation Fund," which is hereby created. Beginning~~
801 ~~with the fiscal year ending June 30, 2002, the unencumbered balances on June 30 of each fiscal year in excess of~~
802 ~~\$6,000,000 must be deposited in the General Fund. Fund".~~

803 Section 5. Section 9414(c) and (d) and § 9426 of Title 11 take effect 90 days after enactment into law.

804 Section 6. (1) Section 9414(a)(4) of Title 11 takes effect 10 days following the date of publication in the Register
805 of Regulations of a notice by the Secretary of the Department of Safety and Homeland Security that funds have been
806 appropriated to implement the provisions under § 9414(a)(4) of Title 11.

807 (2) Section 9414(a)(4) of Title 11 must be implemented no later than 18 months following the date of
808 publication of the notice under paragraph (1) of this section.

SYNOPSIS

Senate Concurrent Resolution No. 99 (152nd) created the Victims' Bill of Rights Committee (VBR Committee) to perform a comprehensive review of the Victims' Bill of Rights (VBR) and make recommendation to clarify the VBR, strengthen protections for victims, and ensure that state agencies have the necessary mechanisms, administration, and funding to successfully implement the VBR. To facilitate in-depth review and discussion, the VBR formed the following 4 subgroups: The Victim Safety Subgroup, The Rights of Special Victims Subgroup, The Victims' Rights to Information and Notification Procedures Subgroup, and the Victims' Compensation and Administration Subgroup.

This Act revises the Victims' Bill of Rights and the Victims' Compensation Assistance Program based on the recommendations in the February 27, 2024, Victims' Bill of Rights Committee Final Report.

Section 1 revises Chapter 94 of Title 11 ("this chapter"), the Victims' Bill of Rights, by making technical changes for clarity and by adding substantive policy provisions that either codify existing practices or create new rights and responsibilities as follows:

Substantive changes that establish the following new rights or responsibilities:

- To extend these rights to more victims, adds additional offenses to the definition of "crime" for this chapter and includes any offense that is the basis for abuse, domestic violence, or a sexual violence protective order.

- Adds a complaint process that a victim or witness can use if a law-enforcement agency fails to comply with this chapter.
- Adds the victim's or witness's school to the personal information that must be kept confidential.
- Provides victims the right to have a victim advocate present at all proceedings related to the crime.
- Requires that victim services professionals inform a victim if the victim services professional is required to share information disclosed by the victim that is relevant to the investigation and to whom that information must be disclosed.
- Provides rights to victims regarding information about the location, status, and preservation of biological evidence.
- Provides a right to submit a victim impact statement that is separate from the current right to participate in the pre-sentence report process.
- Updates the manner in which victims receive notifications under this chapter by allowing law-enforcement agencies to send notifications electronically and requiring DELJIS to create the mechanism by which law-enforcement agencies can send these notifications by email. Victims will be able to indicate and change their preferred method of contact by law-enforcement agencies, including a preference not to be contacted, and law-enforcement agencies must use the victim's preferred method of contact when possible.
- Requires that the Department of Justice create a website where the rights of victims and witnesses under this chapter are explained in a user-friendly manner, in English and in Spanish, and in a format that is as accessible as possible for individuals with disabilities. This website must include information about rights victims or witnesses have under other sections of the Code.
- Strengthens the annual report requirements for law-enforcement agencies regarding compliance with this chapter by adding specific information that must be included in each report. The individual law-enforcement agency reports must be compiled by the Criminal Justice Council (CJC) into 1 final report and posted on the CJC webpage.
- Extends to witnesses the current requirement that the court to provide a waiting area for victims that is separate and secure from the defendant, the defendant's relatives, and defense witnesses.
- Provides witnesses with the same right to the prompt return of property from law-enforcement that currently exists for victims.

Substantive changes that codify existing practices:

- Updates the definition of "law-enforcement agencies" to include police, the Department of Justice, and the Department of Correction, including probation and parole.
- Expands the definition of "representative of the victim" to include members of the victim's family if the victim is deceased and the parent, guardian, or custodian of a victim who is unable to meaningfully participate in proceedings. It also clarifies the representative of the victim if the victim or the deceased victim's sibling is in the custody of the Department of Services for Children, Youth, and their Families.
- Revises and expands the definition of victim services to include the broad array of assistance that is available to victims of crime.
- States that the remedy for a victim or witness if a law-enforcement agency fails to comply with this chapter is to file a writ of mandamus under § 564 of Title 10.
- Provides victims and witnesses the right to express safety concerns while attending proceedings at court and to request reasonable measures to ensure their safety, including modifications to standard practices, policies, and procedures.
- Provides the right for immigrant victims and witnesses not to be detained by law enforcement or turned over to federal immigration authorities unless there is a judicial warrant.
- Requires that the Delaware Criminal Justice Information System (DELJIS) provide a summary of a crime victim's rights and information about victim services that is printed on the back of the victim's copy of the initial incident report.
- Repeals the applicability of this chapter to qualifying neighborhood or homeowners' associations.

Technical changes:

- Reorganizes existing provisions so that rights of all victims are in subchapter I. by transferring the rights of victims with cognitive disabilities from subchapter II.
- Reorganizes existing provisions so that rights of all witnesses are in subchapter II. by transferring the rights of witnesses from subchapter I and correspondingly redesignates subchapter II as the Rights of Witnesses to Crime. The rights provided to victims and witnesses with cognitive disabilities are incorporated in the applicable subchapter.
- When possible, instead of listing each specific offense included in the definition of "crime", offenses are included in this definition by subchapter or subpart.
- Transfers rights applicable to all crime victims under § 9404 through § 9408 of Title 11 to § 9403 of Title 11.
- Repeals unnecessary definitions and language that repeats rights provided in another section of this chapter or elsewhere in the Code.

Section 2 revises § 9002 of Title 11 to combine funeral and burial expenses into 1 category of pecuniary loss to simplify approval of payments for these expenses.

Section 3 makes corresponding changes to the job title of the victim services personnel who are members of the Victims' Compensation Assistance Program Advisory Council under § 9003 of Title 11. Section 3 also makes technical corrections to § 9003 and adds standard language regarding the conduct of meetings by public bodies, including requirements for quorum and when a member designates another individual to attend a meeting.

Section 4 repeals the requirement that unencumbered balances in excess of \$6,000,000 in the Victims' Compensation Fund at the end of each fiscal year be deposited in the General Fund.

Section 5 provides a delayed implementation date to provide the Department of Justice time to create the informational websites for victims and witnesses required under § 9414(c) and (d) of Title 11.

Section 6 makes the requirement under § 9414(a)(4) of Title 11 that DELJIS create the mechanism by which law-enforcement agencies can send notifications by email contingent upon an appropriation of the funds necessary to fulfill this requirement and then provides 18 months to implement this requirement.

This Act also makes additional technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

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