

ASSEMBLY, No. 384

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman HECK

1 AN ACT concerning the confidentiality of crime impact statements and
2 amending P.L.1985, c.249.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to read
8 as follows:

9 3. The Legislature finds and declares that crime victims and
10 witnesses are entitled to the following rights:

11 a. To be treated with dignity and compassion by the criminal justice
12 system;

13 b. To be informed about the criminal justice process;

14 c. To be free from intimidation;

15 d. To have inconveniences associated with participation in the
16 criminal justice process minimized to the fullest extent possible;

17 e. To make at least one telephone call provided the call is
18 reasonable in both length and location called;

19 f. To medical assistance if, in the judgment of the law enforcement
20 agency, medical assistance appears necessary;

21 g. To be notified if presence in court is not needed;

22 h. To be informed about available remedies, financial assistance
23 and social services;

24 i. To be compensated for their loss whenever possible;

25 j. To be provided a secure, but not necessarily separate, waiting
26 area during court proceedings;

27 k. To be advised of case progress and final disposition;

28 l. To the prompt return of property when no longer needed as
29 evidence;

30 m. To submit a written statement about the impact of the crime to
31 a representative of the county prosecutor's office which shall be
32 considered prior to the prosecutor's final decision concerning whether

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 formal criminal charges will be filed; and

2 n. To make, prior to sentencing, an in-person statement directly to
3 the sentencing court concerning the impact of the crime.

4 This statement is to be made in addition to the statement permitted
5 for inclusion in the presentence report by N.J.S.2C:44-6. Any such
6 statement, if made in writing to a representative of the county
7 prosecutor, shall be privileged as a communication between an
8 attorney and client. Any statement made in person to the sentencing
9 court may be made out of the presence of the defendant, and the court
10 shall not disclose the contents of the victim's statement to the
11 defendant without the express consent of the victim. The victim of a
12 crime shall be notified by the prosecutor of the right to make
13 confidential statements under this section.

14 (cf: P.L.1991,c.44,s.1)

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16 2. This act shall take effect immediately.

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STATEMENT

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21 In cases where there have been either a conviction by trial or plea
22 bargain agreement, victims are currently allowed to write an impact
23 statement to be sent to the judge. This bill would classify such
24 statements as confidential communications, and would permit
25 disclosure of the statements to the defense only with the consent of the
26 victim.

27 At present, these statements are made available to the defense
28 attorney, giving the offender access to the statement. Use of victim
29 impact statements by the defense may severely increase a victim's
30 feeling of betrayal by the system. In addition, victims of sexual assault
31 have often been threatened by the offenders. The disclosure of the
32 written statements seriously compromises the ability of the victims to
33 use this vehicle to express their feelings about the crime and the
34 sentence. Confidentiality of the written statement would assure that
35 the victim has a platform to express thoughts and feelings, free of the
36 fear of reprisal.

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Classifies victim impact statements as confidential communications.