

SENATE, No. 561

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Senator BENNETT

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

3

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  
33 formal criminal charges will be filed; and

34 n. To make, prior to sentencing, an in-person statement directly to

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

**Matter underlined thus is new matter.**

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

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

13  
14 2. This act shall take effect immediately.

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17 STATEMENT

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

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

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39 Classifies victim impact statements as confidential communications.