

SENATE, No. 3666

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 26, 2021

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Authorizes funding to protect safety of cooperating witnesses; expands Crime Victim's Bill of Rights to provide these witnesses with certain guarantees.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the rights of certain witnesses to crime and
2 amending P.L.2016, c.97; P.L.1985, c.249; and P.L.1991, c.329.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2016, c.97 (C.52:4B-12.1) is amended to
8 read as follows:

9 1. a. Notwithstanding the provisions of section 10 of P.L.1971,
10 c.317 (C.52:4B-10) or the provisions of section 12 of P.L.1971,
11 c.317 (C.52:4B-12), the Victims of Crime Compensation Office
12 may, upon application, order the payment of:

13 (1) relocation expenses for a witness and the family of the
14 witness; and

15 (2) expenses related to protecting the safety of a cooperating
16 witness.

17 b. As used in this section **["**, "witness"**"]**:

18 (1) "cooperating witness" means a witness who testifies for the
19 government to help prosecute a crime, and includes a confidential
20 informant; and

21 (2) "witness" means a person who witnessed the commission of
22 any of the offenses listed under section 11 of P.L.1971, c.317
23 (C.52:4B-11) and who has been threatened as a result.

24 (cf: P.L.2016, c.97, s.1)
25

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

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

30 a. To be treated with dignity and compassion by the criminal
31 justice system;

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

33 c. To be free from intimidation, harassment or abuse by any
34 person including the defendant or any other person acting in support
35 of or on behalf of the defendant, due to the involvement of the
36 victim or witness in the criminal justice process;

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

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

41 f. To medical assistance reasonably related to the incident in
42 accordance with the provisions of the "Criminal Injuries
43 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.);

44 g. To be notified in a timely manner, if practicable, if presence
45 in court is not needed or if any scheduled court proceeding has been
46 adjourned or cancelled;

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 h. To be informed about available remedies, financial
2 assistance and social services;
- 3 i. To be compensated for loss sustained by the victim
4 whenever possible;
- 5 j. To be provided a secure, but not necessarily separate,
6 waiting area during court proceedings;
- 7 k. To be advised of case progress and final disposition and to
8 confer with the prosecutor's representative so that the victim may be
9 kept adequately informed;
- 10 l. To the prompt return of property when no longer needed as
11 evidence;
- 12 m. To submit a written statement, within a reasonable amount
13 of time, about the impact of the crime to a representative of the
14 prosecuting agency which shall be considered prior to the
15 prosecutor's final decision concerning whether formal criminal
16 charges will be filed, whether the prosecutor will consent to a
17 request by the defendant to enter into a pre-trial program, and
18 whether the prosecutor will make or agree to a negotiated plea;
- 19 n. To make, prior to sentencing, an in-person statement directly
20 to the sentencing court concerning the impact of the crime.
- 21 This statement is to be made in addition to the statement
22 permitted for inclusion in the presentence report by N.J.S.2C:44-6;
- 23 o. To have the opportunity to consult with the prosecuting
24 authority prior to the conclusion of any plea negotiations, and to
25 have the prosecutor advise the court of the consultation and the
26 victim's position regarding the plea agreement, provided however
27 that nothing herein shall be construed to alter or limit the authority
28 or discretion of the prosecutor to enter into any plea agreement
29 which the prosecutor deems appropriate;
- 30 p. To be present at any judicial proceeding involving a crime or
31 any juvenile proceeding involving a criminal offense, except as
32 otherwise provided by Article I, paragraph 22 of the New Jersey
33 Constitution;
- 34 q. To be notified of any release or escape of the defendant;
35 **[and]**
- 36 r. To appear in any court before which a proceeding
37 implicating the rights of the victim is being held, with standing to
38 file a motion or present argument on a motion filed to enforce any
39 right conferred herein or by Article I, paragraph 22 of the New
40 Jersey Constitution, and to receive an adjudicative decision by the
41 court on any such motion; and
- 42 s. In the case of a cooperating witness, to be provided assistance
43 before and during trial to cope with the psychological and practical
44 obstacles of testifying; to receive protective measures before,
45 during, and after a hearing or trial; and to have established court
46 procedures ensuring safety while testifying.
- 47 (cf: P.L.2012, c.27, s.1)

1 3. Section 20 of P.L.1991, c.329 (C.52:4B-43.1) is amended to
2 read as follows:

3 20. a. The Victim and Witness Advocacy Fund, established in
4 the State Treasury by section 2 of P.L.1979, c.396 (C.2C:43-3.1),
5 administered by the Department of Law and Public Safety through
6 the Division of Criminal Justice, pursuant to rules and regulations
7 promulgated by the Director of the Division of Criminal Justice, to
8 support the development and provision of services to victims and
9 witnesses of crimes and for related administrative costs, is hereby
10 continued.

11 b. The division is authorized to continue disbursing moneys
12 deposited in the Victim and Witness Advocacy Fund to fund the
13 operation of the State Office of Victim and Witness Advocacy, to
14 fund the 21 county offices of Victim and Witness Advocacy, and to
15 provide funding to other public entities as deemed appropriate for
16 the implementation of the Attorney General Standards to Ensure the
17 Rights of Crime Victims.

18 c. In addition, the division, pursuant to rules and regulations to
19 be promulgated by the director to ensure that funds are given to
20 qualified entities that will provide services consistent with **[this**
21 **act]** P.L.1991, c.329 (C.2C:46-4.1 et al.), shall award grants to
22 qualified public entities and not-for-profit organizations that
23 provide direct services to victims and witnesses, including but not
24 limited to such services as:

- 25 (1) shelter, food and clothing;
- 26 (2) medical and legal advocacy services;
- 27 (3) 24-hour crisis response services and 24-hour hotlines;
- 28 (4) information and referral and community education;
- 29 (5) psychiatric treatment programs;
- 30 (6) expanded services for victims' families and significant
31 others;
- 32 (7) short and long term counseling and support groups;
- 33 (8) emergency locksmith and carpentry services;
- 34 (9) financial services; **[and]**
- 35 (10) medical testing ordered by a court pursuant to section 4 of
36 P.L.1993, c.364 (C.2C:43-2.2); and
- 37 (11) services to ensure the safety of cooperating witnesses and
38 their families.

39 d. Organizations eligible to apply for grants under subsection c.
40 of this section include, but are not limited to:

- 41 (1) member programs of the New Jersey Coalition for Battered
42 Women, including but not limited to:
 - 43 (a) Atlantic County Women's Center;
 - 44 (b) Shelter Our Sisters, (Bergen County);
 - 45 (c) Providence House/ Willingboro Shelter, (Burlington
46 County);
 - 47 (d) YWCA/SOLACE, (Camden County);

- 1 (e) Family Violence Project and The Safe House, (Essex
2 County);
- 3 (f) People Against Spouse Abuse, (Gloucester County);
- 4 (g) Battered Women's Program, (Hudson County);
- 5 (h) Women's Crisis Services, (Hunterdon County);
- 6 (i) Womanspace, Inc., (Mercer County);
- 7 (j) Women Aware, Inc., (Middlesex County);
- 8 (k) Women's Resource and Survival Center, (Monmouth
9 County);
- 10 (l) Jersey Battered Women's Services, Inc., (Morris County);
- 11 (m) Passaic County Women's Center, (Passaic County);
- 12 (n) Salem County Women's Services, (Salem County);
- 13 (o) Resource Center for Women and Their Families, (Somerset
14 County);
- 15 (p) Domestic Abuse Services, Inc., (Sussex County);
- 16 (q) Project Protect, (Union County);
- 17 (r) Domestic Abuse and Rape Crisis Center, Inc., (Warren
18 County); and
- 19 (s) Ocean County Women's Center; and
- 20 (2) rape care services and programs, including, but not limited
21 to:
- 22 (a) Atlantic County Women's Center, (Atlantic County);
- 23 (b) Bergen County Rape Crisis Center, (Bergen County);
- 24 (c) Women Against Rape, (Burlington County);
- 25 (d) Women Against Rape, (Camden County);
- 26 (e) Coalition against Rape and Abuse, (Cape May County);
- 27 (f) Cumberland County Guidance Center;
- 28 (g) North Essex Helpline and Sexual Assault Support Service,
29 (Essex County);
- 30 (h) Gloucester County Rape Assault Prevention Program;
- 31 (i) Christ Hospital Mental Health Center, serving Hudson
32 County;
- 33 (j) Women's Crisis Services, (Hunterdon County);
- 34 (k) Rape Crisis Program Mercer County YWCA, (Mercer
35 County);
- 36 (l) Rape Crisis Intervention Center Roosevelt Hospital,
37 (Middlesex County);
- 38 (m) Women's Resource Center, (Monmouth County);
- 39 (n) Parenting Center, Morristown Hospital, (Morris County);
- 40 (o) Ocean County Advisory Commission on the Status of
41 Women, (Ocean County);
- 42 (p) Passaic County Women's Center, (Passaic County);
- 43 (q) Salem County Rape Crisis Service, (Salem County);
- 44 (r) Rape Crisis Service of Somerset and Richard Hall Mental
45 Health Center Somerset County Coalition for the prevention and
46 Treatment of Sexual Abuse;
- 47 (s) Project Against Sexual Assault Abuse, (Sussex County);
- 48 (t) Union County Rape Crisis Center;

1 (u) Domestic Abuse and Rape Crisis Center, (Warren County);
2 and

3 (v) Alternatives to Domestic Violence of Hackensack, N.J.
4 (Bergen County).

5 e. The **【Director】** director shall report annually to the
6 Governor and the Legislature pursuant to section 2 of P.L.1991,
7 c.164 (C.52:14-19.1) concerning the administration of the Victim
8 and Witness Advocacy Fund and the administration and award of
9 grants authorized by this section.
10 (cf: P.L.1993, c.364, s.2)

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12 4. This act shall take effect on the first day of the fourth month
13 next following enactment.

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16 STATEMENT

17

18 This bill specifically authorizes the Victims of Crime
19 Compensation Office (VCCO) to pay expenses related to protecting
20 the safety of cooperating witnesses. The bill defines a “cooperating
21 witness” as a witness who testifies for the government to help
22 prosecute a crime, and includes a confidential informant.

23 The bill also authorizes the Division of Criminal Justice in the
24 Department of Law and Public Safety to award grants from the
25 Victim and Witness Advocacy Fund to public entities and not-for-
26 profit organizations to provide services that protect the safety of
27 cooperating witnesses.

28 Finally, the bill amends the Crime Victim’s Bill of Rights to
29 expand the rights of cooperating witnesses. The bill gives these
30 witnesses the right to be provided assistance before and during trial
31 to cope with the psychological and practical obstacles of testifying.
32 These witnesses also would be given the right to receive protective
33 measures before, during, and after a hearing or trial and to have
34 established court procedures ensuring their safety while testifying.

35 According to the sponsor, witnesses who risk their own safety
36 and well-being to aid in the prosecution of crimes, including gang-
37 related violence, often are retaliated against in the form of
38 intimidation, death threats, violence, and murder. This deters other
39 witnesses from testifying in criminal trials. This situation
40 necessitates additional funding to be dedicated to services that
41 provide these witnesses with enhanced protections. The Crime
42 Victim’s Bill of Rights also needs to specifically guarantee the
43 rights of this subgroup of witnesses.