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SENATE BILL DRS45324-MV-144

Short Title: Implement Crime Victim Rights Amendment. (Public)

Sponsors: Senators Daniel, J. Davis, and Britt (Primary Sponsors).

Referred to:

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

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

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

8 **"§ 15A-824. Definitions.**

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

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

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

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

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

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



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

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

49 **"§ 15A-830. Definitions.**

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

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

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

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

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

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

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

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

32          "**§ 15A-830.5. Victim's rights.**

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

35           (b)     A victim has the following rights:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 "Article 20A.

38 "Rights of Victims of Delinquent Acts.

### 39 **"§ 7B-2051. Definitions.**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 **"§ 7B-2057. Limitations.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (3) The prosecutor;

47 (4) Court counselors; and

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

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

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

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

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

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

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

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

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

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