



SENATE BILL 682: Implement Crime Victim Rights Amendment.

2019-2020 General Assembly

| | | | |
|-----------------------|--|---------------------|---------------------|
| Committee: | Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate | Date: | July 2, 2019 |
| Introduced by: | Sens. Daniel, J. Davis, Britt | Prepared by: | Jennifer H. Bedford |
| Analysis of: | PCS to First Edition S682-CSTT-39 | | Staff Attorney |

OVERVIEW: *Senate Bill 682 would implement the constitutional amendment to provide better protections and safeguards to victims of crime and acts of delinquency.*

BACKGROUND: On November 6, 2018, North Carolina voters approved a constitutional amendment to expand the protections and safeguards for victims of crime. **Section 37 of the North Carolina Constitution** now guarantees certain basic rights to all victims of crime or acts of delinquency, and enumerates specific rights to victims of certain crimes or acts of delinquency.

CURRENT LAW AND BILL ANALYSIS: The rights of victims can be found in the “Fair Treatment for Certain Victims and Witnesses”, the more recent “Crime Victims’ Rights Act”, and the Juvenile Code. The Victims’ Rights implementation legislation would make changes to all three.

Fair Treatment for Certain Victims and Witnesses.

Section 1 of Senate Bill 682 would make conforming changes to the existing law that guarantees certain basic rights to the victims of crime that would not be protected by the enumerated rights, and would amend the law that kept the friends of the defendant at a distance from the victim or witness.

Crime Victims’ Rights Act.

The majority of statutory protections for victims are found in the Crime Victims' Rights Act. Currently, only the following criminal offenses trigger those rights:

- A Class A, B1, B2, C, D, or E felony.
- Certain Class G, H, and I felonies.
- A small number of violent misdemeanors.
- A violations of a valid Domestic Violence Protection Order.

Section 2 of Senate Bill 682 would expand the offenses that trigger victims' rights to include all of the following:

A violation of Subchapter III of Chapter 14 of the General Statutes. (**Offenses against the Person**)

A violation of Subchapter VII of Chapter 14 of the General Statutes. (**Offenses against Public Morality and Decency**)

A violation of Article 39 of Chapter 14 of the General Statutes. (**Protections of Minors**)

A violation of Chapter 20 of the General Statutes, involving impairment or death. (**DWIs and Death by Vehicle**)

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate PCS 682

Page 2

A violation of a valid protective order under G. S. 50B-4.1. (**Domestic Violence**)

A violation of Article 35 of Chapter 14 of the General Statutes involving **communicating a threat, or stalking**.

Property crime. – An act which constitutes one of the following felonies:

A violation of Subchapter IV of Chapter 14 of the General Statutes. (**Offenses against the Habitation and Other Buildings**)

A violation of Subchapter V of Chapter 14 of the General Statutes. (**Offenses against Property**)

Section 2 of Senate Bill 682 would also:

- Expand the proceedings that have victims' rights attached.
- Specify who can assert rights on behalf of a victim.

Section 3 of Senate Bill 682 would echo the constitutional provision and enumerate the rights provided to victims.

Section 3 of Senate Bill 682 would not allow a victim or defendant to use a violation of a right as a ground for relief in a civil or criminal proceeding.

Section 4 of Senate Bill 682 would require that law enforcement provide information to the victim on a form created by the Conference of District Attorneys including the following:

- A list of enumerated rights to the victim.
- Other rights afforded to victims by law.

Section 4 of Senate Bill 682 would also clarify time allowed for information to be gathered and transmitted by law enforcement agencies.

Section 5 of Senate Bill 682 would require that notices be accurate and timely and would allow the district attorney's office to provide notification electronically or by telephone with the victim's consent.

Section 6 of Senate Bill 682 would:

- Require a judicial official to ask if a victim is present and wishes to be heard.
- Require a judicial official to allow the victim to be reasonably heard.
- Give the victim the discretion to be heard orally, or by submission of a written or recorded statement.
- Require a judge to inquire as to compliance with the requirements of the Article, if a complaint is filed.
- Require that the judge dispose of the complaint or set a hearing in a timely manner.
- Require that the court make every effort to provide a secure waiting area during court proceedings.

Section 7 of Senate Bill 682 would:

- Create an enforcement mechanism for a victim to assert the rights guaranteed.
- Require that a complaint be asserted in writing.
- Allow the district attorney an opportunity to resolve the complaint in a timely manner.

Section 8 of Senate Bill 682 would clarify the responsibilities of the agency having custody of the defendant.

Senate PCS 682

Page 3

Section 9 of Senate Bill 682 would make conforming changes by repealing statutes whose provisions are contained in the newly created sections.

Rights of Victims of Delinquent Acts.

Section 10 of Senate Bill 682 would:

- Create a new Article within the Juvenile Code to establish the newly guaranteed rights for victims of delinquent acts.
- Model the Crime Victims' Rights Act.
- Specify acts of delinquency.
- Provide for the additional privacy and confidentiality needed when dealing with juveniles.

Section 11 of Senate Bill 682 would make conforming changes to existing notification requirements prior to the juvenile's release from custody.

Section 12 of Senate Bill 682 would safeguard the confidential nature of a juvenile's court record.

Sections 13 and 14 of Senate Bill 682 would make a conforming changes by referencing the newly created Rights of Victims of Delinquent Acts.

Section 15 of Senate Bill 682 would make a conforming change by repealing a subdivision regarding victim notification which is restated in the newly created Article.

Section 16 of Senate Bill 682 would direct the Conference of District Attorneys and the Administrative Office of the Courts to develop and disseminate the required forms by August 31, 2019.

EFFECTIVE DATE: Section 16 is effective when this act becomes law. The remainder of this act would become effective August 31, 2019, and apply to offenses and acts of delinquency, committed on or after that date.