

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1459

H.P. 1048

House of Representatives, May 3, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MacBRIDE of Presque Isle.

Cosponsored by Representative RICHARDS of Hampden, Representative COTE of Auburn and Senator HOLLOWAY of Lincoln.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act to Require a Victim Impact Statement.

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1 Be it enacted by the People of the State of Maine as follows:

3 Sec. 1. 17-A MRSA §1257, as enacted by PL 1983, c. 352, §2,  
5 is repealed.

7 Sec. 2. 17-A MRSA §1259 is enacted to read:

9 §1259. Victim participation in sentence

11 1. Definition. As used in this section, unless the context  
13 otherwise indicates, the following terms have the following  
15 meanings.

17 A. "Victim" means a person who suffers direct or threatened  
19 physical, emotional or financial harm as the result of the  
21 commission of a crime or who is an immediate family member  
23 of a homicide victim or of a victim who is under 18 years of  
25 age.

27 B. "Victim impact statement" means a statement providing  
29 information about the financial, emotional and physical  
31 effects of the crime on the victim and the victim's family,  
33 and specific information about the victim, the circumstances  
35 surrounding the crime and the manner in which it was  
37 perpetrated.

39 C. "Victim representative" means a spouse, parent, child,  
41 sibling or other relative of a deceased or incapacitated  
43 victim or of a victim who is under 18 years of age, or a  
45 person who has had a close personal relationship with the  
47 victim and is designated by the court to be a victim  
49 representative.

51 2. Notification to victim or victim representative. A  
victim or victim representative shall receive notice as follows.

A. If a defendant is convicted of a Class A, B or C crime  
involving one or more identifiable victims who suffered  
death or physical, emotional or financial injury, the  
prosecutor shall notify the victim or the victim  
representative in writing of the date, time and place of the  
sentencing hearing and advise the victim or the victim  
representative of the opportunity to present a victim impact  
statement.

B. A copy of any relevant rules pertaining to the victim  
impact statement and to the hearing shall accompany the  
notice.

C. The notice and the copy of any relevant rules shall be  
sent to the last known address of the victim or the victim

1 representative at least 14 days prior to the sentencing  
2 hearing.

3  
4 3. Submission of victim impact statement to court. A  
5 victim impact statement may be submitted to the court as follows.

6  
7 A. Prior to imposition of sentence for a Class A, B or C  
8 crime, the prosecutor shall prepare a written victim impact  
9 statement and append it to the presentence report on the  
10 defendant. The statement shall include applicable  
11 information obtained during consultation with the victim or  
12 the victim representative. If the victim or victim  
13 representative cannot be located or declines to cooperate in  
14 the preparation of the statement, the prosecutor shall  
15 include a notation to that effect in the statement. If  
16 there are multiple victims and preparation of individual  
17 victim impact statements is not feasible, the probation  
18 department may submit one or more representative statements.

19  
20 B. Prior to imposition of sentence in any criminal case,  
21 the victim or victim representative may also submit a victim  
22 impact statement in one or both of the following ways:

23  
24 (1) By presenting an oral victim impact statement at  
25 the sentencing hearing. When there are multiple  
26 victims, the court may limit the number of oral victim  
27 impact statements; or

28  
29 (2) By submitting a written statement to the probation  
30 department, which shall append such statement to the  
31 presentence report of the defendant.

32  
33 4. Access to written victim impact statements. The court  
34 shall make available copies of the statement to the defendant,  
35 defendant's counsel and the prosecuting attorney. These parties  
36 shall return all copies of the statement to the court immediately  
37 following the imposition of sentence upon the defendant.

38  
39 5. Consideration of victim impact statement. Any victim  
40 impact statement submitted to the court under subsection 3, shall  
41 be among the factors considered by the court in determining the  
42 sentence to be imposed upon the defendant.

43  
44 6. Limitation. This section shall not be construed to  
45 require a victim or victim representative to submit a victim  
46 impact statement or to cooperate in the preparation of a victim  
47 impact statement.

48  
49 7. Prosecutor; right to be heard. In any case when a  
50 defendant has been convicted of a crime, the prosecutor, upon the  
51 prosecutor's plea or after trial, may be heard at the time of

1 sentence. The prosecutor may recommend a specific sentence or  
2 other disposition.

3

5

### STATEMENT OF FACT

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8 This bill increases a victim's opportunity to participate in  
9 the sentencing of a person who has committed a crime against the  
10 victim. Under the bill, a victim must be notified of the  
11 sentencing hearing and may present either orally or in writing a  
12 statement to the court at the hearing. In cases involving Class  
13 A, B or C crimes, the prosecutor must submit a written victim  
impact statement attached to the presentence report of the  
defendant to the court.