

52:4B-36.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2012 **CHAPTER:** 27

NJSA: 52:4B-36.1 (Alex DeCroce's Law; enhances crime victims' rights under the "Crime Victim's Bill of Rights.")

BILL NO: A2380 (Substituted for S775)

SPONSOR(S) Johnson and others

DATE INTRODUCED: February 6, 2012

COMMITTEE: **ASSEMBLY:** Law and Public Safety
Appropriations
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 24, 2012
SENATE: June 25, 2012

DATE OF APPROVAL: August 7, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted)

A2380

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: Yes	Law & Public Appropriations
	SENATE: Yes	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	
S775		
SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: No	
	SENATE: Yes	Law & Public Budget
FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Law enhances crime victims' rights," The Record, 8-8-12

"Victims' rights expand under new legislation," The Star-ledger, 8-8-12

"Law shielding crime victims honors late assemblyman," Asbury Park Press, 8-8-12

"New Law Expands Rights for Jersey Crime Victims," New Jersey 101.5, 8-8-12

"Victims' rights strengthened under new law," The Press of Atlantic City, 8-8-12

"Christie signs law aiding crime victims," Courier-Post, 8-8-12

LAW/KR

P.L.2012, CHAPTER 27, *approved August 7, 2012*
Assembly, No. 2380 (*First Reprint*)

1 AN ACT concerning crime victims rights, designated as Alex
2 DeCroce's Law, and amending 'and supplementing' P.L.1985,
3 c.249.

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

7
8 1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to
9 read as follows:

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

12 a. To be treated with dignity and compassion by the criminal
13 justice system;

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

15 c. To be free from intimidation, harassment or abuse by
16 '[anyone involved in the criminal justice process] any person'
17 including the defendant '[and anyone] or any other person' acting
18 in support of or on behalf of the defendant ', due to the involvement
19 of the victim or witness in the criminal justice process';

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

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

24 f. To medical assistance **[if, in the judgment of the law**
25 **enforcement agency, medical assistance appears necessary]**
26 reasonably related to the incident 'in accordance with the
27 provisions of the "Criminal Injuries Compensation Act of 1971,"
28 P.L.1971, c.317 (C.52:4B-1 et seq.)';

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

32 h. To be informed about available remedies, financial
33 assistance and social services;

34 i. To be compensated for **[their] loss sustained by the victim**
35 whenever possible;

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted March 5, 2012.

1 j. To be provided a secure, but not necessarily separate,
2 waiting area during court proceedings;

3 k. To be advised of case progress and final disposition and to
4 confer with the prosecutor's representative '[on such occasions in
5 order to keep] so that' the victim 'may be kept' adequately
6 informed;

7 l. To the prompt return of property when no longer needed as
8 evidence;

9 m. To submit a written statement 'within a reasonable amount
10 of time,' about the impact of the crime to a representative of the
11 [county prosecutor's office] prosecuting agency which shall be
12 considered prior to the prosecutor's final decision concerning
13 whether formal criminal charges will be filed '[or whether the
14 prosecutor shall accept a negotiated plea or request by the defendant
15 to enter into a pretrial intervention program] whether the prosecutor
16 will consent to a request by the defendant to enter into a pre-trial
17 program, and whether the prosecutor will make or agree to a
18 negotiated plea' ; '[and]'

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 '[.

24 In any homicide prosecution a victim's survivor shall be
25 permitted to wear a button containing a picture of the victim during
26 any judicial proceeding involving the accused, provided that the
27 court determines that the wearing of such button by one or several
28 individuals will not rise to such a level as to deprive the defendant
29 of his Sixth Amendment right to a fair trial. The button shall not
30 exceed four inches in diameter. If the victim's survivor seeks to
31 wear the button at trial, he shall give notice to the prosecution of
32 such intent which shall be provided to the defendant and to the
33 court no less than 30 days prior to the final trial date. In any
34 homicide prosecution the victim's survivor may display directly to
35 the sentencing court at the time of this statement a photograph of
36 the victim taken before the homicide including, but not limited to, a
37 still photograph, a computer generated presentation or video
38 presentation of the victim. The time, length and content of such
39 presentation shall be within the sound discretion of the sentencing
40 judge]' ; [and]

41 o. '[No crime victim shall be required to pay the maintenance,
42 support, rehabilitation or other costs arising from the imprisonment
43 or commitment of a victimizer as a result of the crime] To have the
44 opportunity to consult with the prosecuting authority prior to the
45 conclusion of any plea negotiations, and to have the prosecutor
46 advise the court of the consultation and the victim's position
47 regarding the plea agreement, provided however that nothing herein

1 shall be construed to alter or limit the authority or discretion of the
2 prosecutor to enter into any plea agreement which the prosecutor
3 deems appropriate¹;

4 p. '[A crime victim shall have the right to] To¹ be present at
5 any judicial proceeding involving a crime or any juvenile
6 proceeding involving a criminal offense ¹[and to] , except as
7 otherwise provided by Article I, paragraph 22 of the New Jersey
8 Constitution; and

9 q. To¹ be notified of any release or escape of the ¹[accused and
10 the right to an adjudicative decision by the court on each of the
11 rights conferred herein when a motion has been filed to enforce
12 such right pursuant to Article I, paragraph 22 of the New Jersey
13 Constitution; and

14 r. The victim shall have express standing to enforce these
15 rights in any court before which the proceedings are being held]
16 defendant; and

17 s. To appear in any court before which a proceeding
18 implicating the rights of the victim is being held, with standing to
19 file a motion or present argument on a motion filed to enforce any
20 right conferred herein or by Article I, paragraph 22 of the New
21 Jersey Constitution, and to receive an adjudicative decision by the
22 court on any such motion¹ .

23 (cf: P.L.2001, c.208, s.2)

24
25 ¹2. (New section) Pursuant to Article I, paragraph 22 of the New
26 Jersey Constitution, in any homicide prosecution:

27 a. A victim's survivor may, at the time of making the in-person
28 statement to the sentencing court authorized by subsection n. of
29 section 3 of P.L.1985, c.249 (C.52:4B-36), display directly to the
30 sentencing court a photograph of the victim taken before the
31 homicide including, but not limited to, a still photograph, a
32 computer-generated presentation, or a video presentation of the
33 victim. The time, length and content of such presentation shall be
34 within the sound discretion of the sentencing judge; and

35 b. A victim's survivor may, during any judicial proceeding
36 involving the defendant, wear a button not exceeding four inches in
37 diameter that contains a picture of the victim, if the court
38 determines that the wearing of such button will not deprive the
39 defendant of his right to a fair trial under the Sixth Amendment of
40 the United States Constitution and Article I of the New Jersey
41 Constitution. Other spectators at such judicial proceedings may
42 also wear similar buttons if the court so determines. If the victim's
43 survivor seeks to wear the button at trial, the victim's survivor shall
44 give notice to the defendant and to the court no less than 30 days
45 prior to the final trial date.¹

1 ¹3. (New section) Pursuant to Article I, paragraph 22 of the New
2 Jersey Constitution, no crime victim shall be required to pay the
3 maintenance, support, rehabilitation, or other costs arising from the
4 imprisonment or commitment of a victimizer as a result of the
5 crime.¹

6
7 ¹[2.] 4.¹ This act shall take effect on the 60th day following
8 enactment.

9

10

11

12

13 _____
14 Alex DeCroce's Law; enhances crime victims' rights under the
"Crime Victim's Bill of Rights."

ASSEMBLY, No. 2380

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 6, 2012

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ROBERT SCHROEDER

District 39 (Bergen and Passaic)

Assemblywoman HOLLY SCHEPISI

District 39 (Bergen and Passaic)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblyman Chiusano

SYNOPSIS

Alex DeCroce's Law; enhances crime victims' rights under the "Crime Victim's Bill of Rights."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2012)

1 AN ACT concerning crime victims rights, designated as Alex
2 DeCroce's Law, and amending P.L.1985, c.249.

3

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

6

7 1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to
8 read 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
12 justice system;

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

14 c. To be free from intimidation, harassment or abuse by anyone
15 involved in the criminal justice process including the defendant and
16 anyone acting in support of or on behalf of the defendant;

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

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

21 f. To medical assistance **[if, in the judgment of the law**
22 **enforcement agency, medical assistance appears necessary]**
23 reasonably related to the incident;

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

27 h. To be informed about available remedies, financial
28 assistance and social services;

29 i. To be compensated for **[their] loss sustained by the victim**
30 whenever possible;

31 j. To be provided a secure, but not necessarily separate,
32 waiting area during court proceedings;

33 k. To be advised of case progress and final disposition and to
34 confer with the prosecutor's representative on such occasions in
35 order to keep the victim adequately informed;

36 l. To the prompt return of property when no longer needed as
37 evidence;

38 m. To submit a written statement about the impact of the crime
39 to a representative of the **[county prosecutor's office] prosecuting**
40 agency which shall be considered prior to the prosecutor's final
41 decision concerning whether formal criminal charges will be filed
42 or whether the prosecutor shall accept a negotiated plea or request
43 by the defendant to enter into a pretrial intervention program; and

44 n. To make, prior to sentencing, an in-person statement directly
45 to the sentencing court concerning the impact of the crime.

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 This statement is to be made in addition to the statement
2 permitted for inclusion in the presentence report by N.J.S.2C:44-6.

3 In any homicide prosecution a victim's survivor shall be
4 permitted to wear a button containing a picture of the victim during
5 any judicial proceeding involving the accused, provided that the
6 court determines that the wearing of such button by one or several
7 individuals will not rise to such a level as to deprive the defendant
8 of his Sixth Amendment right to a fair trial. The button shall not
9 exceed four inches in diameter. If the victim's survivor seeks to
10 wear the button at trial, he shall give notice to the prosecution of
11 such intent which shall be provided to the defendant and to the
12 court no less than 30 days prior to the final trial date. In any
13 homicide prosecution the victim's survivor may display directly to
14 the sentencing court at the time of this statement a photograph of
15 the victim taken before the homicide including, but not limited to, a
16 still photograph, a computer generated presentation or video
17 presentation of the victim. The time, length and content of such
18 presentation shall be within the sound discretion of the sentencing
19 judge; [and]

20 o. No crime victim shall be required to pay the maintenance,
21 support, rehabilitation or other costs arising from the imprisonment
22 or commitment of a victimizer as a result of the crime;

23 p. A crime victim shall have the right to be present at any
24 judicial proceeding involving a crime or any juvenile proceeding
25 involving a criminal offense and to be notified of any release or
26 escape of the accused and the right to an adjudicative decision by
27 the court on each of the rights conferred herein when a motion has
28 been filed to enforce such right pursuant to Article I, paragraph 22
29 of the New Jersey Constitution; and

30 q. The victim shall have express standing to enforce these
31 rights in any court before which the proceedings are being held.

32 (cf: P.L.2001, c.208, s.2)

33
34 2. This act shall take effect on the 60th day following
35 enactment.

36
37
38 STATEMENT

39
40 The Victim's Rights Amendment to the New Jersey Constitution,
41 enacted by the voters in 1991 as paragraph 22 of Article I, makes
42 crime victims' rights a constitutional mandate and specifically
43 provides that victims "shall be entitled to those rights and remedies
44 as may be provided by the Legislature." The "Crime Victim's Bill
45 of Rights," N.J.S.A.52:4B-34 et seq., enumerates those rights to
46 which crime victims are entitled, including but not limited to the
47 right to be treated with dignity and compassion by the criminal
48 justice system, the right to be advised of case progress and final

1 disposition, and the right to make an in-person statement directly to
2 the sentencing court.

3 This bill would enhance these rights by amending and
4 supplementing the existing rights enumerated in N.J.S.A.52:4B-36
5 to increase the victim's access to the information concerning the
6 progress of the case and to expand the consideration of the victim's
7 impact statement with regard to plea agreements and pretrial
8 intervention programs.

9 Subsection c. of N.J.S.A.52:4B-36 currently provides that the
10 victim has the right to be free from intimidation. This bill would
11 expand this subsection to provide that the victim should also be free
12 of harassment or abuse by anyone involved in the criminal justice
13 process including the defendant and anyone acting in support of or
14 on behalf of the defendant.

15 This bill would also eliminate the language in current law, set
16 out in subsection f., which provides that the crime victim's right to
17 medical assistance is within the discretion of the law enforcement
18 agency. This bill provides that crime victims would have the right
19 to medical assistance which is reasonably related to the incident.

20 Subsection g. currently provides that the victim should be
21 notified if presence in court is not needed. This bill amends this
22 section to require notification in a timely manner, if practicable, if
23 the presence of the victim is not needed or if any scheduled court
24 proceeding has been adjourned or cancelled.

25 Subsection i. is amended to clarify that the victim should be
26 compensated for the loss sustained by the victim.

27 Subsection k., which requires that the victim be advised of the
28 progress of the case and the final disposition of the case, would be
29 amended to provide that the victim would have the right to confer
30 with the prosecutor's representative in order to keep the victim
31 adequately informed.

32 This bill also amends subsection m. concerning the use of the
33 victim's impact statement. Currently this subsection provides that
34 the victim may submit a written impact statement to the
35 prosecutor's office which shall be considered prior to any final
36 decision concerning whether formal criminal charges will be filed.
37 This bill amends this subsection to provide that the impact
38 statement also be considered with regard to whether a prosecutor
39 shall accept a negotiated plea or request by the defendant to enter
40 into a pretrial intervention program.

41 The bill provides that in any homicide prosecution a victim's
42 survivor would be permitted to wear a button containing a picture of
43 the victim during any judicial proceeding involving the accused,
44 provided the court determines that the wearing of such button by
45 one or several individuals will not rise to such a level as to deprive
46 the defendant of his Sixth Amendment right to a fair trial. The
47 button could not exceed four inches in diameter. If the victim's
48 survivor seeks to wear the button at trial, he shall give notice to the

1 prosecution of such intent which shall be provided to the defendant
2 and to the court no less than 30 days prior to the final trial date.

3 In addition, the bill provides that if a victim's survivor chooses
4 to display in court a photograph of the victim taken before the
5 homicide then that display may be in the form of a still photograph,
6 a computer generated presentation or video presentation. The time,
7 length and content of the presentation would be within the sound
8 discretion of the sentencing judge.

9 The bill would also add two new subsections, p. and q., to
10 N.J.S.A.52:4B-36, the "Crime Victim's Bill of Rights."

11 Subsection p. would provide that a crime victim would have the
12 right to be present at any judicial proceeding involving a crime or
13 any juvenile proceeding involving a criminal offense and to be
14 notified of any release or escape of the accused and the right to an
15 adjudicative decision by the court on each of the rights conferred
16 herein when a motion has been filed to enforce such right pursuant
17 to Article I, paragraph 22 of the New Jersey Constitution.

18 Subsection q. provides that the victim shall have express
19 standing to enforce these rights in any court before whom the
20 proceedings are being held.

21 The bill would provide for a delayed effective date of 60 days to
22 facilitate implementation.

23 This bill is named after the late Assembly Republican leader
24 Alex DeCroce, who was a driving force in the fight to protect the
25 rights of crime victims and played a pivotal role in the enactment of
26 the victim's rights amendment to the New Jersey Constitution and
27 the "Crime Victim's Bill of Rights" in this State.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2380

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2012

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2380.

The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I, makes crime victims' rights a constitutional mandate and specifically provides that victims "shall be entitled to those rights and remedies as may be provided by the Legislature." The "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.), enumerates these rights.

As amended and reported by the committee, this bill is designated as Alex DeCroce's Law and enhances these rights by amending and supplementing the existing rights enumerated in section 3 of P.L.1985, c.249 (C.52:4B-36) to: provide that victims are to be free from harassment or abuse; increase victims' access to medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971; increase victims' access to the information concerning the progress of the case and the scheduling of court proceedings; expand the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time; provide victims the right to be present at any related judicial proceedings; provide that victims are to be notified of the release or escape of the accused; and provide victims with standing to enforce the rights afforded in this section.

The committee amended the bill to clarify language concerning certain crime victims' rights and rearrange provisions of the bill. The amendments also add specific references to the prosecutor's authority and the defendant's constitutional rights.

As introduced, the bill provided that victims have the right to be free from intimidation, harassment or abuse by "anyone involved in the criminal justice process, including the defendant and anyone acting in support of or on behalf of the defendant." The amendments modify this language to provide that victims have the right to be free from intimidation, harassment and abuse by "any person, including the defendant or any other person acting in support of or on behalf of the

defendant, due to the involvement of the victim or witness in the criminal justice process.”

The bill as introduced provided that the written statement a victim may submit to the prosecuting agency is to be considered prior to the prosecutor’s decision to accept a negotiated plea or request by the defendant to enter into a pretrial intervention program. The amendments clarify this language to conform to prosecutors’ practices. Under the amendments, the statement is to be considered prior to the prosecutor’s decision whether the prosecutor will consent to a request by the defendant to enter into a pretrial program, and whether the prosecutor will make or agree to a negotiated plea.

The committee amendments further provide that victims have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim’s position regarding the plea agreement. The amendments also clarify that the bill does not alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate. In addition, the amendments provide that a crime victim has the right to be present at any judicial proceeding involving a crime or any juvenile proceedings involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution. In pertinent part Article I, paragraph 22 provides that “A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”

The amendments also reorganize the location of existing provisions in the bill concerning victims’ rights, placing them into new sections 2 and 3. Subsection a. of section 2 concerns the right of a victim’s survivor, under current law, to display a photograph of a homicide victim. Subsection b. of section 2 concerns the right of a victim’s survivor to wear a button containing the victim’s picture. The provision concerning the button was set out in section 1 of the introduced bill.

The new section 3 provides that no crime victim shall be required to pay maintenance, support, or other costs arising from the imprisonment or commitment of a victimizer. This provision was also set out in section 1 of the introduced bill.

This bill is named after the late Assembly Republican leader Alex DeCroce, who was a driving force in the fight to protect the rights of crime victims and played a pivotal role in the enactment of the victim’s rights amendment to the New Jersey Constitution and the “Crime Victim’s Bill of Rights” in this State.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2380

STATE OF NEW JERSEY

DATED: MAY 21, 2012

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2380 (1R).

This bill designated Alex DeCroke's Law, enhances the rights and remedies enumerated in the "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.).

The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I, makes crime victims' rights a constitutional mandate and specifically provides that victims "shall be entitled to those rights and remedies as may be provided by the Legislature."

This bill provides that victims are to be free from harassment or abuse. Current law provides that victims have the right to be free from intimidation. This bill expands and clarifies that right, to provide that victims have the right to be free from intimidation, harassment and abuse by any person, including the defendant or any other person acting in support of or on behalf of the defendant, due to the involvement of the victim or witness in the criminal justice process.

This bill expands and clarifies victims' access to medical assistance by specifying that the assistance includes any medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971."

This bill increases victims' access to the information concerning the progress of the case and the scheduling of court proceedings by requiring notice of any adjournment or cancellation of court proceedings and by allowing the victim to consult with the prosecutor's representative so that the victim may be kept adequately informed.

This bill expands the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time.

This bill provides victims the right to be present at any related judicial proceedings: any judicial proceeding involving a crime or any juvenile proceedings involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution. In

pertinent part Article I, paragraph 22 provides that “A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”

This bill requires that victims be notified of the release or escape of the defendant.

This bill gives victims standing to enforce the rights afforded by the “Crime Victim’s Bill of Rights.”

This bill provides that victims have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim’s position regarding the plea agreement. The bill clarifies that this does not alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

The bill clarifies and expands the current right of a victim’s survivor to display a photograph of a homicide victim, transferring that right to a new section of law (section 2 of the bill) and adding the right of a victim’s survivor to wear a button containing the victim’s picture.

The bill also sets out the current right of a victim, that no crime victim shall be required to pay maintenance, support, or other costs arising from the imprisonment or commitment of a victimizer, as a separate section of law (section 3 of the bill).

This bill is named after the late Assembly Republican leader Alex DeCroce, who was a driving force in the fight to protect the rights of crime victims and played a pivotal role in the enactment of the victim’s rights amendment to the New Jersey Constitution and the “Crime Victim’s Bill of Rights” in this State.

FISCAL IMPACT:

The Administrative Office of the Courts stated in relation to a similar bill in a prior session, Assembly Bill No. 2558(1R) of 2010, that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. The Office of Legislative Services also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2380

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MAY 23, 2012

SUMMARY

- Synopsis:** Alex DeCroce’s Law; enhances crime victims’ rights under the “Crime Victim’s Bill of Rights.”
- Type of Impact:** Potential cost to Judiciary and prosecuting agencies.
- Agencies Affected:** Judiciary, Prosecuting agencies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See Comments Below		
Local Cost	Indeterminate – See Comments Below		

- In a fiscal note for the prior legislative session, the Administrative Office of the Courts’ (AOC) stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.
- The Office of Legislative Services (OLS) **concurs** with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.
- The bill, Alex DeCroce’s Law, would enhance the rights enumerated under the “Crime Victim’s Bill of Rights” N.J.S.A.52:4B-34 et seq., by amending the existing rights to increase the victim’s access to the information concerning the progress of the case and to expand the consideration of the victim’s impact statement with regard to plea agreements and pretrial intervention programs.

BILL DESCRIPTION

Assembly Bill No. 2380 (1R) of 2012 is designated as Alex DeCroce's Law and enhances victims rights under The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I. The bill amends and supplements the existing rights enumerated in section 3 of P.L.1985, c.249 (C.52:4B-36) to: provide that victims are to be free from harassment or abuse; increase victims' access to medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971; increase victims' access to the information concerning the progress of the case and the scheduling of court proceedings; expand the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time; provide victims the right to be present at any related judicial proceedings; provide that victims are to be notified of the release or escape of the accused; and provide victims with standing to enforce the rights afforded in this section.

The bill would provide for a delayed effective date of 60 days to facilitate implementation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Administrative Office of the Courts

In a fiscal note for the prior legislative session, the AOC stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.

Department of Law and Public Safety

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

Section: Judiciary

Analyst: Anne Raughley
Principal Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2380

STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2380 (1R).

This bill, designated Alex DeCroce's Law, enhances the rights and remedies enumerated in the "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.).

The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I, makes crime victims' rights a constitutional mandate and specifically provides that victims "shall be entitled to those rights and remedies as may be provided by the Legislature."

This bill provides that victims are to be free from harassment or abuse. Current law provides that victims have the right to be free from intimidation. This bill expands and clarifies that right, to provide that victims have the right to be free from intimidation, harassment and abuse by any person, including the defendant or any other person acting in support of or on behalf of the defendant, due to the involvement of the victim or witness in the criminal justice process.

This bill expands and clarifies victims' access to medical assistance by specifying that the assistance includes any medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971."

This bill increases victims' access to the information concerning the progress of the case and the scheduling of court proceedings by requiring notice of any adjournment or cancellation of court proceedings and by allowing the victim to consult with the prosecutor's representative so that the victim may be kept adequately informed.

This bill expands the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time.

This bill provides victims the right to be present at any related judicial proceedings any judicial proceeding involving a crime or any juvenile proceedings involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution. In

pertinent part Article I, paragraph 22 provides that “A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”

This bill requires that victims be notified of the release or escape of the defendant.

This bill gives victims standing to enforce the rights afforded by the “Crime Victim’s Bill of Rights.”

This bill provides that victims have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim’s position regarding the plea agreement. The bill clarifies that this does not alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

The bill clarifies and expands the current right of a victim’s survivor to display a photograph of a homicide victim, transferring that right to a new section of law (section 2 of the bill) and adding the right of a victim’s survivor to wear a button containing the victim’s picture.

The bill also sets out the current right of a victim, that no crime victim shall be required to pay maintenance, support, or other costs arising from the imprisonment or commitment of a victimizer, as a separate section of law (section 3 of the bill).

This bill is named after the late Assembly Republican leader Alex DeCroce, who was a driving force in the fight to protect the rights of crime victims and played a pivotal role in the enactment of the victim’s rights amendment to the New Jersey Constitution and the “Crime Victim’s Bill of Rights” in this State.

As reported, this bill is identical Senate Bill. No. 775 (1R) as also reported and amended by the committee.

FISCAL IMPACT:

The Administrative Office of the Courts stated in relation to a similar bill in a prior session, Assembly Bill No. 2558(1R) of 2010, that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. The Office of Legislative Services also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

SENATE, No. 775

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senators Madden, Greenstein and Bateman

SYNOPSIS

Enhances crime victims' rights under the "Crime Victim's Bill of Rights."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/17/2012)

1 AN ACT concerning crime victims rights and amending P.L.1985,
2 c.249.

3

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

6

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
12 justice system;

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

14 c. To be free from intimidation, harassment or abuse by anyone
15 involved in the criminal justice process including the defendant and
16 anyone acting in support of or on behalf of the defendant;

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

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

21 f. To medical assistance **[if, in the judgment of the law**
22 **enforcement agency, medical assistance appears necessary]**
23 reasonably related to the incident;

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

27 h. To be informed about available remedies, financial
28 assistance and social services;

29 i. To be compensated for **[their]** loss sustained by the victim
30 whenever possible;

31 j. To be provided a secure, but not necessarily separate,
32 waiting area during court proceedings;

33 k. To be advised of case progress and final disposition and to
34 confer with the prosecutor's representative on such occasions in
35 order to keep the victim adequately informed;

36 l. To the prompt return of property when no longer needed as
37 evidence;

38 m. To submit a written statement about the impact of the crime
39 to a representative of the **[county prosecutor's office]** prosecuting
40 agency which shall be considered prior to the prosecutor's final
41 decision concerning whether formal criminal charges will be filed
42 or whether the prosecutor shall accept a negotiated plea or request
43 by the defendant to enter into a pretrial intervention program; and

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 n. To make, prior to sentencing, an in-person statement directly
2 to the sentencing court concerning the impact of the crime.

3 This statement is to be made in addition to the statement
4 permitted for inclusion in the presentence report by N.J.S.2C:44-6.

5 In any homicide prosecution a victim's survivor shall be
6 permitted to wear a button containing a picture of the victim during
7 any judicial proceeding involving the accused, provided that the
8 court determines that the wearing of such button by one or several
9 individuals will not rise to such a level as to deprive the defendant
10 of his Sixth Amendment right to a fair trial. The button shall not
11 exceed four inches in diameter. If the victim's survivor seeks to
12 wear the button at trial, he shall give notice to the prosecution of
13 such intent which shall be provided to the defendant and to the
14 court no less than 30 days prior to the final trial date. In any
15 homicide prosecution the victim's survivor may display directly to
16 the sentencing court at the time of this statement a photograph of
17 the victim taken before the homicide including, but not limited to, a
18 still photograph, a computer generated presentation or video
19 presentation of the victim. The time, length and content of such
20 presentation shall be within the sound discretion of the sentencing
21 judge; [and]

22 o. No crime victim shall be required to pay the maintenance,
23 support, rehabilitation or other costs arising from the imprisonment
24 or commitment of a victimizer as a result of the crime;

25 p. A crime victim shall have the right to be present at any
26 judicial proceeding involving a crime or any juvenile proceeding
27 involving a criminal offense and to be notified of any release or
28 escape of the accused and the right to an adjudicative decision by
29 the court on each of the rights conferred herein when a motion has
30 been filed to enforce such right pursuant to Article I, paragraph 22
31 of the New Jersey Constitution; and

32 q. The victim shall have express standing to enforce these rights
33 in any court before which the proceedings are being held.

34 (cf: P.L.2001, c.208, s.2)

35
36 2. This act shall take effect on the 60th day following
37 enactment.

38

39

40

STATEMENT

41

42 The Victim's Rights Amendment to the New Jersey Constitution,
43 enacted by the voters in 1991 as paragraph 22 of Article I, makes
44 crime victims' rights a constitutional mandate and specifically
45 provides that victims "shall be entitled to those rights and remedies
46 as may be provided by the Legislature." The "Crime Victim's Bill
47 of Rights," N.J.S.A.52:4B-34 et seq., enumerates those rights to

1 which crime victims are entitled, including but not limited to the
2 right to be treated with dignity and compassion by the criminal
3 justice system, the right to be advised of case progress and final
4 disposition, and the right to make an in-person statement directly to
5 the sentencing court.

6 This bill would enhance these rights by amending and
7 supplementing the existing rights enumerated in N.J.S.A.52:4B-36
8 to increase the victim's access to the information concerning the
9 progress of the case and to expand the consideration of the victim's
10 impact statement with regard to plea agreements and pretrial
11 intervention programs.

12 Subsection c. of N.J.S.A.52:4B-36 currently provides that the
13 victim has the right to be free from intimidation. This bill would
14 expand this subsection to provide that the victim should also be free
15 of harassment or abuse by anyone involved in the criminal justice
16 process including the defendant and anyone acting in support of or
17 on behalf of the defendant.

18 This bill would also eliminate the language in current law, set
19 out in subsection f., which provides that the crime victim's right to
20 medical assistance is within the discretion of the law enforcement
21 agency. This bill provides that crime victims would have the right
22 to medical assistance which is reasonably related to the incident.

23 Subsection g. currently provides that the victim should be
24 notified if presence in court is not needed. This bill amends this
25 section to require notification in a timely manner, if practicable, if
26 the presence of the victim is not needed or if any scheduled court
27 proceeding has been adjourned or cancelled.

28 Subsection i. is amended to clarify that the victim should be
29 compensated for the loss sustained by the victim.

30 Subsection k., which requires that the victim be advised of the
31 progress of the case and the final disposition of the case, would be
32 amended to provide that the victim would have the right to confer
33 with the prosecutor's representative in order to keep the victim
34 adequately informed.

35 This bill also amends subsection m. concerning the use of the
36 victim's impact statement. Currently this subsection provides that
37 the victim may submit a written impact statement to the
38 prosecutor's office which shall be considered prior to any final
39 decision concerning whether formal criminal charges will be filed.
40 This bill amends this subsection to provide that the impact
41 statement also be considered with regard to whether a prosecutor
42 shall accept a negotiated plea or request by the defendant to enter
43 into a pretrial intervention program.

44 The bill provides that in any homicide prosecution a victim's
45 survivor would be permitted to wear a button containing a picture of
46 the victim during any judicial proceeding involving the accused,
47 provided the court determines that the wearing of such button by
48 one or several individuals will not rise to such a level as to deprive

1 the defendant of his Sixth Amendment right to a fair trial. The
2 button could not exceed four inches in diameter. If the victim's
3 survivor seeks to wear the button at trial, he shall give notice to the
4 prosecution of such intent which shall be provided to the defendant
5 and to the court no less than 30 days prior to the final trial date.

6 In addition, the bill provides that if a victim's survivor chooses
7 to display in court a photograph of the victim taken before the
8 homicide then that display may be in the form of a still photograph,
9 a computer generated presentation or video presentation. The time,
10 length and content of the presentation would be within the sound
11 discretion of the sentencing judge.

12 The bill would also add two new subsections, p. and q., to
13 N.J.S.A.52:4B-36, the "Crime Victim's Bill of Rights."

14 Subsection p. would provide that a crime victim would have the
15 right to be present at any judicial proceeding involving a crime or
16 any juvenile proceeding involving a criminal offense and to be
17 notified of any release or escape of the accused and the right to an
18 adjudicative decision by the court on each of the rights conferred
19 herein when a motion has been filed to enforce such right pursuant
20 to Article I, paragraph 22 of the New Jersey Constitution.

21 Subsection q. provides that the victim shall have express
22 standing to enforce these rights in any court before whom the
23 proceedings are being held.

24 The bill would provide for a delayed effective date of 60 days to
25 facilitate implementation.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 775

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2012

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 775.

The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I, makes crime victims' rights a constitutional mandate and specifically provides that victims "shall be entitled to those rights and remedies as may be provided by the Legislature." The "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.), enumerates these rights.

This bill, as amended, is designated as Alex DeCrocce's Law and enhances these rights by amending and supplementing the existing rights enumerated in section 3 of P.L.1985, c.249 (C.52:4B-36) to: provide that victims are to be free from harassment or abuse; increase victims' access to medical assistance reasonably related to the incident; increase victims' access to the information concerning the progress of the case and the scheduling of court proceedings; expand the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs; provide victims the right to be present at any related judicial proceedings; provide that victims are to be notified of the release or escape of the accused; and provide victims with standing to enforce the rights afforded in this section.

The committee amended the bill to clarify language concerning certain crime victims' rights and rearrange provisions of the bill. The amendments also add specific references to the prosecutor's authority and the defendant's constitutional rights.

As introduced, the bill provided that victims have the right to be free from intimidation, harassment or abuse by "anyone involved in the criminal justice process, including the defendant and anyone acting in support of or on behalf of the defendant." The amendments modify this language to provide that victims have the right to be free from intimidation, harassment and abuse by "any person, including the defendant or any other person acting in support of or on behalf of the

defendant, due to the involvement of the victim or witness in the criminal justice process.”

The bill as introduced provided that the written statement a victim may submit to the prosecuting agency is to be considered prior to the prosecutor’s decision to accept a negotiated plea or request by the defendant to enter into a pretrial intervention program. The amendments clarify this language to conform to prosecutors’ practices. Under the amendments, the statement is to be considered prior to the prosecutor’s decision whether the prosecutor will consent to a request by the defendant to enter into a pretrial program, and whether the prosecutor will make or agree to a negotiated plea.

The committee amendments further provide that victims have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim’s position regarding the plea agreement. The amendments also clarify that the bill does not alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate. In addition, the amendments provide that a crime victim has the right to be present at any judicial proceeding involving a crime or any juvenile proceedings involving a criminal offense, except as otherwise provided by Article I, paragraph 22 of the New Jersey Constitution. In pertinent part Article I, paragraph 22 provides that “A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”

The amendments also reorganize the location of existing provisions in the bill concerning victims’ rights, placing them into new sections 2 and 3. Subsection a. of section 2 concerns the right of a victim’s survivor, under current law, to display a photograph of a homicide victim. Subsection b. of section 2 concerns the right of a victim’s survivor to wear a button containing the victim’s picture. The provision concerning the button was set out in section 1 of the introduced bill.

The new section 3 provides that no crime victim shall be required to pay maintenance, support, or other costs arising from the imprisonment or commitment of a victimizer. This provision was also set out in section 1 of the introduced bill.

This bill is named after the late Assembly Republican leader Alex DeCroce, who was a driving force in the fight to protect the rights of crime victims and played a pivotal role in the enactment of the victim’s rights amendment to the New Jersey Constitution and the “Crime Victim’s Bill of Rights” in this State.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 775

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MAY 23, 2012

SUMMARY

- Synopsis:** Alex DeCroce’s Law; enhances crime victims’ rights under the “Crime Victim’s Bill of Rights.”
- Type of Impact:** Potential cost to Judiciary and prosecuting agencies.
- Agencies Affected:** Judiciary, Prosecuting agencies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See Comments Below		
Local Cost	Indeterminate – See Comments Below		

- In a fiscal note for the prior legislative session, the Administration Office of the Courts’ (AOC) stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.
- The Office of Legislative Services (OLS) **concurs** with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.
- The bill, Alex DeCroce’s Law, would enhance the rights enumerated under the “Crime Victim’s Bill of Rights” N.J.S.A.52:4B-34 et seq., by amending the existing rights to increase the victim’s access to the information concerning the progress of the case and to expand the consideration of the victim’s impact statement with regard to plea agreements and pretrial intervention programs.

BILL DESCRIPTION

Senate Bill No. 775 (1R) of 2012 is designated as Alex DeCroce's Law and enhances victims rights under The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I. The bill amends and supplements the existing rights enumerated in section 3 of P.L.1985, c.249 (C.52:4B-36) to: provide that victims are to be free from harassment or abuse; increase victims' access to medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971; increase victims' access to the information concerning the progress of the case and the scheduling of court proceedings; expand the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs; provide victims the right to be present at any related judicial proceedings; provide that victims are to be notified of the release or escape of the accused; and provide victims with standing to enforce the rights afforded in this section.

The bill would provide for a delayed effective date of 60 days to facilitate implementation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Administrative Office of the Courts

In a fiscal note for the prior legislative session, the AOC stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.

Department of Law and Public Safety

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 775

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 775 (1R), with committee amendments.

The bill, as amended, is designated as Alex DeCrocce's Law and enhances the rights and remedies enumerated in the "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.).

The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I, makes crime victims' rights a constitutional mandate and specifically provides that victims "shall be entitled to those rights and remedies as may be provided by the Legislature." The "Crime Victim's Bill of Rights," P.L.1985, c.249 (C.52:4B-34 et seq.), enumerates these rights.

Current law provides that victims have the right to be free from intimidation. This bill expands and clarifies that right, to provide that victims have the right to be free from intimidation, harassment and abuse by any person, including the defendant or any other person acting in support of or on behalf of the defendant, due to the involvement of the victim or witness in the criminal justice process.

A victims' access to medical assistance is also expanded upon and clarified by the bill's provision specifying that such assistance includes any medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971."

The bill increases victims' access to the information concerning the progress of the case and the scheduling of court proceedings by requiring notice of any adjournment or cancellation of court proceedings and by allowing the victim to consult with the prosecutor's representative so that the victim may be kept adequately informed.

This bill expands the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time.

This bill provides victims the right to be present at any related judicial proceedings involving a crime or any juvenile proceedings involving a criminal offense, except as otherwise provided by Article

I, paragraph 22 of the New Jersey Constitution. In pertinent part Article I, paragraph 22 provides that “A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”

This bill requires that victims be notified of the release or escape of the defendant. Victims are also granted standing to enforce the rights afforded by the “Crime Victim’s Bill of Rights” under the provisions of the bill.

This bill provides that victims have the opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations, and to have the prosecutor advise the court of the consultation and the victim’s position regarding the plea agreement. The bill clarifies that this does not alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

The bill also reorganizes the location of existing provisions in the bill concerning victims’ rights, placing them into new sections 2 and 3. Subsection a. of section 2 concerns the right of a victim’s survivor, under current law, to display a photograph of a homicide victim. Subsection b. of section 2 concerns the right of a victim’s survivor to wear a button containing the victim’s picture.

Section 3 provides that no crime victim shall be required to pay maintenance, support, or other costs arising from the imprisonment or commitment of a victimizer. This provision was also set out in section 1 of the introduced bill.

This bill is named after the late Assembly Republican leader Alex DeCroke, who was a driving force in the fight to protect the rights of crime victims and played a pivotal role in the enactment of the victim’s rights amendment to the New Jersey Constitution and the “Crime Victim’s Bill of Rights” in this State.

As amended by the committee, this bill is identical to A-2380 (1R), as also considered by the committee.

COMMITTEE AMENDMENTS:

These committee amendments make this bill identical to Assembly No. 2380 (1R). The committee amendments clarify that medical assistance is to be provided in accordance with the “Criminal Injuries Compensation Act of 1971.” In addition, the committee amendments require that victim impact statements be submitted within a reasonable period of time.

FISCAL IMPACT:

The Administrative Office of the Courts stated in relation to a similar bill in a prior session, Assembly Bill No. 2558(1R) of 2010, that the Judiciary was unable to estimate the number of motions that

might be filed by crime victims to enforce their rights. The Office of Legislative Services also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 775

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: AUGUST 3, 2012

SUMMARY

- Synopsis:** Alex DeCroce’s Law; enhances crime victims’ rights under the “Crime Victim’s Bill of Rights.”
- Type of Impact:** Potential cost to Judiciary and prosecuting agencies.
- Agencies Affected:** Judiciary, Prosecuting agencies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		
Local Cost	Indeterminate – See comments below		

- In a fiscal note for the prior legislative session, the Administrative Office of the Courts’ (AOC) stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.
- The Office of Legislative Services (OLS) **concurs** with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.
- The bill, Alex DeCroce’s Law, would enhance the rights enumerated under the “Crime Victim’s Bill of Rights” N.J.S.A.52:4B-34 et seq., by amending the existing rights to increase the victim’s access to the information concerning the progress of the case and to expand the consideration of the victim’s impact statement with regard to plea agreements and pretrial intervention programs.

BILL DESCRIPTION

Senate Bill No.775 (2R) of 2012 is designated as Alex DeCroce's Law and enhances victims rights under The Victim's Rights Amendment to the New Jersey Constitution enacted by the voters in 1991 as paragraph 22 of Article I. The bill amends and supplements the existing rights enumerated in section 3 of P.L.1985, c.249 (C.52:4B-36) to: provide that victims are to be free from harassment or abuse; increase victims' access to medical assistance reasonably related to the incident in accordance with the "Criminal Injuries Compensation Act of 1971; increase victims' access to the information concerning the progress of the case and the scheduling of court proceedings; expand the consideration of victims' impact statements with regard to plea agreements and pretrial intervention programs, provided that those statements are submitted within a reasonable amount of time; provide victims the right to be present at any related judicial proceedings; provide that victims are to be notified of the release or escape of the accused; and provide victims with standing to enforce the rights afforded in this section.

The bill would provide for a delayed effective date of 60 days to facilitate implementation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Administrative Office of the Courts

In a fiscal note for the prior legislative session, the AOC stated that the Judiciary was unable to estimate the number of motions that might be filed by crime victims to enforce their rights. In this regard, the Judiciary could not estimate with any accuracy the financial impact this bill would have on the court system.

Department of Law and Public Safety

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the AOC statement that the cost to the Judiciary cannot be estimated. The OLS also notes that there may be an undetermined fiscal impact upon the prosecuting agencies in maintaining communication with the victims, keeping them informed of the status of their cases and consulting them prior to the conclusion of any plea negotiations.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Christie Signs Bipartisan Legislation to Increase the Rights of Crime Victims in New Jersey

Tuesday, August 07, 2012 Tags: [Bill Action](#)

Alex DeCroce's Law Honors Late Assembly Leader's Commitment to the Victims' Rights Movement

Trenton, NJ – Taking action to further protect the rights of crime victims, Governor Chris Christie today signed "Alex DeCroce's Law," which updates and strengthens New Jersey's existing Crime Victim's Bill of Rights. Approved by voters in 1991, the present day law enumerates certain constitutional protections for crime victims and their families, including the right to be treated with dignity and compassion by the criminal justice system, the right to be advised of case progress and final disposition and the right to make an in-person statement directly to the sentencing court.

"Alex DeCroce was a tireless leader and advocate of victims' rights who is still dearly missed in Trenton today," said Governor Christie. "A pioneer of the modern victims' rights movement in the Garden State, Alex's commitment was born out of his sense of fairness and his huge heart for those who had suffered a great personal loss. Today, I am proud to sign this bill, appropriately named in Alex's memory, to secure the rights and fair, compassionate treatment of victims and their families. This law furthers my commitment, Alex's commitment and that of the Legislature to ensure that crime victims in our state have every protection they deserve."

Early on in his legislative career, DeCroce sponsored the Victim's Rights Amendment which New Jersey voters approved in 1991. This landmark amendment to the New Jersey Constitution guaranteed the rights of crime victims.

"Alex championed this legislation because of his sensitivity to the pain and anguish felt by victims and their families," said Assemblywoman BettyLou DeCroce. "He devoted much of his public and personal life to building a coalition of many constituencies that understood the trauma endured by crime victims and I am proud to help finish the work he pioneered."

The changes in A-2380 address gaps in victim treatment as identified by victims' advocates and update certain provisions affected by case law. Current law has not been updated since 2001.

These revisions include:

- the expansion and clarification that victims have the right to be free from harassment and abuse by any person, including the defendant or any person acting in the support of or on behalf of the defendant;
- the assurance that medical assistance is provided to the victim if it relates to the incident and is consistent with the Criminal Injuries Compensation Act of 1971;
- timely notification ensuring victims of case progress and scheduling of court proceedings;
- notification of the release or escape of the defendant;
- the expansion of rights to confer with a prosecutor's representative and to be kept informed;
- consideration of victims' statements in pre-trial determinations and plea agreements and the right to be present at open court proceedings, unless sequestered;
- allowing victims' families in homicide prosecutions to display pictures of the victim during sentencing statements.

The bill becomes effective 60 days after enactment.

Sponsors of the legislation include Assemblymembers Gordon M. Johnson (D-Bergen), Robert Schroeder (R-Bergen, Passaic), Holly Schepisi (R-Bergen, Passaic), BettyLou DeCroce (R-Essex, Morris, Passaic) and Ruben J. Ramos, Jr., (D-Hudson)

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Press Contact:
Michael Drewniak

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