

2C:44-6

LEGISLATIVE HISTORY CHECKLIST

(Crime victims -- allows statement prior to defendants sentencing)

NJSA 2C:44-6

LAWS 1981

CHAPTER 481

Bill No. A1376

Sponsor(s) Jackman and others

Date Introduced March 10, 1980

Committee: Assembly Judiciary, Law Public Safety and Defense

Senate Judiciary

Amended during passage Yes

~~XXX~~ Senate Committee substitute (OCR) enacted. Amendments during passage denoted by asterisks

Date of Passage: Assembly July 28, 1980  
Re -enacted 1-11-82

Senate Feb. 2, 1981  
Re-enacted 12-10-81

Date of approval Jan. 12, 1982

Following statements are attached if available:

Sponsor statement	<u>Yes</u>	<del>No</del>
Committee Statement: <u>Assembly</u>	<del>Yes</del>	<u>No</u>
<u>Senate</u>	<u>Yes</u>	<del>No</del>
Fiscal Note	<del>Yes</del>	<u>No</u>
Veto Message	<u>Yes</u>	<del>No</del>
Message on signing	<del>Yes</del>	<u>No</u>

Following were printed:

Reports	<del>Yes</del>	<u>No</u>
Hearings	<del>Yes</del>	<u>No</u>

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[OFFICIAL COPY REPRINT]  
SENATE COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1376**

**STATE OF NEW JERSEY**

ADOPTED OCTOBER 20, 1980

AN ACT concerning presentence investigation and amending  
N. J. S. 2C:44-6.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. N. J. S. 2C:44-6 is amended to read as follows:

2 2C:44-6. Procedure on Sentence; Presentence Investigation and  
3 Report. a. The court shall not impose sentence without first order-  
4 ing a presentence investigation of the defendant and according due  
5 consideration to a written report of such investigation when re-  
6 quired by Rules of Court. The court may order a presentence  
7 investigation in any other case.

8 b. The presentence investigation shall include an analysis of  
9 the circumstances attending the commission of the offense, the de-  
10 fendant's history of delinquency or criminality, family situation,  
11 personal habits, the disposition of any charge made against any  
12 codefendants and may include a report on his physical and mental  
13 condition and any other matters that the probation officer deems  
14 relevant or the court directs to be included. *The presentence report*  
15 *may also include a statement by the victim of the offense for which*  
16 *the defendant is being sentenced. The statement may include the*  
17 *nature and extent of any physical harm or psychological or emo-*  
18 *tional harm or trauma suffered by the victim, the extent of any*  
19 *loss of earnings or ability to work suffered by the victim and the*  
20 *effect of the crime upon the victim's family. The probation depart-*  
21 *ment shall notify the victim of his right to make a statement for*  
22 *inclusion in the presentence report if the victim so desires. \*Any*  
22A *such statement shall be made within 20 days of notification by the*  
22B *probation department.\**

23 c. If, after the presentence investigation, the court desires ad-  
24 ditional information concerning an offender convicted of an offense  
25 before imposing sentence, it may order that he be examined as to  
26 his medical or mental condition except that he may not be com-  
27 mitted to an institution for such examination.

28 d. Disclosure of any presentence investigation report or psychi-  
29 atric examination report shall be in accordance with law and the  
30 Rules of Court.

31 e. The court shall not impose a sentence of imprisonment for  
32 an extended term unless the ground therefor has been established  
33 at a hearing after the conviction of the defendant and on written  
34 notice to him of the ground proposed. The defendant shall have  
35 the right to hear and controvert the evidence against him and to  
36 offer evidence upon the issue.

37 \*f. "*Victim*" means "*victim*" as defined by the "*Criminal*  
38 *Injuries Compensation Act of 1971*" P. L. 1971, c. 317 (C. 52:4B-1  
39 *et seq.*)\*.

1 2. This act shall take effect 60 days following enactment.

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ASSEMBLY, No. 1376

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1980

By Assemblymen JACKMAN, MATTHEWS, PELLECCIA, KAVANAUGH, MAGUIRE, STEWART, D. GALLO, WEIDEL, JANISZEWSKI, RAND, DEVERIN, LESNIAK, T. GALLO, DORIA, COWAN, VISOTCKY, HURLEY, ADUBATO, RILEY, DALTON, OTLOWSKI, McMANIMON, BROWN, BORNHEIMER, PATERNITI, CODEY, KARCHER, BAER, VAN WAGNER, FORTUNATO, PATERO, Assemblywoman McCONNELL, Assemblymen SCHWARTZ, MAYS, OLSZOWY, THOMPSON, GIRGENTI, McENROE, Assemblywoman BURGIO, Assemblymen HOLLENBECK, HARDWICK, EDWARDS, COSTELLO and STOCKMAN

Referred to Committee on Judiciary, Law, Public Safety  
and Defense

AN ACT concerning the sentencing of criminal defendants and  
supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. a. Prior to the imposition of sentence upon any defendant  
2 who has been found guilty or who has pleaded guilty to any crime,  
3 the sentencing court shall permit the victim of the crime for which  
4 the defendant is being sentenced to:

5 (1) Appear before the sentencing court for the purpose of mak-  
6 ing a statement under oath for the record or,

7 (2) Submit a written statement under oath to the prosecutor,  
8 which shall be filed with the sentencing court.

9 b. The prosecutor shall notify the victim in writing of the date  
10 of the imposition of sentence and of the right of the victim to submit  
11 a statement as provided in subsection b; and,

12 c. The prosecutor shall advise all victims that statements,  
13 whether oral or written, shall relate solely to the facts of the case  
14 and the extent of any injuries, financial losses, and loss of earnings  
15 directly resulting from the crime for which the defendant is being  
16 sentenced; and,

17 d. The prosecutor shall advise the victim of a crime of any plea  
18 negotiations with the defendant, and the court shall permit the  
19 victim to state whether he concurs or objects to the negotiated pleas  
20 prior to the court's acceptance or rejection thereof. The court may  
21 refuse to accept a negotiated plea and order the defendant to stand  
22 trial.

1 2. Each presentence report prepared prior to the imposition of  
2 sentence shall include a victim's impact statement. The victim's  
3 impact statement shall include:

4 a. The nature and extent of any physical harm suffered by the  
5 victim; and,

6 b. The nature and extent of any psychological or emotional harm  
7 or trauma suffered by the victim; and,

8 c. The extent of any loss of earnings or ability to work suffered  
9 by the victim; and,

10 d. The effect of the crime upon the victim's family, if the crime  
11 was a violent crime.

1 3. This act shall take effect 60 days following enactment.

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#### STATEMENT

This bill would permit victims of a crime to submit statements to the court prior to the defendant's sentencing. The bill also requires the prosecutor to notify the victim of the date of sentencing and of his right to appear or submit a written statement.

Additionally, the bill requires the prosecutor to advise the victim of any plea negotiation and permits the victim to state his concurrence or objection to a negotiated plea prior to its acceptance or rejection. The bill further requires that each presentence report contain a victim impact statement.

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SENATE JUDICIARY COMMITTEE  
STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1376**

**STATE OF NEW JERSEY**

DATED: OCTOBER 20, 1980

The purpose of Assembly Bill No. 1376 is to insure the right of a victim of a crime to have their views presented to the sentencing court.

When discussed by the committee, reservations were expressed about permitting the victim to appear and testify on the actual day of sentencing. It was felt that any statement by the victim should be submitted prior to the date of sentencing. To meet this concern, at the suggestion of the Division of Criminal Justice, Assembly Bill No. 1376 was redrafted as a committee substitute amending N. J. S. 2C:44-6 which deals with presentence reports.

The substitute would require that every presentence report include a statement by the victim if the victim so desires. The statement may include the nature and extent of any physical or psychological harm suffered by the victim; any loss of earnings or ability to work and the effect of the crime on the victim's family. It would be the responsibility of the county probation department to notify the victim of his right to make a statement for inclusion in the presentence report.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 12, 1981

SENATE COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 1376

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Committee Substitute For Assembly, No. 1376 for reconsideration.

This bill would allow victims of any crime to have their views presented to sentencing courts. It would do this by requiring the Probation Department to inform victims that they can make a statement, which would become part of the pre-sentence report presented to the judge. The statement could include the nature and extent of any physical, emotional or psychological harm, any property or income losses, and general effect of the crime on the victim's family.

I believe the objectives of the bill are worthwhile. However, I believe that the bill's scope should be limited to victims of violent crimes, not to all victims of crime. I am convinced that the judge's need for this type of statement is more critical in the case of the victim of a violent crime than in the case of crimes against property. Also allowing statements to be made by all crime victims would strain resources now committed to the Probation Department and the judiciary. The definition of "victim" already established under the Violent Crimes Compensation Act would serve to effect this limitation in scope.

I also believe that there should be a time limit for the victim to make a statement. We can ill-afford to have sentences delayed indefinitely while waiting for a victim's statement. A period of 20 days after notification by the Probation Department is reasonable.

Accordingly, I am returning Senate Committee Substitute For Assembly, No. 1376 for reconsideration and recommend that it be amended as follows:

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Page 1, Section 1, Line 22: after "desires" add "Any such statement shall be made within 20 days of notification by the probation department."

Page 2, Section 1, Line 37: add "f. "Victim" shall mean "victim" as defined by the "Violent Crimes Compensation Act", N.J.S.A. 52:4B-2."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY