

SENATE BILL 758

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to victims of crime.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 38, Part 3, is amended by adding the following new section:

40-38-304.

(a) A victim has standing to assert the rights enumerated in Article I, Section 35 of the Constitution of Tennessee, and the statutory rights under this section in any court exercising jurisdiction over the criminal offense committed against the victim. The district attorney general prosecuting the criminal offense or the victim may assert the victim's rights. The defendant in a criminal case has no standing to assert a right of the victim in the criminal case in any court proceeding, including appeal.

(b)

(1) A district attorney general may assert a victim's right or request of a right by filing a motion or by orally asserting the right or requesting enforcement in open court in the criminal case. Upon request, the district attorney general shall consult with the victim regarding the assertion or enforcement of a right. If the district attorney general decides not to assert or enforce a victim's right, then the district attorney general must notify the victim in sufficient time to allow the victim to assert the right or to seek enforcement of the right.

(2) A victim of crime or the family members of a victim of crime may employ private legal counsel to assert the rights described in Article I, Section 35

of the Tennessee Constitution. The extent of participation of privately employed counsel, beyond the filing of a notice of the intention to assert such a right and acting as counsel in the assertion of those rights, shall be at the discretion of the district attorney general. The victim's legal counsel shall immediately inform the district attorney general of such counsel's employment.

(3) If the district attorney general asserts a victim's right or seeks enforcement of a victim's right, and the court denies the assertion of the right or denies the request for enforcement of the right, then the victim or victim's attorney may file a motion to assert the victim's right or to request enforcement of the right within ten (10) days of the court's ruling. The motion need not demonstrate the grounds for a motion for reconsideration. The court shall rule on the merits of the motion.

(4) The court shall take up and decide any motion or request asserting or seeking enforcement of a victim's right without delay unless a specific time is specified by law or court rule. The reasons for any decision denying the motion or request must be clearly stated on the record.

(c)

(1) If the court determines that a victim's right has been violated, then the court shall determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties, considering all factors relevant to the issue, and then awarding appropriate relief to the victim.

(2) In no event shall the court vacate a conviction based on a violation of the victim's right. Any remedy shall be tailored to provide the victim an appropriate remedy without violating any constitutional right of the defendant. In

no event shall the appropriate remedy be a new trial, damages, costs, or resentencing.

(3) Prior to any hearing, an objection by the defendant to the victim's assertion of a right must be filed in writing, with specificity, with the clerk.

SECTION 2. This act takes effect July 1, 2023, the public welfare requiring it.