

1688

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sens. FLANAGAN, BONACIC, FUSCHILLO, LITTLE, MAZIARZ, MORAHAN, SEWARD, WINNER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to granting victims the right to attend criminal trials and pretrial proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 210.10 of the criminal procedure law is amended by
2 adding a new subdivision 7 to read as follows:
3 7. THE VICTIM OR, IN A CASE INVOLVING A MINOR CHILD VICTIM OR A HOMI-
4 CIDE, A FAMILY MEMBER OF THE VICTIM SHALL HAVE THE RIGHT TO BE
5 PERSONALLY PRESENT AT THE ARRAIGNMENT OF THE DEFENDANT.
6 S 2. The criminal procedure law is amended by adding a new section
7 340.60 to read as follows:
8 S 340.60 VICTIM'S PRESENCE AT TRIAL.
9 THE VICTIM, EXCEPT A VICTIM WHO INTENDS TO GIVE TESTIMONY IN THE
10 TRIAL, OR, IN A CASE INVOLVING A CHILD VICTIM OR A HOMICIDE, A FAMILY
11 MEMBER OF THE VICTIM SHALL HAVE THE RIGHT TO BE PERSONALLY PRESENT AT
12 SUCH TRIAL.
13 S 3. The criminal procedure law is amended by adding a new section
14 380.45 to read as follows:
15 S 380.45 VICTIM'S PRESENCE AT SENTENCING.
16 THE VICTIM OR, IN A CASE INVOLVING A CHILD VICTIM OR A HOMICIDE, A
17 FAMILY MEMBER OF THE VICTIM SHALL HAVE THE RIGHT TO BE PERSONALLY PRES-
18 ENT AT SENTENCING.
19 S 4. Subdivision 2 of section 400.10 of the criminal procedure law, as
20 amended by chapter 263 of the laws of 1984, is amended to read as
21 follows:
22 2. Attendance. Such conference may be held with the prosecutor and
23 defense counsel in the absence of the defendant, or the court may direct
24 that the defendant attend. The court may also direct that any person

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 who has furnished or who can furnish information to the court concerning
2 sentence attend. THE VICTIM, OR IN A CASE INVOLVING A MINOR CHILD OR A
3 HOMICIDE, A FAMILY MEMBER OF THE VICTIM, SHALL HAVE THE RIGHT TO ATTEND.
4 Reasonable notice of the conference must be given to the prosecutor and
5 the defense counsel, who must be afforded an opportunity to participate
6 therein.

7 S 5. The criminal procedure law is amended by adding a new section
8 530.15 to read as follows:

9 S 530.15 VICTIM'S PRESENCE AT BAIL PROCEEDING.

10 THE VICTIM, OR IN THE CASE OF A MINOR VICTIM OR A HOMICIDE, A FAMILY
11 MEMBER OF THE VICTIM, SHALL HAVE THE RIGHT TO BE PHYSICALLY PRESENT AT
12 ANY BAIL PROCEEDING.

13 S 6. Section 710.60 of the criminal procedure law is amended by adding
14 a new subdivision 7 to read as follows:

15 7. THE VICTIM, OR IN THE CASE OF A MINOR VICTIM OR A HOMICIDE, A FAMI-
16 LY MEMBER OF THE VICTIM, SHALL HAVE THE RIGHT TO BE PHYSICALLY PRESENT
17 AT ANY SUPPRESSION HEARING RESULTING FROM A MOTION TO SUPPRESS EVIDENCE
18 MADE BEFORE TRIAL OR DURING TRIAL.

19 S 7. This act shall take effect on the first of November next succeed-
20 ing the date on which it shall have become a law.