

attorney" is substituted for the former narrower reference to "State's Attorney" to reflect that, in practice, attorneys other than a State's Attorney may prosecute cases and thus may request a victim or victim's representative to address the court.

In subsection (c) of this section, the reference to "court" is substituted for the former reference to a "judge" to conform to the terminology used throughout this title.

Also in subsection (c) of this section, the former references to a "jury" are deleted because, with the exception of death penalty cases, a court does the sentencing or disposition. See § 11-404 of this subtitle for provisions on addressing the jury in a death penalty case.

Defined terms: "Child respondent" § 11-101

"Person" § 1-101

"Prosecuting attorney" § 11-101

"Victim's representative" § 11-401

#### 11-404. RIGHT OF VICTIM'S REPRESENTATIVE TO ADDRESS JURY IN DEATH PENALTY PROCEEDING.

##### (A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VICTIM'S REPRESENTATIVE HAS THE SAME RIGHT TO ADDRESS THE JURY IN A DEATH PENALTY SENTENCING AS A VICTIM'S REPRESENTATIVE HAS TO ADDRESS A COURT UNDER § 11-403 OF THIS SUBTITLE.

##### (B) HEARINGS; LIMITATIONS.

(1) ON MOTION OF A DEFENDANT OR THE STATE OR ON THE COURT'S OWN INITIATIVE, THE COURT IN A DEATH PENALTY SENTENCING MAY HOLD A HEARING OUTSIDE OF THE PRESENCE OF THE JURY TO DETERMINE WHETHER A VICTIM'S REPRESENTATIVE MAY PRESENT AN ORAL ADDRESS TO THE JURY.

(2) IF THE COURT DETERMINES THAT PART OF A VICTIM'S REPRESENTATIVE'S ORAL ADDRESS WILL BE SO UNDULY PREJUDICIAL THAT IT RENDERS THE JURY SENTENCING PROCEEDING FUNDAMENTALLY UNFAIR, THE COURT MAY LIMIT THE PREJUDICIAL PORTION OF THE ORAL ADDRESS.

##### (C) RIGHT TO HEARING DENIED.

A VICTIM'S REPRESENTATIVE WHO HAS BEEN DENIED A RIGHT PROVIDED UNDER THIS SECTION MAY FILE AN APPLICATION FOR LEAVE TO APPEAL IN THE MANNER PROVIDED UNDER § 11-103 OF THIS TITLE.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 27, § 780A(b) and (c).

Subsection (c) of this section is new language added to provide a cross-reference to the right of a victim's representative to file a leave to appeal a denial of a right provided in this section.