

1 AN ACT concerning crime victims.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 5-705 as follows:

6 (705 ILCS 405/5-705)

7 Sec. 5-705. Sentencing hearing; evidence; continuance.

8 (1) In this subsection (1), "violent crime" has the same  
9 meaning ascribed to the term in subsection (c) of Section 3 of  
10 the Rights of Crime Victims and Witnesses Act. At the  
11 sentencing hearing, the court shall determine whether it is in  
12 the best interests of the minor or the public that he or she be  
13 made a ward of the court, and, if he or she is to be made a ward  
14 of the court, the court shall determine the proper disposition  
15 best serving the interests of the minor and the public. All  
16 evidence helpful in determining these questions, including  
17 oral and written reports, may be admitted and may be relied  
18 upon to the extent of its probative value, even though not  
19 competent for the purposes of the trial. A crime victim shall  
20 be allowed to present an oral or written statement, as  
21 guaranteed by Article I, Section 8.1 of the Illinois  
22 Constitution and as provided in Section 6 of the Rights of  
23 Crime Victims and Witnesses Act, in any case in which: (a) a

1 juvenile has been adjudicated delinquent for a violent crime  
2 after a bench or jury trial; or (b) the petition alleged the  
3 commission of a violent crime and the juvenile has been  
4 adjudicated delinquent under a plea agreement of a crime that  
5 is not a violent crime. The court shall allow a victim to make  
6 an oral statement if the victim is present in the courtroom and  
7 requests to make an oral statement. An oral statement includes  
8 the victim or a representative of the victim reading the  
9 written statement. The court may allow persons impacted by the  
10 crime who are not victims under subsection (a) of Section 3 of  
11 the Rights of Crime Victims and Witnesses Act to present an  
12 oral or written statement. A victim and any person making an  
13 oral statement shall not be put under oath or subject to  
14 cross-examination. A record of a prior continuance under  
15 supervision under Section 5-615, whether successfully  
16 completed or not, is admissible at the sentencing hearing. No  
17 order of commitment to the Department of Juvenile Justice shall  
18 be entered against a minor before a written report of social  
19 investigation, which has been completed within the previous 60  
20 days, is presented to and considered by the court.

21 (2) Once a party has been served in compliance with Section  
22 5-525, no further service or notice must be given to that party  
23 prior to proceeding to a sentencing hearing. Before imposing  
24 sentence the court shall advise the State's Attorney and the  
25 parties who are present or their counsel of the factual  
26 contents and the conclusions of the reports prepared for the

1 use of the court and considered by it, and afford fair  
2 opportunity, if requested, to controvert them. Factual  
3 contents, conclusions, documents and sources disclosed by the  
4 court under this paragraph shall not be further disclosed  
5 without the express approval of the court.

6 (3) On its own motion or that of the State's Attorney, a  
7 parent, guardian, legal custodian, or counsel, the court may  
8 adjourn the hearing for a reasonable period to receive reports  
9 or other evidence and, in such event, shall make an appropriate  
10 order for detention of the minor or his or her release from  
11 detention subject to supervision by the court during the period  
12 of the continuance. In the event the court shall order  
13 detention hereunder, the period of the continuance shall not  
14 exceed 30 court days. At the end of such time, the court shall  
15 release the minor from detention unless notice is served at  
16 least 3 days prior to the hearing on the continued date that  
17 the State will be seeking an extension of the period of  
18 detention, which notice shall state the reason for the request  
19 for the extension. The extension of detention may be for a  
20 maximum period of an additional 15 court days or a lesser  
21 number of days at the discretion of the court. However, at the  
22 expiration of the period of extension, the court shall release  
23 the minor from detention if a further continuance is granted.  
24 In scheduling investigations and hearings, the court shall give  
25 priority to proceedings in which a minor is in detention or has  
26 otherwise been removed from his or her home before a sentencing

1 order has been made.

2 (4) When commitment to the Department of Juvenile Justice  
3 is ordered, the court shall state the basis for selecting the  
4 particular disposition, and the court shall prepare such a  
5 statement for inclusion in the record.

6 (Source: P.A. 94-696, eff. 6-1-06.)

7 Section 10. The Rights of Crime Victims and Witnesses Act  
8 is amended by changing Sections 3, 4.5, and 6 as follows:

9 (725 ILCS 120/3) (from Ch. 38, par. 1403)

10 Sec. 3. The terms used in this Act shall have the following  
11 meanings:

12 (a) "Crime victim" or "victim" means: (1) any natural  
13 person determined by the prosecutor or the court to have  
14 suffered direct physical or psychological harm as a result of a  
15 violent crime perpetrated or attempted against that person or  
16 direct physical or psychological harm as a result of (i) a  
17 violation of Section 11-501 of the Illinois Vehicle Code or  
18 similar provision of a local ordinance or (ii) a violation of  
19 Section 9-3 of the Criminal Code of 1961 or the Criminal Code  
20 of 2012; (2) in the case of a crime victim who is under 18 years  
21 of age or an adult victim who is incompetent or incapacitated,  
22 both parents, legal guardians, foster parents, or a single  
23 adult representative; (3) in the case of an adult deceased  
24 victim, 2 representatives who may be the spouse, parent, child

1 or sibling of the victim, or the representative of the victim's  
2 estate; and (4) an immediate family member of a victim under  
3 clause (1) of this paragraph (a) chosen by the victim. If the  
4 victim is 18 years of age or over, the victim may choose any  
5 person to be the victim's representative. In no event shall the  
6 defendant or any person who aided and abetted in the commission  
7 of the crime be considered a victim, a crime victim, or a  
8 representative of the victim.

9 A board, agency, or other governmental entity making  
10 decisions regarding an offender's release, sentence reduction,  
11 or clemency can determine additional persons are victims for  
12 the purpose of its proceedings.

13 (a-3) "Advocate" means a person whose communications with  
14 the victim are privileged under Section 8-802.1 or 8-802.2 of  
15 the Code of Civil Procedure, or Section 227 of the Illinois  
16 Domestic Violence Act of 1986.

17 (a-5) "Confer" means to consult together, share  
18 information, compare opinions and carry on a discussion or  
19 deliberation.

20 (a-7) "Sentence" includes, but is not limited to, the  
21 imposition of sentence, a request for a reduction in sentence,  
22 parole, mandatory supervised release, aftercare release, early  
23 release, inpatient treatment, outpatient treatment,  
24 conditional release after a finding that the defendant is not  
25 guilty by reason of insanity, clemency, or a proposal that  
26 would reduce the defendant's sentence or result in the

1 defendant's release. "Early release" refers to a discretionary  
2 release.

3 (a-9) "Sentencing" includes, but is not limited to, the  
4 imposition of sentence and a request for a reduction in  
5 sentence, parole, mandatory supervised release, aftercare  
6 release, ~~or~~ early release, consideration of inpatient  
7 treatment or outpatient treatment, or conditional release  
8 after a finding that the defendant is not guilty by reason of  
9 insanity.

10 (a-10) "Status hearing" means a hearing designed to provide  
11 information to the court, at which no motion of a substantive  
12 nature and no constitutional or statutory right of a crime  
13 victim is implicated or at issue.

14 (b) "Witness" means: any person who personally observed the  
15 commission of a crime and who will testify on behalf of the  
16 State of Illinois; or a person who will be called by the  
17 prosecution to give testimony establishing a necessary nexus  
18 between the offender and the violent crime.

19 (c) "Violent crime" means: (1) any felony in which force or  
20 threat of force was used against the victim; (2) any offense  
21 involving sexual exploitation, sexual conduct, or sexual  
22 penetration; (3) a violation of Section 11-20.1, 11-20.1B,  
23 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the  
24 Criminal Code of 2012; (4) domestic battery or stalking; (5)  
25 violation of an order of protection, a civil no contact order,  
26 or a stalking no contact order; (6) any misdemeanor which

1 results in death or great bodily harm to the victim; or (7) any  
2 violation of Section 9-3 of the Criminal Code of 1961 or the  
3 Criminal Code of 2012, or Section 11-501 of the Illinois  
4 Vehicle Code, or a similar provision of a local ordinance, if  
5 the violation resulted in personal injury or death. "Violent  
6 crime" includes any action committed by a juvenile that would  
7 be a violent crime if committed by an adult. For the purposes  
8 of this paragraph, "personal injury" shall include any Type A  
9 injury as indicated on the traffic accident report completed by  
10 a law enforcement officer that requires immediate professional  
11 attention in either a doctor's office or medical facility. A  
12 type A injury shall include severely bleeding wounds, distorted  
13 extremities, and injuries that require the injured party to be  
14 carried from the scene.

15 (d) (Blank).

16 (e) "Court proceedings" includes, but is not limited to,  
17 the preliminary hearing, any post-arraignment hearing the  
18 effect of which may be the release of the defendant from  
19 custody or to alter the conditions of bond, change of plea  
20 hearing, the trial, any pretrial or post-trial hearing,  
21 sentencing, any oral argument or hearing before an Illinois  
22 appellate court, any hearing under the Mental Health and  
23 Developmental Disabilities Code or Section 5-2-4 of the Unified  
24 Code of Corrections after a finding that the defendant is not  
25 guilty by reason of insanity, including a hearing for  
26 conditional release, any hearing related to a modification of

1 sentence, probation revocation hearing, aftercare release or  
2 parole hearings, post-conviction relief proceedings, habeas  
3 corpus proceedings and clemency proceedings related to the  
4 defendant's conviction or sentence. For purposes of the  
5 victim's right to be present, "court proceedings" does not  
6 include (1) hearings under Section 109-1 of the Code of  
7 Criminal Procedure of 1963, (2) grand jury proceedings, (3)  
8 status hearings, or (4) the issuance of an order or decision of  
9 an Illinois court that dismisses a charge, reverses a  
10 conviction, reduces a sentence, or releases an offender under a  
11 court rule.

12 (f) "Concerned citizen" includes relatives of the victim,  
13 friends of the victim, witnesses to the crime, or any other  
14 person associated with the victim or prisoner.

15 (g) "Victim's attorney" means an attorney retained by the  
16 victim for the purposes of asserting the victim's  
17 constitutional and statutory rights. An attorney retained by  
18 the victim means an attorney who is hired to represent the  
19 victim at the victim's expense or an attorney who has agreed to  
20 provide pro bono representation. Nothing in this statute  
21 creates a right to counsel at public expense for a victim.

22 (h) "Support person" means a person chosen by a victim to  
23 be present at court proceedings.

24 (Source: P.A. 98-558, eff. 1-1-14; 99-143, eff. 7-27-15;  
25 99-413, eff. 8-20-15; 99-642, eff. 7-28-16; 99-671, eff.  
26 1-1-17.)



1 (725 ILCS 120/4.5)

2 Sec. 4.5. Procedures to implement the rights of crime  
3 victims. To afford crime victims their rights, law enforcement,  
4 prosecutors, judges and corrections will provide information,  
5 as appropriate of the following procedures:

6 (a) At the request of the crime victim, law enforcement  
7 authorities investigating the case shall provide notice of the  
8 status of the investigation, except where the State's Attorney  
9 determines that disclosure of such information would  
10 unreasonably interfere with the investigation, until such time  
11 as the alleged assailant is apprehended or the investigation is  
12 closed.

13 (a-5) When law enforcement authorities re-open a closed  
14 case to resume investigating, they shall provide notice of the  
15 re-opening of the case, except where the State's Attorney  
16 determines that disclosure of such information would  
17 unreasonably interfere with the investigation.

18 (b) The office of the State's Attorney:

19 (1) shall provide notice of the filing of an  
20 information, the return of an indictment, or the filing of  
21 a petition to adjudicate a minor as a delinquent for a  
22 violent crime;

23 (2) shall provide timely notice of the date, time, and  
24 place of court proceedings; of any change in the date,  
25 time, and place of court proceedings; and of any

1 cancellation of court proceedings. Notice shall be  
2 provided in sufficient time, wherever possible, for the  
3 victim to make arrangements to attend or to prevent an  
4 unnecessary appearance at court proceedings;

5 (3) or victim advocate personnel shall provide  
6 information of social services and financial assistance  
7 available for victims of crime, including information of  
8 how to apply for these services and assistance;

9 (3.5) or victim advocate personnel shall provide  
10 information about available victim services, including  
11 referrals to programs, counselors, and agencies that  
12 assist a victim to deal with trauma, loss, and grief;

13 (4) shall assist in having any stolen or other personal  
14 property held by law enforcement authorities for  
15 evidentiary or other purposes returned as expeditiously as  
16 possible, pursuant to the procedures set out in Section  
17 115-9 of the Code of Criminal Procedure of 1963;

18 (5) or victim advocate personnel shall provide  
19 appropriate employer intercession services to ensure that  
20 employers of victims will cooperate with the criminal  
21 justice system in order to minimize an employee's loss of  
22 pay and other benefits resulting from court appearances;

23 (6) shall provide, whenever possible, a secure waiting  
24 area during court proceedings that does not require victims  
25 to be in close proximity to defendants or juveniles accused  
26 of a violent crime, and their families and friends;

1           (7) shall provide notice to the crime victim of the  
2 right to have a translator present at all court proceedings  
3 and, in compliance with the federal Americans with  
4 Disabilities Act of 1990, the right to communications  
5 access through a sign language interpreter or by other  
6 means;

7           (8) (blank);

8           (8.5) shall inform the victim of the right to be  
9 present at all court proceedings, unless the victim is to  
10 testify and the court determines that the victim's  
11 testimony would be materially affected if the victim hears  
12 other testimony at trial;

13           (9) shall inform the victim of the right to have  
14 present at all court proceedings, subject to the rules of  
15 evidence and confidentiality, an advocate and other  
16 support person of the victim's choice;

17           (9.3) shall inform the victim of the right to retain an  
18 attorney, at the victim's own expense, who, upon written  
19 notice filed with the clerk of the court and State's  
20 Attorney, is to receive copies of all notices, motions and  
21 court orders filed thereafter in the case, in the same  
22 manner as if the victim were a named party in the case;

23           (9.5) shall inform the victim of (A) the victim's right  
24 under Section 6 of this Act to make a ~~victim-impact~~  
25 statement at the sentencing hearing; (B) the right of the  
26 victim's spouse, guardian, parent, grandparent and other

1 immediate family and household members under Section 6 of  
2 this Act to present a a ~~an-impact~~ statement at sentencing;  
3 and (C) if a presentence report is to be prepared, the  
4 right of the victim's spouse, guardian, parent,  
5 grandparent and other immediate family and household  
6 members to submit information to the preparer of the  
7 presentence report about the effect the offense has had on  
8 the victim and the person;

9 (10) at the sentencing shall make a good faith attempt  
10 to explain the minimum amount of time during which the  
11 defendant may actually be physically imprisoned. The  
12 Office of the State's Attorney shall further notify the  
13 crime victim of the right to request from the Prisoner  
14 Review Board or Department of Juvenile Justice information  
15 concerning the release of the defendant;

16 (11) shall request restitution at sentencing and as  
17 part of a plea agreement if the victim requests  
18 restitution;

19 (12) shall, upon the court entering a verdict of not  
20 guilty by reason of insanity, inform the victim of the  
21 notification services available from the Department of  
22 Human Services, including the statewide telephone number,  
23 under subparagraph (d) (2) of this Section;

24 (13) shall provide notice within a reasonable time  
25 after receipt of notice from the custodian, of the release  
26 of the defendant on bail or personal recognizance or the

1 release from detention of a minor who has been detained;

2 (14) shall explain in nontechnical language the  
3 details of any plea or verdict of a defendant, or any  
4 adjudication of a juvenile as a delinquent;

5 (15) shall make all reasonable efforts to consult with  
6 the crime victim before the Office of the State's Attorney  
7 makes an offer of a plea bargain to the defendant or enters  
8 into negotiations with the defendant concerning a possible  
9 plea agreement, and shall consider the written ~~victim~~  
10 ~~impact~~ statement, if prepared prior to entering into a plea  
11 agreement. The right to consult with the prosecutor does  
12 not include the right to veto a plea agreement or to insist  
13 the case go to trial. If the State's Attorney has not  
14 consulted with the victim prior to making an offer or  
15 entering into plea negotiations with the defendant, the  
16 Office of the State's Attorney shall notify the victim of  
17 the offer or the negotiations within 2 business days and  
18 confer with the victim;

19 (16) shall provide notice of the ultimate disposition  
20 of the cases arising from an indictment or an information,  
21 or a petition to have a juvenile adjudicated as a  
22 delinquent for a violent crime;

23 (17) shall provide notice of any appeal taken by the  
24 defendant and information on how to contact the appropriate  
25 agency handling the appeal, and how to request notice of  
26 any hearing, oral argument, or decision of an appellate

1 court;

2 (18) shall provide timely notice of any request for  
3 post-conviction review filed by the defendant under  
4 Article 122 of the Code of Criminal Procedure of 1963, and  
5 of the date, time and place of any hearing concerning the  
6 petition. Whenever possible, notice of the hearing shall be  
7 given within 48 hours of the court's scheduling of the  
8 hearing; and

9 (19) shall forward a copy of any statement presented  
10 under Section 6 to the Prisoner Review Board or Department  
11 of Juvenile Justice to be considered in making a  
12 determination under Section 3-2.5-85 or subsection (b) of  
13 Section 3-3-8 of the Unified Code of Corrections.

14 (c) The court shall ensure that the rights of the victim  
15 are afforded.

16 (c-5) The following procedures shall be followed to afford  
17 victims the rights guaranteed by Article I, Section 8.1 of the  
18 Illinois Constitution:

19 (1) Written notice. A victim may complete a written  
20 notice of intent to assert rights on a form prepared by the  
21 Office of the Attorney General and provided to the victim  
22 by the State's Attorney. The victim may at any time provide  
23 a revised written notice to the State's Attorney. The  
24 State's Attorney shall file the written notice with the  
25 court. At the beginning of any court proceeding in which  
26 the right of a victim may be at issue, the court and

1 prosecutor shall review the written notice to determine  
2 whether the victim has asserted the right that may be at  
3 issue.

4 (2) Victim's retained attorney. A victim's attorney  
5 shall file an entry of appearance limited to assertion of  
6 the victim's rights. Upon the filing of the entry of  
7 appearance and service on the State's Attorney and the  
8 defendant, the attorney is to receive copies of all  
9 notices, motions and court orders filed thereafter in the  
10 case.

11 (3) Standing. The victim has standing to assert the  
12 rights enumerated in subsection (a) of Article I, Section  
13 8.1 of the Illinois Constitution and the statutory rights  
14 under Section 4 of this Act in any court exercising  
15 jurisdiction over the criminal case. The prosecuting  
16 attorney, a victim, or the victim's retained attorney may  
17 assert the victim's rights. The defendant in the criminal  
18 case has no standing to assert a right of the victim in any  
19 court proceeding, including on appeal.

20 (4) Assertion of and enforcement of rights.

21 (A) The prosecuting attorney shall assert a  
22 victim's right or request enforcement of a right by  
23 filing a motion or by orally asserting the right or  
24 requesting enforcement in open court in the criminal  
25 case outside the presence of the jury. The prosecuting  
26 attorney shall consult with the victim and the victim's

1 attorney regarding the assertion or enforcement of a  
2 right. If the prosecuting attorney decides not to  
3 assert or enforce a victim's right, the prosecuting  
4 attorney shall notify the victim or the victim's  
5 attorney in sufficient time to allow the victim or the  
6 victim's attorney to assert the right or to seek  
7 enforcement of a right.

8 (B) If the prosecuting attorney elects not to  
9 assert a victim's right or to seek enforcement of a  
10 right, the victim or the victim's attorney may assert  
11 the victim's right or request enforcement of a right by  
12 filing a motion or by orally asserting the right or  
13 requesting enforcement in open court in the criminal  
14 case outside the presence of the jury.

15 (C) If the prosecuting attorney asserts a victim's  
16 right or seeks enforcement of a right, and the court  
17 denies the assertion of the right or denies the request  
18 for enforcement of a right, the victim or victim's  
19 attorney may file a motion to assert the victim's right  
20 or to request enforcement of the right within 10 days  
21 of the court's ruling. The motion need not demonstrate  
22 the grounds for a motion for reconsideration. The court  
23 shall rule on the merits of the motion.

24 (D) The court shall take up and decide any motion  
25 or request asserting or seeking enforcement of a  
26 victim's right without delay, unless a specific time



1 period is specified by law or court rule. The reasons  
2 for any decision denying the motion or request shall be  
3 clearly stated on the record.

4 (5) Violation of rights and remedies.

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

11 (A-5) Consideration of an issue of a substantive  
12 nature or an issue that implicates the constitutional  
13 or statutory right of a victim at a court proceeding  
14 labeled as a status hearing shall constitute a per se  
15 violation of a victim's right.

16 (B) The appropriate remedy shall include only  
17 actions necessary to provide the victim the right to  
18 which the victim was entitled and may include reopening  
19 previously held proceedings; however, in no event  
20 shall the court vacate a conviction. Any remedy shall  
21 be tailored to provide the victim an appropriate remedy  
22 without violating any constitutional right of the  
23 defendant. In no event shall the appropriate remedy be  
24 a new trial, damages, or costs.

25 (6) Right to be heard. Whenever a victim has the right  
26 to be heard, the court shall allow the victim to exercise

1 the right in any reasonable manner the victim chooses.

2 (7) Right to attend trial. A party must file a written  
3 motion to exclude a victim from trial at least 60 days  
4 prior to the date set for trial. The motion must state with  
5 specificity the reason exclusion is necessary to protect a  
6 constitutional right of the party, and must contain an  
7 offer of proof. The court shall rule on the motion within  
8 30 days. If the motion is granted, the court shall set  
9 forth on the record the facts that support its finding that  
10 the victim's testimony will be materially affected if the  
11 victim hears other testimony at trial.

12 (8) Right to have advocate and support person present  
13 at court proceedings.

14 (A) A party who intends to call an advocate as a  
15 witness at trial must seek permission of the court  
16 before the subpoena is issued. The party must file a  
17 written motion at least 90 days before trial that sets  
18 forth specifically the issues on which the advocate's  
19 testimony is sought and an offer of proof regarding (i)  
20 the content of the anticipated testimony of the  
21 advocate; and (ii) the relevance, admissibility, and  
22 materiality of the anticipated testimony ~~in sufficient~~  
23 ~~time to allow the court to rule and the victim to seek~~  
24 ~~appellate review~~. The court shall consider the motion  
25 and make findings within 30 days of the filing of the  
26 motion ~~rule on the motion without delay~~. If the court

1 finds by a preponderance of the evidence that: (i) the  
2 anticipated testimony is not protected by an absolute  
3 privilege; and (ii) the anticipated testimony contains  
4 relevant, admissible, and material evidence that is  
5 not available through other witnesses or evidence, the  
6 court shall issue a subpoena requiring the advocate to  
7 appear to testify at an in camera hearing. The  
8 prosecuting attorney and the victim shall have 15 days  
9 to seek appellate review before the advocate is  
10 required to testify at an ex parte in camera  
11 proceeding.

12 The prosecuting attorney, the victim, and the  
13 advocate's attorney shall be allowed to be present at  
14 the ex parte in camera proceeding. If, after conducting  
15 the ex parte in camera hearing, the court determines  
16 that due process requires any testimony regarding  
17 confidential or privileged information or  
18 communications, the court shall provide to the  
19 prosecuting attorney, the victim, and the advocate's  
20 attorney a written memorandum on the substance of the  
21 advocate's testimony. The prosecuting attorney, the  
22 victim, and the advocate's attorney shall have 15 days  
23 to seek appellate review before a subpoena may be  
24 issued for the advocate to testify at trial. The  
25 presence of the prosecuting attorney at the ex parte in  
26 camera proceeding does not make the substance of the

1 advocate's testimony that the court has ruled  
2 inadmissible subject to discovery.

3 (B) If a victim has asserted the right to have a  
4 support person present at the court proceedings, the  
5 victim shall provide the name of the person the victim  
6 has chosen to be the victim's support person to the  
7 prosecuting attorney, within 60 days of trial. The  
8 prosecuting attorney shall provide the name to the  
9 defendant. If the defendant intends to call the support  
10 person as a witness at trial, the defendant must seek  
11 permission of the court before a subpoena is issued.  
12 The defendant must file a written motion at least 45  
13 days prior to trial that sets forth specifically the  
14 issues on which the support person will testify and an  
15 offer of proof regarding: (i) the content of the  
16 anticipated testimony of the support person; and (ii)  
17 the relevance, admissibility, and materiality of the  
18 anticipated testimony.

19 If the prosecuting attorney intends to call the  
20 support person as a witness during the State's  
21 case-in-chief, the prosecuting attorney shall inform  
22 the court of this intent in the response to the  
23 defendant's written motion. The victim may choose a  
24 different person to be the victim's support person. The  
25 court may allow the defendant to inquire about matters  
26 outside the scope of the direct examination during

1 cross examination. If the court allows the defendant to  
2 do so, the support person shall be allowed to remain in  
3 the courtroom after the support person has testified. A  
4 defendant who fails to question the support person  
5 about matters outside the scope of direct examination  
6 during the State's case-in-chief waives the right to  
7 challenge the presence of the support person on appeal.  
8 The court shall allow the support person to testify if  
9 called as a witness in the defendant's case-in-chief or  
10 the State's rebuttal.

11 If the court does not allow the defendant to  
12 inquire about matters outside the scope of the direct  
13 examination, the support person shall be allowed to  
14 remain in the courtroom after the support person has  
15 been called by the defendant or the defendant has  
16 rested. The court shall allow the support person to  
17 testify in the State's rebuttal.

18 If the prosecuting attorney does not intend to call  
19 the support person in the State's case-in-chief, the  
20 court shall verify with the support person whether the  
21 support person, if called as a witness, would testify  
22 as set forth in the offer of proof. If the court finds  
23 that the support person would testify as set forth in  
24 the offer of proof, the court shall rule on the  
25 relevance, materiality, and admissibility of the  
26 anticipated testimony. If the court rules the

1           anticipated testimony is admissible, the court shall  
2           issue the subpoena. The support person may remain in  
3           the courtroom after the support person testifies and  
4           shall be allowed to testify in rebuttal.

5           If the court excludes the victim's support person  
6           during the State's case-in-chief, the victim shall be  
7           allowed to choose another support person to be present  
8           in court.

9           If the victim fails to designate a support person  
10          within 60 days of trial and the defendant has  
11          subpoenaed the support person to testify at trial, the  
12          court may exclude the support person from the trial  
13          until the support person testifies. If the court  
14          excludes the support person the victim may choose  
15          another person as a support person.

16           (9) Right to notice and hearing before disclosure of  
17           confidential or privileged information or records. A  
18           defendant who seeks to subpoena records of or concerning  
19           the victim that are confidential or privileged by law must  
20           seek permission of the court before the subpoena is issued.  
21           The defendant must file a written motion and an offer of  
22           proof regarding the relevance, admissibility and  
23           materiality of the records. If the court finds by a  
24           preponderance of the evidence that: (A) the records are not  
25           protected by an absolute privilege and (B) the records  
26           contain relevant, admissible, and material evidence that

1 is not available through other witnesses or evidence, the  
2 court shall issue a subpoena requiring a sealed copy of the  
3 records be delivered to the court to be reviewed in camera.  
4 If, after conducting an in camera review of the records,  
5 the court determines that due process requires disclosure  
6 of any portion of the records, the court shall provide  
7 copies of what it intends to disclose to the prosecuting  
8 attorney and the victim. The prosecuting attorney and the  
9 victim shall have 30 days to seek appellate review before  
10 the records are disclosed to the defendant. The disclosure  
11 of copies of any portion of the records to the prosecuting  
12 attorney does not make the records subject to discovery.

13 (10) Right to notice of court proceedings. If the  
14 victim is not present at a court proceeding in which a  
15 right of the victim is at issue, the court shall ask the  
16 prosecuting attorney whether the victim was notified of the  
17 time, place, and purpose of the court proceeding and that  
18 the victim had a right to be heard at the court proceeding.  
19 If the court determines that timely notice was not given or  
20 that the victim was not adequately informed of the nature  
21 of the court proceeding, the court shall not rule on any  
22 substantive issues, accept a plea, or impose a sentence and  
23 shall continue the hearing for the time necessary to notify  
24 the victim of the time, place and nature of the court  
25 proceeding. The time between court proceedings shall not be  
26 attributable to the State under Section 103-5 of the Code

1 of Criminal Procedure of 1963.

2 (11) Right to timely disposition of the case. A victim  
3 has the right to timely disposition of the case so as to  
4 minimize the stress, cost, and inconvenience resulting  
5 from the victim's involvement in the case. Before ruling on  
6 a motion to continue trial or other court proceeding, the  
7 court shall inquire into the circumstances for the request  
8 for the delay and, if the victim has provided written  
9 notice of the assertion of the right to a timely  
10 disposition, and whether the victim objects to the delay.  
11 If the victim objects, the prosecutor shall inform the  
12 court of the victim's objections. If the prosecutor has not  
13 conferred with the victim about the continuance, the  
14 prosecutor shall inform the court of the attempts to  
15 confer. If the court finds the attempts of the prosecutor  
16 to confer with the victim were inadequate to protect the  
17 victim's right to be heard, the court shall give the  
18 prosecutor at least 3 but not more than 5 business days to  
19 confer with the victim. In ruling on a motion to continue,  
20 the court shall consider the reasons for the requested  
21 continuance, the number and length of continuances that  
22 have been granted, the victim's objections and procedures  
23 to avoid further delays. If a continuance is granted over  
24 the victim's objection, the court shall specify on the  
25 record the reasons for the continuance and the procedures  
26 that have been or will be taken to avoid further delays.



1 (12) Right to Restitution.

2 (A) If the victim has asserted the right to  
3 restitution and the amount of restitution is known at  
4 the time of sentencing, the court shall enter the  
5 judgment of restitution at the time of sentencing.

6 (B) If the victim has asserted the right to  
7 restitution and the amount of restitution is not known  
8 at the time of sentencing, the prosecutor shall, within  
9 5 days after sentencing, notify the victim what  
10 information and documentation related to restitution  
11 is needed and that the information and documentation  
12 must be provided to the prosecutor within 45 days after  
13 sentencing. Failure to timely provide information and  
14 documentation related to restitution shall be deemed a  
15 waiver of the right to restitution. The prosecutor  
16 shall file and serve within 60 days after sentencing a  
17 proposed judgment for restitution and a notice that  
18 includes information concerning the identity of any  
19 victims or other persons seeking restitution, whether  
20 any victim or other person expressly declines  
21 restitution, the nature and amount of any damages  
22 together with any supporting documentation, a  
23 restitution amount recommendation, and the names of  
24 any co-defendants and their case numbers. Within 30  
25 days after receipt of the proposed judgment for  
26 restitution, the defendant shall file any objection to

1           the proposed judgment, a statement of grounds for the  
2           objection, and a financial statement. If the defendant  
3           does not file an objection, the court may enter the  
4           judgment for restitution without further proceedings.  
5           If the defendant files an objection and either party  
6           requests a hearing, the court shall schedule a hearing.

7           (13) Access to presentence reports.

8           (A) The victim may request a copy of the  
9           presentence report prepared under the Unified Code of  
10          Corrections from the State's Attorney. The State's  
11          Attorney shall redact the following information before  
12          providing a copy of the report:

13                  (i) the defendant's mental history and  
14                  condition;

15                  (ii) any evaluation prepared under subsection  
16                  (b) or (b-5) of Section 5-3-2; and

17                  (iii) the name, address, phone number, and  
18                  other personal information about any other victim.

19          (B) The State's Attorney or the defendant may  
20          request the court redact other information in the  
21          report that may endanger the safety of any person.

22          (C) The State's Attorney may orally disclose to the  
23          victim any of the information that has been redacted if  
24          there is a reasonable likelihood that the information  
25          will be stated in court at the sentencing.

26          (D) The State's Attorney must advise the victim

1           that the victim must maintain the confidentiality of  
2           the report and other information. Any dissemination of  
3           the report or information that was not stated at a  
4           court proceeding constitutes indirect criminal  
5           contempt of court.

6           (14) Appellate relief. If the trial court denies the  
7           relief requested, the victim, the victim's attorney or the  
8           prosecuting attorney may file an appeal within 30 days of  
9           the trial court's ruling. The trial or appellate court may  
10          stay the court proceedings if the court finds that a stay  
11          would not violate a constitutional right of the defendant.  
12          If the appellate court denies the relief sought, the  
13          reasons for the denial shall be clearly stated in a written  
14          opinion. In any appeal in a criminal case, the State may  
15          assert as error the court's denial of any crime victim's  
16          right in the proceeding to which the appeal relates.

17          (15) Limitation on appellate relief. In no case shall  
18          an appellate court provide a new trial to remedy the  
19          violation of a victim's right.

20          (16) The right to be reasonably protected from the  
21          accused throughout the criminal justice process and the  
22          right to have the safety of the victim and the victim's  
23          family considered in denying or fixing the amount of bail,  
24          determining whether to release the defendant, and setting  
25          conditions of release after arrest and conviction. A victim  
26          of domestic violence, a sexual offense, or stalking may

1 request the entry of a protective order under Article 112A  
2 of the Code of Criminal Procedure of 1963.

3 (d) (1) The Prisoner Review Board shall inform a victim or  
4 any other concerned citizen, upon written request, of the  
5 prisoner's release on parole, mandatory supervised release,  
6 electronic detention, work release, international transfer or  
7 exchange, or by the custodian, other than the Department of  
8 Juvenile Justice, of the discharge of any individual who was  
9 adjudicated a delinquent for a crime from State custody and by  
10 the sheriff of the appropriate county of any such person's  
11 final discharge from county custody. The Prisoner Review Board,  
12 upon written request, shall provide to a victim or any other  
13 concerned citizen a recent photograph of any person convicted  
14 of a felony, upon his or her release from custody. The Prisoner  
15 Review Board, upon written request, shall inform a victim or  
16 any other concerned citizen when feasible at least 7 days prior  
17 to the prisoner's release on furlough of the times and dates of  
18 such furlough. Upon written request by the victim or any other  
19 concerned citizen, the State's Attorney shall notify the person  
20 once of the times and dates of release of a prisoner sentenced  
21 to periodic imprisonment. Notification shall be based on the  
22 most recent information as to victim's or other concerned  
23 citizen's residence or other location available to the  
24 notifying authority.

25 (2) When the defendant has been committed to the Department  
26 of Human Services pursuant to Section 5-2-4 or any other

1 provision of the Unified Code of Corrections, the victim may  
2 request to be notified by the releasing authority of the  
3 approval by the court of an on-grounds pass, a supervised  
4 off-grounds pass, an unsupervised off-grounds pass, or  
5 conditional release; the release on an off-grounds pass; the  
6 return from an off-grounds pass; transfer to another facility;  
7 conditional release; escape; death; or final discharge from  
8 State custody. The Department of Human Services shall establish  
9 and maintain a statewide telephone number to be used by victims  
10 to make notification requests under these provisions and shall  
11 publicize this telephone number on its website and to the  
12 State's Attorney of each county.

13 (3) In the event of an escape from State custody, the  
14 Department of Corrections or the Department of Juvenile Justice  
15 immediately shall notify the Prisoner Review Board of the  
16 escape and the Prisoner Review Board shall notify the victim.  
17 The notification shall be based upon the most recent  
18 information as to the victim's residence or other location  
19 available to the Board. When no such information is available,  
20 the Board shall make all reasonable efforts to obtain the  
21 information and make the notification. When the escapee is  
22 apprehended, the Department of Corrections or the Department of  
23 Juvenile Justice immediately shall notify the Prisoner Review  
24 Board and the Board shall notify the victim.

25 (4) The victim of the crime for which the prisoner has been  
26 sentenced shall receive reasonable written notice not less than

1 30 days prior to the parole hearing or target aftercare release  
2 date and may submit, in writing, on film, videotape or other  
3 electronic means or in the form of a recording prior to the  
4 parole hearing or target aftercare release date or in person at  
5 the parole hearing or aftercare release protest hearing or if a  
6 victim of a violent crime, by calling the toll-free number  
7 established in subsection (f) of this Section, information for  
8 consideration by the Prisoner Review Board or Department of  
9 Juvenile Justice. The victim shall be notified within 7 days  
10 after the prisoner has been granted parole or aftercare release  
11 and shall be informed of the right to inspect the registry of  
12 parole decisions, established under subsection (g) of Section  
13 3-3-5 of the Unified Code of Corrections. The provisions of  
14 this paragraph (4) are subject to the Open Parole Hearings Act.

15 (5) If a statement is presented under Section 6, the  
16 Prisoner Review Board or Department of Juvenile Justice shall  
17 inform the victim of any order of discharge pursuant to Section  
18 3-2.5-85 or 3-3-8 of the Unified Code of Corrections.

19 (6) At the written or oral request of the victim of the  
20 crime for which the prisoner was sentenced or the State's  
21 Attorney of the county where the person seeking parole or  
22 aftercare release was prosecuted, the Prisoner Review Board or  
23 Department of Juvenile Justice shall notify the victim and the  
24 State's Attorney of the county where the person seeking parole  
25 or aftercare release was prosecuted of the death of the  
26 prisoner if the prisoner died while on parole or aftercare

1 release or mandatory supervised release.

2 (7) When a defendant who has been committed to the  
3 Department of Corrections, the Department of Juvenile Justice,  
4 or the Department of Human Services is released or discharged  
5 and subsequently committed to the Department of Human Services  
6 as a sexually violent person and the victim had requested to be  
7 notified by the releasing authority of the defendant's  
8 discharge, conditional release, death, or escape from State  
9 custody, the releasing authority shall provide to the  
10 Department of Human Services such information that would allow  
11 the Department of Human Services to contact the victim.

12 (8) When a defendant has been convicted of a sex offense as  
13 defined in Section 2 of the Sex Offender Registration Act and  
14 has been sentenced to the Department of Corrections or the  
15 Department of Juvenile Justice, the Prisoner Review Board or  
16 the Department of Juvenile Justice shall notify the victim of  
17 the sex offense of the prisoner's eligibility for release on  
18 parole, aftercare release, mandatory supervised release,  
19 electronic detention, work release, international transfer or  
20 exchange, or by the custodian of the discharge of any  
21 individual who was adjudicated a delinquent for a sex offense  
22 from State custody and by the sheriff of the appropriate county  
23 of any such person's final discharge from county custody. The  
24 notification shall be made to the victim at least 30 days,  
25 whenever possible, before release of the sex offender.

26 (e) The officials named in this Section may satisfy some or

1 all of their obligations to provide notices and other  
2 information through participation in a statewide victim and  
3 witness notification system established by the Attorney  
4 General under Section 8.5 of this Act.

5 (f) To permit a crime victim of a violent crime to provide  
6 information to the Prisoner Review Board or the Department of  
7 Juvenile Justice for consideration by the Board or Department  
8 at a parole hearing or before an aftercare release decision of  
9 a person who committed the crime against the victim in  
10 accordance with clause (d)(4) of this Section or at a  
11 proceeding to determine the conditions of mandatory supervised  
12 release of a person sentenced to a determinate sentence or at a  
13 hearing on revocation of mandatory supervised release of a  
14 person sentenced to a determinate sentence, the Board shall  
15 establish a toll-free number that may be accessed by the victim  
16 of a violent crime to present that information to the Board.

17 (Source: P.A. 99-413, eff. 8-20-15; 99-628, eff. 1-1-17;  
18 100-199, eff. 1-1-18.)

19 (725 ILCS 120/6) (from Ch. 38, par. 1406)

20 Sec. 6. Right to be heard at sentencing.

21 (a) A crime victim shall be allowed to present an oral or  
22 written ~~victim-impact~~ statement in any case in which a  
23 defendant has been convicted of a violent crime or a juvenile  
24 has been adjudicated delinquent for a violent crime after a  
25 bench or jury trial, or a defendant who was charged with a



1 violent crime and has been convicted under a plea agreement of  
2 a crime that is not a violent crime as defined in subsection  
3 (c) of Section 3 of this Act. The court shall allow a victim to  
4 make an oral ~~impact~~ statement if the victim is present in the  
5 courtroom and requests to make an oral statement. An oral  
6 statement includes the victim or a representative of the victim  
7 reading the written ~~impact~~ statement. The court may allow  
8 persons impacted by the crime who are not victims under  
9 subsection (a) of Section 3 of this Act to present an oral or  
10 written statement. A victim and any person making an oral  
11 statement shall not be put under oath or subject to  
12 cross-examination. The court shall consider any ~~impact~~  
13 statement presented along with all other appropriate factors in  
14 determining the sentence of the defendant or disposition of  
15 such juvenile.

16 (a-1) In any case where a defendant has been convicted of a  
17 violation of any statute, ordinance, or regulation relating to  
18 the operation or use of motor vehicles, the use of streets and  
19 highways by pedestrians or the operation of any other wheeled  
20 or tracked vehicle, except parking violations, if the violation  
21 resulted in great bodily harm or death, the person who suffered  
22 great bodily harm, the injured person's representative, or the  
23 representative of a deceased person shall be entitled to notice  
24 of the sentencing hearing. "Representative" includes the  
25 spouse, guardian, grandparent, or other immediate family or  
26 household member of an injured or deceased person. The injured

1 person or his or her representative and a representative of the  
2 deceased person shall have the right to address the court  
3 regarding the impact that the defendant's criminal conduct has  
4 had upon them. If more than one representative of an injured or  
5 deceased person is present in the courtroom at the time of  
6 sentencing, the court has discretion to permit one or more of  
7 the representatives to present an oral impact statement. A  
8 victim and any person making an oral statement shall not be put  
9 under oath or subject to cross-examination. The court shall  
10 consider any impact statement presented along with all other  
11 appropriate factors in determining the sentence of the  
12 defendant.

13 (a-5) A crime victim shall be allowed to present an oral  
14 and written victim impact statement at a hearing ordered by the  
15 court under the Mental Health and Developmental Disabilities  
16 Code to determine if the defendant is: (1) in need of mental  
17 health services on an inpatient basis; (2) in need of mental  
18 health services on an outpatient basis; or (3) not in need of  
19 mental health services. The court shall allow a victim to make  
20 an oral impact statement if the victim is present in the  
21 courtroom and requests to make an oral statement. An oral  
22 statement includes the victim or a representative of the victim  
23 reading the written impact statement. The court may allow  
24 persons impacted by the crime who are not victims under  
25 subsection (a) of Section 3 of this Act, to present an oral or  
26 written statement. A victim and any person making an oral

1 statement shall not be put under oath or subject to  
2 cross-examination. The court may only consider the impact  
3 statement along with all other appropriate factors in  
4 determining the: (1) threat of serious physical harm poised by  
5 the respondent to himself or herself, or to another person; (2)  
6 location of inpatient or outpatient mental health services  
7 ordered by the court, but only after complying with all other  
8 applicable administrative, rule, and statutory requirements;  
9 (3) maximum period of commitment for inpatient mental health  
10 services; and (4) conditions of release for outpatient mental  
11 health services ordered by the court.

12 (b) The crime victim has the right to prepare a victim  
13 impact statement and present it to the Office of the State's  
14 Attorney at any time during the proceedings. Any written victim  
15 impact statement submitted to the Office of the State's  
16 Attorney shall be considered by the court during its  
17 consideration of aggravation and mitigation in plea  
18 proceedings under Supreme Court Rule 402.

19 (c) This Section shall apply to any victims during any  
20 dispositional hearing under Section 5-705 of the Juvenile Court  
21 Act of 1987 which takes place pursuant to an adjudication or  
22 trial or plea of delinquency for any such offense.

23 (Source: P.A. 99-413, eff. 8-20-15.)

24 Section 15. The Unified Code of Corrections is amended by  
25 changing Sections 5-2-4 and 5-4-1 as follows:

1 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

2 Sec. 5-2-4. Proceedings after acquittal by reason of  
3 insanity.

4 (a) After a finding or verdict of not guilty by reason of  
5 insanity under Sections 104-25, 115-3, or 115-4 of the Code of  
6 Criminal Procedure of 1963, the defendant shall be ordered to  
7 the Department of Human Services for an evaluation as to  
8 whether he is in need of mental health services. The order  
9 shall specify whether the evaluation shall be conducted on an  
10 inpatient or outpatient basis. If the evaluation is to be  
11 conducted on an inpatient basis, the defendant shall be placed  
12 in a secure setting. With the court order for evaluation shall  
13 be sent a copy of the arrest report, criminal charges, arrest  
14 record, jail record, any report prepared under Section 115-6 of  
15 the Code of Criminal Procedure of 1963, and any ~~victim-impact~~  
16 statement prepared under Section 6 of the Rights of Crime  
17 Victims and Witnesses Act. The clerk of the circuit court shall  
18 transmit this information to the Department within 5 days. If  
19 the court orders that the evaluation be done on an inpatient  
20 basis, the Department shall evaluate the defendant to determine  
21 to which secure facility the defendant shall be transported  
22 and, within 20 days of the transmittal by the clerk of the  
23 circuit court of the placement court order, notify the sheriff  
24 of the designated facility. Upon receipt of that notice, the  
25 sheriff shall promptly transport the defendant to the

1 designated facility. During the period of time required to  
2 determine the appropriate placement, the defendant shall  
3 remain in jail. If, within 20 days of the transmittal by the  
4 clerk of the circuit court of the placement court order, the  
5 Department fails to notify the sheriff of the identity of the  
6 facility to which the defendant shall be transported, the  
7 sheriff shall contact a designated person within the Department  
8 to inquire about when a placement will become available at the  
9 designated facility and bed availability at other facilities.  
10 If, within 20 days of the transmittal by the clerk of the  
11 circuit court of the placement court order, the Department  
12 fails to notify the sheriff of the identity of the facility to  
13 which the defendant shall be transported, the sheriff shall  
14 notify the Department of its intent to transfer the defendant  
15 to the nearest secure mental health facility operated by the  
16 Department and inquire as to the status of the placement  
17 evaluation and availability for admission to the ~~such~~ facility  
18 operated by the Department by contacting a designated person  
19 within the Department. The Department shall respond to the  
20 sheriff within 2 business days of the notice and inquiry by the  
21 sheriff seeking the transfer and the Department shall provide  
22 the sheriff with the status of the placement evaluation,  
23 information on bed and placement availability, and an estimated  
24 date of admission for the defendant and any changes to that  
25 estimated date of admission. If the Department notifies the  
26 sheriff during the 2 business day period of a facility operated

1 by the Department with placement availability, the sheriff  
2 shall promptly transport the defendant to that facility.  
3 Individualized placement evaluations by the Department of  
4 Human Services determine the most appropriate setting for  
5 forensic treatment based upon a number of factors including  
6 mental health diagnosis, proximity to surviving victims,  
7 security need, age, gender, and proximity to family.

8 The Department shall provide the Court with a report of its  
9 evaluation within 30 days of the date of this order. The Court  
10 shall hold a hearing as provided under the Mental Health and  
11 Developmental Disabilities Code to determine if the individual  
12 is: (a) in need of mental health services on an inpatient  
13 basis; (b) in need of mental health services on an outpatient  
14 basis; (c) a person not in need of mental health services. The  
15 court shall afford the victim the opportunity to make a written  
16 or oral statement as guaranteed by Article I, Section 8.1 of  
17 the Illinois Constitution and Section 6 of the Rights of Crime  
18 Victims and Witnesses Act. The court shall allow a victim to  
19 make an oral statement if the victim is present in the  
20 courtroom and requests to make an oral statement. An oral  
21 statement includes the victim or a representative of the victim  
22 reading the written statement. The court may allow persons  
23 impacted by the crime who are not victims under subsection (a)  
24 of Section 3 of this Rights of Crime Victims and Witnesses Act  
25 to present an oral or written statement. A victim and any  
26 person making an oral statement shall not be put under oath or

1 subject to cross-examination. The court shall consider any  
2 statement presented along with all other appropriate factors in  
3 determining the sentence of the defendant or disposition of the  
4 juvenile. All statements shall become part of the record of the  
5 court. ~~The Court shall enter its findings.~~

6 If the defendant is found to be in need of mental health  
7 services on an inpatient care basis, the Court shall order the  
8 defendant to the Department of Human Services. The defendant  
9 shall be placed in a secure setting. Such defendants placed in  
10 a secure setting shall not be permitted outside the facility's  
11 housing unit unless escorted or accompanied by personnel of the  
12 Department of Human Services or with the prior approval of the  
13 Court for unsupervised on-grounds privileges as provided  
14 herein. Any defendant placed in a secure setting pursuant to  
15 this Section, transported to court hearings or other necessary  
16 appointments off facility grounds by personnel of the  
17 Department of Human Services, shall be placed in security  
18 devices or otherwise secured during the period of  
19 transportation to assure secure transport of the defendant and  
20 the safety of Department of Human Services personnel and  
21 others. These security measures shall not constitute restraint  
22 as defined in the Mental Health and Developmental Disabilities  
23 Code. If the defendant is found to be in need of mental health  
24 services, but not on an inpatient care basis, the Court shall  
25 conditionally release the defendant, under such conditions as  
26 set forth in this Section as will reasonably assure the

1 defendant's satisfactory progress and participation in  
2 treatment or rehabilitation and the safety of the defendant,  
3 the victim, the victim's family members, and others. If the  
4 Court finds the person not in need of mental health services,  
5 then the Court shall order the defendant discharged from  
6 custody.

7 (a-1) Definitions. For the purposes of this Section:

8 (A) (Blank).

9 (B) "In need of mental health services on an inpatient  
10 basis" means: a defendant who has been found not guilty by  
11 reason of insanity but who, due to mental illness, is  
12 reasonably expected to inflict serious physical harm upon  
13 himself or another and who would benefit from inpatient  
14 care or is in need of inpatient care.

15 (C) "In need of mental health services on an outpatient  
16 basis" means: a defendant who has been found not guilty by  
17 reason of insanity who is not in need of mental health  
18 services on an inpatient basis, but is in need of  
19 outpatient care, drug and/or alcohol rehabilitation  
20 programs, community adjustment programs, individual,  
21 group, or family therapy, or chemotherapy.

22 (D) "Conditional Release" means: the release from  
23 either the custody of the Department of Human Services or  
24 the custody of the Court of a person who has been found not  
25 guilty by reason of insanity under such conditions as the  
26 Court may impose which reasonably assure the defendant's



1       satisfactory progress in treatment or habilitation and the  
2       safety of the defendant, the victim, the victim's family,  
3       and others. The Court shall consider such terms and  
4       conditions which may include, but need not be limited to,  
5       outpatient care, alcoholic and drug rehabilitation  
6       programs, community adjustment programs, individual,  
7       group, family, and chemotherapy, random testing to ensure  
8       the defendant's timely and continuous taking of any  
9       medicines prescribed to control or manage his or her  
10      conduct or mental state, and periodic checks with the legal  
11      authorities and/or the Department of Human Services. The  
12      Court may order as a condition of conditional release that  
13      the defendant not contact the victim of the offense that  
14      resulted in the finding or verdict of not guilty by reason  
15      of insanity or any other person. The Court may order the  
16      Department of Human Services to provide care to any person  
17      conditionally released under this Section. The Department  
18      may contract with any public or private agency in order to  
19      discharge any responsibilities imposed under this Section.  
20      The Department shall monitor the provision of services to  
21      persons conditionally released under this Section and  
22      provide periodic reports to the Court concerning the  
23      services and the condition of the defendant. Whenever a  
24      person is conditionally released pursuant to this Section,  
25      the State's Attorney for the county in which the hearing is  
26      held shall designate in writing the name, telephone number,

1 and address of a person employed by him or her who shall be  
2 notified in the event that either the reporting agency or  
3 the Department decides that the conditional release of the  
4 defendant should be revoked or modified pursuant to  
5 subsection (i) of this Section. Such conditional release  
6 shall be for a period of five years. However, the  
7 defendant, the person or facility rendering the treatment,  
8 therapy, program or outpatient care, the Department, or the  
9 State's Attorney may petition the Court for an extension of  
10 the conditional release period for an additional 5 years.  
11 Upon receipt of such a petition, the Court shall hold a  
12 hearing consistent with the provisions of paragraph (a),  
13 this paragraph (a-1), and paragraph (f) of this Section,  
14 shall determine whether the defendant should continue to be  
15 subject to the terms of conditional release, and shall  
16 enter an order either extending the defendant's period of  
17 conditional release for an additional 5-year ~~5-year~~ period  
18 or discharging the defendant. Additional 5-year periods of  
19 conditional release may be ordered following a hearing as  
20 provided in this Section. However, in no event shall the  
21 defendant's period of conditional release continue beyond  
22 the maximum period of commitment ordered by the Court  
23 pursuant to paragraph (b) of this Section. These provisions  
24 for extension of conditional release shall only apply to  
25 defendants conditionally released on or after August 8,  
26 2003. However, the extension provisions of Public Act

1           83-1449 apply only to defendants charged with a forcible  
2           felony.

3           (E) "Facility director" means the chief officer of a  
4           mental health or developmental disabilities facility or  
5           his or her designee or the supervisor of a program of  
6           treatment or habilitation or his or her designee.  
7           "Designee" may include a physician, clinical psychologist,  
8           social worker, nurse, or clinical professional counselor.

9           (b) If the Court finds the defendant in need of mental  
10          health services on an inpatient basis, the admission,  
11          detention, care, treatment or habilitation, treatment plans,  
12          review proceedings, including review of treatment and  
13          treatment plans, and discharge of the defendant after such  
14          order shall be under the Mental Health and Developmental  
15          Disabilities Code, except that the initial order for admission  
16          of a defendant acquitted of a felony by reason of insanity  
17          shall be for an indefinite period of time. Such period of  
18          commitment shall not exceed the maximum length of time that the  
19          defendant would have been required to serve, less credit for  
20          good behavior as provided in Section 5-4-1 of the Unified Code  
21          of Corrections, before becoming eligible for release had he  
22          been convicted of and received the maximum sentence for the  
23          most serious crime for which he has been acquitted by reason of  
24          insanity. The Court shall determine the maximum period of  
25          commitment by an appropriate order. During this period of time,  
26          the defendant shall not be permitted to be in the community in

1 any manner, including, but not limited to, off-grounds  
2 privileges, with or without escort by personnel of the  
3 Department of Human Services, unsupervised on-grounds  
4 privileges, discharge or conditional or temporary release,  
5 except by a plan as provided in this Section. In no event shall  
6 a defendant's continued unauthorized absence be a basis for  
7 discharge. Not more than 30 days after admission and every 90  
8 days thereafter so long as the initial order remains in effect,  
9 the facility director shall file a treatment plan report in  
10 writing with the court and forward a copy of the treatment plan  
11 report to the clerk of the court, the State's Attorney, and the  
12 defendant's attorney, if the defendant is represented by  
13 counsel, or to a person authorized by the defendant under the  
14 Mental Health and Developmental Disabilities Confidentiality  
15 Act to be sent a copy of the report. The report shall include  
16 an opinion as to whether the defendant is currently in need of  
17 mental health services on an inpatient basis or in need of  
18 mental health services on an outpatient basis. The report shall  
19 also summarize the basis for those findings and provide a  
20 current summary of the following items from the treatment plan:  
21 (1) an assessment of the defendant's treatment needs, (2) a  
22 description of the services recommended for treatment, (3) the  
23 goals of each type of element of service, (4) an anticipated  
24 timetable for the accomplishment of the goals, and (5) a  
25 designation of the qualified professional responsible for the  
26 implementation of the plan. The report may also include

1       unsupervised on-grounds privileges, off-grounds privileges  
2       (with or without escort by personnel of the Department of Human  
3       Services), home visits and participation in work programs, but  
4       only where such privileges have been approved by specific court  
5       order, which order may include such conditions on the defendant  
6       as the Court may deem appropriate and necessary to reasonably  
7       assure the defendant's satisfactory progress in treatment and  
8       the safety of the defendant and others.

9       (c) Every defendant acquitted of a felony by reason of  
10      insanity and subsequently found to be in need of mental health  
11      services shall be represented by counsel in all proceedings  
12      under this Section and under the Mental Health and  
13      Developmental Disabilities Code.

14             (1) The Court shall appoint as counsel the public  
15      defender or an attorney licensed by this State.

16             (2) Upon filing with the Court of a verified statement  
17      of legal services rendered by the private attorney  
18      appointed pursuant to paragraph (1) of this subsection, the  
19      Court shall determine a reasonable fee for such services.  
20      If the defendant is unable to pay the fee, the Court shall  
21      enter an order upon the State to pay the entire fee or such  
22      amount as the defendant is unable to pay from funds  
23      appropriated by the General Assembly for that purpose.

24      (d) When the facility director determines that:

25             (1) the defendant is no longer in need of mental health  
26      services on an inpatient basis; and

1           (2) the defendant may be conditionally released  
2 because he or she is still in need of mental health  
3 services or that the defendant may be discharged as not in  
4 need of any mental health services; or

5           (3) (blank);

6 the facility director shall give written notice to the Court,  
7 State's Attorney and defense attorney. Such notice shall set  
8 forth in detail the basis for the recommendation of the  
9 facility director, and specify clearly the recommendations, if  
10 any, of the facility director, concerning conditional release.  
11 Any recommendation for conditional release shall include an  
12 evaluation of the defendant's need for psychotropic  
13 medication, what provisions should be made, if any, to ensure  
14 that the defendant will continue to receive psychotropic  
15 medication following discharge, and what provisions should be  
16 made to assure the safety of the defendant and others in the  
17 event the defendant is no longer receiving psychotropic  
18 medication. Within 30 days of the notification by the facility  
19 director, the Court shall set a hearing and make a finding as  
20 to whether the defendant is:

21           (i) (blank); or

22           (ii) in need of mental health services in the form of  
23 inpatient care; or

24           (iii) in need of mental health services but not subject  
25 to inpatient care; or

26           (iv) no longer in need of mental health services; or

1 (v) (blank).

2 A crime victim shall be allowed to present an oral and  
3 written statement. The court shall allow a victim to make an  
4 oral statement if the victim is present in the courtroom and  
5 requests to make an oral statement. An oral statement includes  
6 the victim or a representative of the victim reading the  
7 written statement. A victim and any person making an oral  
8 statement shall not be put under oath or subject to  
9 cross-examination. All statements shall become part of the  
10 record of the court.

11 Upon finding by the Court, the Court shall enter its  
12 findings and such appropriate order as provided in subsections  
13 (a) and (a-1) of this Section.

14 (e) A defendant admitted pursuant to this Section, or any  
15 person on his behalf, may file a petition for treatment plan  
16 review or discharge or conditional release under the standards  
17 of this Section in the Court which rendered the verdict. Upon  
18 receipt of a petition for treatment plan review or discharge or  
19 conditional release, the Court shall set a hearing to be held  
20 within 120 days. Thereafter, no new petition may be filed for  
21 180 days without leave of the Court.

22 (f) The Court shall direct that notice of the time and  
23 place of the hearing be served upon the defendant, the facility  
24 director, the State's Attorney, and the defendant's attorney.  
25 If requested by either the State or the defense or if the Court  
26 feels it is appropriate, an impartial examination of the

1 defendant by a psychiatrist or clinical psychologist as defined  
2 in Section 1-103 of the Mental Health and Developmental  
3 Disabilities Code who is not in the employ of the Department of  
4 Human Services shall be ordered, and the report considered at  
5 the time of the hearing.

6 (g) The findings of the Court shall be established by clear  
7 and convincing evidence. The burden of proof and the burden of  
8 going forth with the evidence rest with the defendant or any  
9 person on the defendant's behalf when a hearing is held to  
10 review a petition filed by or on behalf of the defendant. The  
11 evidence shall be presented in open Court with the right of  
12 confrontation and cross-examination. Such evidence may  
13 include, but is not limited to:

14 (1) whether the defendant appreciates the harm caused  
15 by the defendant to others and the community by his or her  
16 prior conduct that resulted in the finding of not guilty by  
17 reason of insanity;

18 (2) Whether the person appreciates the criminality of  
19 conduct similar to the conduct for which he or she was  
20 originally charged in this matter;

21 (3) the current state of the defendant's illness;

22 (4) what, if any, medications the defendant is taking  
23 to control his or her mental illness;

24 (5) what, if any, adverse physical side effects the  
25 medication has on the defendant;

26 (6) the length of time it would take for the



1 defendant's mental health to deteriorate if the defendant  
2 stopped taking prescribed medication;

3 (7) the defendant's history or potential for alcohol  
4 and drug abuse;

5 (8) the defendant's past criminal history;

6 (9) any specialized physical or medical needs of the  
7 defendant;

8 (10) any family participation or involvement expected  
9 upon release and what is the willingness and ability of the  
10 family to participate or be involved;

11 (11) the defendant's potential to be a danger to  
12 himself, herself, or others; ~~and~~

13 (11.5) a written or oral statement made by the victim;  
14 and

15 (12) any other factor or factors the Court deems  
16 appropriate.

17 (h) Before the court orders that the defendant be  
18 discharged or conditionally released, it shall order the  
19 facility director to establish a discharge plan that includes a  
20 plan for the defendant's shelter, support, and medication. If  
21 appropriate, the court shall order that the facility director  
22 establish a program to train the defendant in self-medication  
23 under standards established by the Department of Human  
24 Services. If the Court finds, consistent with the provisions of  
25 this Section, that the defendant is no longer in need of mental  
26 health services it shall order the facility director to

1 discharge the defendant. If the Court finds, consistent with  
2 the provisions of this Section, that the defendant is in need  
3 of mental health services, and no longer in need of inpatient  
4 care, it shall order the facility director to release the  
5 defendant under such conditions as the Court deems appropriate  
6 and as provided by this Section. Such conditional release shall  
7 be imposed for a period of 5 years as provided in paragraph (D)  
8 of subsection (a-1) and shall be subject to later modification  
9 by the Court as provided by this Section. If the Court finds  
10 consistent with the provisions in this Section that the  
11 defendant is in need of mental health services on an inpatient  
12 basis, it shall order the facility director not to discharge or  
13 release the defendant in accordance with paragraph (b) of this  
14 Section.

15 (i) If within the period of the defendant's conditional  
16 release the State's Attorney determines that the defendant has  
17 not fulfilled the conditions of his or her release, the State's  
18 Attorney may petition the Court to revoke or modify the  
19 conditional release of the defendant. Upon the filing of such  
20 petition the defendant may be remanded to the custody of the  
21 Department, or to any other mental health facility designated  
22 by the Department, pending the resolution of the petition.  
23 Nothing in this Section shall prevent the emergency admission  
24 of a defendant pursuant to Article VI of Chapter III of the  
25 Mental Health and Developmental Disabilities Code or the  
26 voluntary admission of the defendant pursuant to Article IV of

1 Chapter III of the Mental Health and Developmental Disabilities  
2 Code. If the Court determines, after hearing evidence, that the  
3 defendant has not fulfilled the conditions of release, the  
4 Court shall order a hearing to be held consistent with the  
5 provisions of paragraph (f) and (g) of this Section. At such  
6 hearing, if the Court finds that the defendant is in need of  
7 mental health services on an inpatient basis, it shall enter an  
8 order remanding him or her to the Department of Human Services  
9 or other facility. If the defendant is remanded to the  
10 Department of Human Services, he or she shall be placed in a  
11 secure setting unless the Court determines that there are  
12 compelling reasons that such placement is not necessary. If the  
13 Court finds that the defendant continues to be in need of  
14 mental health services but not on an inpatient basis, it may  
15 modify the conditions of the original release in order to  
16 reasonably assure the defendant's satisfactory progress in  
17 treatment and his or her safety and the safety of others in  
18 accordance with the standards established in paragraph (D) of  
19 subsection (a-1). Nothing in this Section shall limit a Court's  
20 contempt powers or any other powers of a Court.

21 (j) An order of admission under this Section does not  
22 affect the remedy of habeas corpus.

23 (k) In the event of a conflict between this Section and the  
24 Mental Health and Developmental Disabilities Code or the Mental  
25 Health and Developmental Disabilities Confidentiality Act, the  
26 provisions of this Section shall govern.

1           (1) Public Act 90-593 ~~This amendatory Act~~ shall apply to  
2 all persons who have been found not guilty by reason of  
3 insanity and who are presently committed to the Department of  
4 Mental Health and Developmental Disabilities (now the  
5 Department of Human Services).

6           (m) The Clerk of the Court shall transmit a certified copy  
7 of the order of discharge or conditional release to the  
8 Department of Human Services, to the sheriff of the county from  
9 which the defendant was admitted, to the Illinois Department of  
10 State Police, to the proper law enforcement agency for the  
11 municipality where the offense took place, and to the sheriff  
12 of the county into which the defendant is conditionally  
13 discharged. The Illinois Department of State Police shall  
14 maintain a centralized record of discharged or conditionally  
15 released defendants while they are under court supervision for  
16 access and use of appropriate law enforcement agencies.

17           (Source: P.A. 100-27, eff. 1-1-18; 100-424, eff. 1-1-18;  
18 revised 10-10-17.)

19           (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

20           Sec. 5-4-1. Sentencing hearing.

21           (a) Except when the death penalty is sought under hearing  
22 procedures otherwise specified, after a determination of  
23 guilt, a hearing shall be held to impose the sentence. However,  
24 prior to the imposition of sentence on an individual being  
25 sentenced for an offense based upon a charge for a violation of

1 Section 11-501 of the Illinois Vehicle Code or a similar  
2 provision of a local ordinance, the individual must undergo a  
3 professional evaluation to determine if an alcohol or other  
4 drug abuse problem exists and the extent of such a problem.  
5 Programs conducting these evaluations shall be licensed by the  
6 Department of Human Services. However, if the individual is not  
7 a resident of Illinois, the court may, in its discretion,  
8 accept an evaluation from a program in the state of such  
9 individual's residence. The court may in its sentencing order  
10 approve an eligible defendant for placement in a Department of  
11 Corrections impact incarceration program as provided in  
12 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing  
13 order recommend a defendant for placement in a Department of  
14 Corrections substance abuse treatment program as provided in  
15 paragraph (a) of subsection (1) of Section 3-2-2 conditioned  
16 upon the defendant being accepted in a program by the  
17 Department of Corrections. At the hearing the court shall:

18 (1) consider the evidence, if any, received upon the  
19 trial;

20 (2) consider any presentence reports;

21 (3) consider the financial impact of incarceration  
22 based on the financial impact statement filed with the  
23 clerk of the court by the Department of Corrections;

24 (4) consider evidence and information offered by the  
25 parties in aggravation and mitigation;

26 (4.5) consider substance abuse treatment, eligibility

1 screening, and an assessment, if any, of the defendant by  
2 an agent designated by the State of Illinois to provide  
3 assessment services for the Illinois courts;

4 (5) hear arguments as to sentencing alternatives;

5 (6) afford the defendant the opportunity to make a  
6 statement in his own behalf;

7 (7) afford the victim of a violent crime or a violation  
8 of Section 11-501 of the Illinois Vehicle Code, or a  
9 similar provision of a local ordinance, the opportunity to  
10 present an oral or written statement, as guaranteed by  
11 Article I, Section 8.1 of the Illinois Constitution and  
12 provided in Section 6 of the Rights of Crime Victims and  
13 Witnesses Act. The court shall allow a victim to make an  
14 oral statement if the victim is present in the courtroom  
15 and requests to make an oral or written statement. An oral  
16 or written statement includes the victim or a  
17 representative of the victim reading the written  
18 statement. The court may allow persons impacted by the  
19 crime who are not victims under subsection (a) of Section 3  
20 of the Rights of Crime Victims and Witnesses Act to present  
21 an oral or written statement. A victim and any person  
22 making an oral statement shall not be put under oath or  
23 subject to cross-examination., or a qualified individual  
24 affected by: (i) a violation of Section 405, 405.1, 405.2,  
25 or 407 of the Illinois Controlled Substances Act or a  
26 violation of Section 55 or Section 65 of the

1 ~~Methamphetamine Control and Community Protection Act, or~~  
2 ~~(ii) a Class 4 felony violation of Section 11-14, 11-14.3~~  
3 ~~except as described in subdivisions (a)(2)(A) and~~  
4 ~~(a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the~~  
5 ~~Criminal Code of 1961 or the Criminal Code of 2012,~~  
6 ~~committed by the defendant the opportunity to make a~~  
7 ~~statement concerning the impact on the victim and to offer~~  
8 ~~evidence in aggravation or mitigation; provided that the~~  
9 ~~statement and evidence offered in aggravation or~~  
10 ~~mitigation must first be prepared in writing in conjunction~~  
11 ~~with the State's Attorney before it may be presented orally~~  
12 ~~at the hearing. Any sworn testimony offered by the victim~~  
13 ~~is subject to the defendant's right to cross-examine. All~~  
14 ~~statements and evidence offered under this paragraph (7)~~  
15 ~~shall become part of the record of the court. In For the~~  
16 ~~purpose of this paragraph (7), "victim of a violent crime"~~  
17 ~~means a person who is a victim of a violent crime for which~~  
18 ~~the defendant has been convicted after a bench or jury~~  
19 ~~trial or a person who is the victim of a violent crime with~~  
20 ~~which the defendant was charged and the defendant has been~~  
21 ~~convicted under a plea agreement of a crime that is not a~~  
22 ~~violent crime as defined in subsection (c) of 3 of the~~  
23 ~~Rights of Crime Victims and Witnesses Act; "qualified~~  
24 ~~individual" means any person who (i) lived or worked within~~  
25 ~~the territorial jurisdiction where the offense took place~~  
26 ~~when the offense took place; and (ii) is familiar with~~

~~various public places within the territorial jurisdiction where the offense took place when the offense took place. For the purposes of this paragraph (7), "qualified individual" includes any peace officer, or any member of any duly organized State, county, or municipal peace unit assigned to the territorial jurisdiction where the offense took place when the offense took place~~

(7.5) afford a qualified person affected by: (i) a violation of Section 405, 405.1, 405.2, or 407 of the Illinois Controlled Substances Act or a violation of Section 55 or Section 65 of the Methamphetamine Control and Community Protection Act; or (ii) a Class 4 felony violation of Section 11-14, 11-14.3 except as described in subdivisions (a) (2) (A) and (a) (2) (B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of 1961 or the Criminal Code of 2012, committed by the defendant the opportunity to make a statement concerning the impact on the qualified person and to offer evidence in aggravation or mitigation; provided that the statement and evidence offered in aggravation or mitigation shall first be prepared in writing in conjunction with the State's Attorney before it may be presented orally at the hearing. Sworn testimony offered by the qualified person is subject to the defendant's right to cross-examine. All statements and evidence offered under this paragraph (7.5) shall become part of the record of the court. In this paragraph



1       (7.5), "qualified person" means any person who: (i) lived  
2       or worked within the territorial jurisdiction where the  
3       offense took place when the offense took place; or (ii) is  
4       familiar with various public places within the territorial  
5       jurisdiction where the offense took place when the offense  
6       took place. "Qualified person includes any peace officer or  
7       any member of any duly organized State, county, or  
8       municipal peace officer unit assigned to the territorial  
9       jurisdiction where the offense took place when the offense  
10       took place;

11           (8) in cases of reckless homicide afford the victim's  
12       spouse, guardians, parents or other immediate family  
13       members an opportunity to make oral statements;

14           (9) in cases involving a felony sex offense as defined  
15       under the Sex Offender Management Board Act, consider the  
16       results of the sex offender evaluation conducted pursuant  
17       to Section 5-3-2 of this Act; and

18           (10) make a finding of whether a motor vehicle was used  
19       in the commission of the offense for which the defendant is  
20       being sentenced.

21       (b) All sentences shall be imposed by the judge based upon  
22       his independent assessment of the elements specified above and  
23       any agreement as to sentence reached by the parties. The judge  
24       who presided at the trial or the judge who accepted the plea of  
25       guilty shall impose the sentence unless he is no longer sitting  
26       as a judge in that court. Where the judge does not impose

1 sentence at the same time on all defendants who are convicted  
2 as a result of being involved in the same offense, the  
3 defendant or the State's Attorney may advise the sentencing  
4 court of the disposition of any other defendants who have been  
5 sentenced.

6 (b-1) In imposing a sentence of imprisonment or periodic  
7 imprisonment for a Class 3 or Class 4 felony for which a  
8 sentence of probation or conditional discharge is an available  
9 sentence, if the defendant has no prior sentence of probation  
10 or conditional discharge and no prior conviction for a violent  
11 crime, the defendant shall not be sentenced to imprisonment  
12 before review and consideration of a presentence report and  
13 determination and explanation of why the particular evidence,  
14 information, factor in aggravation, factual finding, or other  
15 reasons support a sentencing determination that one or more of  
16 the factors under subsection (a) of Section 5-6-1 of this Code  
17 apply and that probation or conditional discharge is not an  
18 appropriate sentence.

19 (c) In imposing a sentence for a violent crime or for an  
20 offense of operating or being in physical control of a vehicle  
21 while under the influence of alcohol, any other drug or any  
22 combination thereof, or a similar provision of a local  
23 ordinance, when such offense resulted in the personal injury to  
24 someone other than the defendant, the trial judge shall specify  
25 on the record the particular evidence, information, factors in  
26 mitigation and aggravation or other reasons that led to his

1 sentencing determination. The full verbatim record of the  
2 sentencing hearing shall be filed with the clerk of the court  
3 and shall be a public record.

4 (c-1) In imposing a sentence for the offense of aggravated  
5 kidnapping for ransom, home invasion, armed robbery,  
6 aggravated vehicular hijacking, aggravated discharge of a  
7 firearm, or armed violence with a category I weapon or category  
8 II weapon, the trial judge shall make a finding as to whether  
9 the conduct leading to conviction for the offense resulted in  
10 great bodily harm to a victim, and shall enter that finding and  
11 the basis for that finding in the record.

12 (c-2) If the defendant is sentenced to prison, other than  
13 when a sentence of natural life imprisonment or a sentence of  
14 death is imposed, at the time the sentence is imposed the judge  
15 shall state on the record in open court the approximate period  
16 of time the defendant will serve in custody according to the  
17 then current statutory rules and regulations for sentence  
18 credit found in Section 3-6-3 and other related provisions of  
19 this Code. This statement is intended solely to inform the  
20 public, has no legal effect on the defendant's actual release,  
21 and may not be relied on by the defendant on appeal.

22 The judge's statement, to be given after pronouncing the  
23 sentence, other than when the sentence is imposed for one of  
24 the offenses enumerated in paragraph (a)(4) of Section 3-6-3,  
25 shall include the following:

26 "The purpose of this statement is to inform the public of

1 the actual period of time this defendant is likely to spend in  
2 prison as a result of this sentence. The actual period of  
3 prison time served is determined by the statutes of Illinois as  
4 applied to this sentence by the Illinois Department of  
5 Corrections and the Illinois Prisoner Review Board. In this  
6 case, assuming the defendant receives all of his or her  
7 sentence credit, the period of estimated actual custody is ...  
8 years and ... months, less up to 180 days additional earned  
9 sentence credit. If the defendant, because of his or her own  
10 misconduct or failure to comply with the institutional  
11 regulations, does not receive those credits, the actual time  
12 served in prison will be longer. The defendant may also receive  
13 an additional one-half day sentence credit for each day of  
14 participation in vocational, industry, substance abuse, and  
15 educational programs as provided for by Illinois statute."

16 When the sentence is imposed for one of the offenses  
17 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
18 first degree murder, and the offense was committed on or after  
19 June 19, 1998, and when the sentence is imposed for reckless  
20 homicide as defined in subsection (e) of Section 9-3 of the  
21 Criminal Code of 1961 or the Criminal Code of 2012 if the  
22 offense was committed on or after January 1, 1999, and when the  
23 sentence is imposed for aggravated driving under the influence  
24 of alcohol, other drug or drugs, or intoxicating compound or  
25 compounds, or any combination thereof as defined in  
26 subparagraph (F) of paragraph (1) of subsection (d) of Section

1 11-501 of the Illinois Vehicle Code, and when the sentence is  
2 imposed for aggravated arson if the offense was committed on or  
3 after July 27, 2001 (the effective date of Public Act 92-176),  
4 and when the sentence is imposed for aggravated driving under  
5 the influence of alcohol, other drug or drugs, or intoxicating  
6 compound or compounds, or any combination thereof as defined in  
7 subparagraph (C) of paragraph (1) of subsection (d) of Section  
8 11-501 of the Illinois Vehicle Code committed on or after  
9 January 1, 2011 (the effective date of Public Act 96-1230), the  
10 judge's statement, to be given after pronouncing the sentence,  
11 shall include the following:

12 "The purpose of this statement is to inform the public of  
13 the actual period of time this defendant is likely to spend in  
14 prison as a result of this sentence. The actual period of  
15 prison time served is determined by the statutes of Illinois as  
16 applied to this sentence by the Illinois Department of  
17 Corrections and the Illinois Prisoner Review Board. In this  
18 case, the defendant is entitled to no more than 4 1/2 days of  
19 sentence credit for each month of his or her sentence of  
20 imprisonment. Therefore, this defendant will serve at least 85%  
21 of his or her sentence. Assuming the defendant receives 4 1/2  
22 days credit for each month of his or her sentence, the period  
23 of estimated actual custody is ... years and ... months. If the  
24 defendant, because of his or her own misconduct or failure to  
25 comply with the institutional regulations receives lesser  
26 credit, the actual time served in prison will be longer."

1           When a sentence of imprisonment is imposed for first degree  
2 murder and the offense was committed on or after June 19, 1998,  
3 the judge's statement, to be given after pronouncing the  
4 sentence, shall include the following:

5           "The purpose of this statement is to inform the public of  
6 the actual period of time this defendant is likely to spend in  
7 prison as a result of this sentence. The actual period of  
8 prison time served is determined by the statutes of Illinois as  
9 applied to this sentence by the Illinois Department of  
10 Corrections and the Illinois Prisoner Review Board. In this  
11 case, the defendant is not entitled to sentence credit.  
12 Therefore, this defendant will serve 100% of his or her  
13 sentence."

14           When the sentencing order recommends placement in a  
15 substance abuse program for any offense that results in  
16 incarceration in a Department of Corrections facility and the  
17 crime was committed on or after September 1, 2003 (the  
18 effective date of Public Act 93-354), the judge's statement, in  
19 addition to any other judge's statement required under this  
20 Section, to be given after pronouncing the sentence, shall  
21 include the following:

22           "The purpose of this statement is to inform the public of  
23 the actual period of time this defendant is likely to spend in  
24 prison as a result of this sentence. The actual period of  
25 prison time served is determined by the statutes of Illinois as  
26 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this  
2 case, the defendant shall receive no earned sentence credit  
3 under clause (3) of subsection (a) of Section 3-6-3 until he or  
4 she participates in and completes a substance abuse treatment  
5 program or receives a waiver from the Director of Corrections  
6 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

7 (c-4) Before the sentencing hearing and as part of the  
8 presentence investigation under Section 5-3-1, the court shall  
9 inquire of the defendant whether the defendant is currently  
10 serving in or is a veteran of the Armed Forces of the United  
11 States. If the defendant is currently serving in the Armed  
12 Forces of the United States or is a veteran of the Armed Forces  
13 of the United States and has been diagnosed as having a mental  
14 illness by a qualified psychiatrist or clinical psychologist or  
15 physician, the court may:

16 (1) order that the officer preparing the presentence  
17 report consult with the United States Department of  
18 Veterans Affairs, Illinois Department of Veterans'  
19 Affairs, or another agency or person with suitable  
20 knowledge or experience for the purpose of providing the  
21 court with information regarding treatment options  
22 available to the defendant, including federal, State, and  
23 local programming; and

24 (2) consider the treatment recommendations of any  
25 diagnosing or treating mental health professionals  
26 together with the treatment options available to the

1 defendant in imposing sentence.

2 For the purposes of this subsection (c-4), "qualified  
3 psychiatrist" means a reputable physician licensed in Illinois  
4 to practice medicine in all its branches, who has specialized  
5 in the diagnosis and treatment of mental and nervous disorders  
6 for a period of not less than 5 years.

7 (c-6) In imposing a sentence, the trial judge shall  
8 specify, on the record, the particular evidence and other  
9 reasons which led to his or her determination that a motor  
10 vehicle was used in the commission of the offense.

11 (d) When the defendant is committed to the Department of  
12 Corrections, the State's Attorney shall and counsel for the  
13 defendant may file a statement with the clerk of the court to  
14 be transmitted to the department, agency or institution to  
15 which the defendant is committed to furnish such department,  
16 agency or institution with the facts and circumstances of the  
17 offense for which the person was committed together with all  
18 other factual information accessible to them in regard to the  
19 person prior to his commitment relative to his habits,  
20 associates, disposition and reputation and any other facts and  
21 circumstances which may aid such department, agency or  
22 institution during its custody of such person. The clerk shall  
23 within 10 days after receiving any such statements transmit a  
24 copy to such department, agency or institution and a copy to  
25 the other party, provided, however, that this shall not be  
26 cause for delay in conveying the person to the department,



1 agency or institution to which he has been committed.

2 (e) The clerk of the court shall transmit to the  
3 department, agency or institution, if any, to which the  
4 defendant is committed, the following:

5 (1) the sentence imposed;

6 (2) any statement by the court of the basis for  
7 imposing the sentence;

8 (3) any presentence reports;

9 (3.5) any sex offender evaluations;

10 (3.6) any substance abuse treatment eligibility  
11 screening and assessment of the defendant by an agent  
12 designated by the State of Illinois to provide assessment  
13 services for the Illinois courts;

14 (4) the number of days, if any, which the defendant has  
15 been in custody and for which he is entitled to credit  
16 against the sentence, which information shall be provided  
17 to the clerk by the sheriff;

18 (4.1) any finding of great bodily harm made by the  
19 court with respect to an offense enumerated in subsection  
20 (c-1);

21 (5) all statements filed under subsection (d) of this  
22 Section;

23 (6) any medical or mental health records or summaries  
24 of the defendant;

25 (7) the municipality where the arrest of the offender  
26 or the commission of the offense has occurred, where such

1           municipality has a population of more than 25,000 persons;  
2           (8) all statements made and evidence offered under  
3           paragraph (7) of subsection (a) of this Section; and  
4           (9) all additional matters which the court directs the  
5           clerk to transmit.  
6           (f) In cases in which the court finds that a motor vehicle  
7           was used in the commission of the offense for which the  
8           defendant is being sentenced, the clerk of the court shall,  
9           within 5 days thereafter, forward a report of such conviction  
10          to the Secretary of State.  
11          (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18.)