

1 AN ACT concerning criminal law.

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

4 Section 5. The Rights of Crime Victims and Witnesses Act is
5 amended by changing Sections 4.5 and 6 as follows:

6 (725 ILCS 120/4.5)

7 Sec. 4.5. Procedures to implement the rights of crime
8 victims. To afford crime victims their rights, law enforcement,
9 prosecutors, judges, and corrections will provide information,
10 as appropriate, of the following procedures:

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

18 (a-5) When law enforcement authorities reopen ~~re-open~~ a
19 closed case to resume investigating, they shall provide notice
20 of the reopening ~~re-opening~~ of the case, except where the
21 State's Attorney determines that disclosure of such
22 information would unreasonably interfere with the
23 investigation.

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

2 (1) shall provide notice of the filing of an
3 information, the return of an indictment, or the filing of
4 a petition to adjudicate a minor as a delinquent for a
5 violent crime;

6 (2) shall provide timely notice of the date, time, and
7 place of court proceedings; of any change in the date,
8 time, and place of court proceedings; and of any
9 cancellation of court proceedings. Notice shall be
10 provided in sufficient time, wherever possible, for the
11 victim to make arrangements to attend or to prevent an
12 unnecessary appearance at court proceedings;

13 (3) or victim advocate personnel shall provide
14 information of social services and financial assistance
15 available for victims of crime, including information of
16 how to apply for these services and assistance;

17 (3.5) or victim advocate personnel shall provide
18 information about available victim services, including
19 referrals to programs, counselors, and agencies that
20 assist a victim to deal with trauma, loss, and grief;

21 (4) shall assist in having any stolen or other personal
22 property held by law enforcement authorities for
23 evidentiary or other purposes returned as expeditiously as
24 possible, pursuant to the procedures set out in Section
25 115-9 of the Code of Criminal Procedure of 1963;

26 (5) or victim advocate personnel shall provide

1 appropriate employer intercession services to ensure that
2 employers of victims will cooperate with the criminal
3 justice system in order to minimize an employee's loss of
4 pay and other benefits resulting from court appearances;

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

9 (7) shall provide notice to the crime victim of the
10 right to have a translator present at all court proceedings
11 and, in compliance with the federal Americans with
12 Disabilities Act of 1990, the right to communications
13 access through a sign language interpreter or by other
14 means;

15 (8) (blank);

16 (8.5) shall inform the victim of the right to be
17 present at all court proceedings, unless the victim is to
18 testify and the court determines that the victim's
19 testimony would be materially affected if the victim hears
20 other testimony at trial;

21 (9) shall inform the victim of the right to have
22 present at all court proceedings, subject to the rules of
23 evidence and confidentiality, an advocate and other
24 support person of the victim's choice;

25 (9.3) shall inform the victim of the right to retain an
26 attorney, at the victim's own expense, who, upon written

1 notice filed with the clerk of the court and State's
2 Attorney, is to receive copies of all notices, motions, and
3 court orders filed thereafter in the case, in the same
4 manner as if the victim were a named party in the case;

5 (9.5) shall inform the victim of (A) the victim's right
6 under Section 6 of this Act to make a statement at the
7 sentencing hearing; (B) the right of the victim's spouse,
8 guardian, parent, grandparent, and other immediate family
9 and household members under Section 6 of this Act to
10 present a statement at sentencing; and (C) if a presentence
11 report is to be prepared, the right of the victim's spouse,
12 guardian, parent, grandparent, and other immediate family
13 and household members to submit information to the preparer
14 of the presentence report about the effect the offense has
15 had on the victim and the person;

16 (10) at the sentencing shall make a good faith attempt
17 to explain the minimum amount of time during which the
18 defendant may actually be physically imprisoned. The
19 Office of the State's Attorney shall further notify the
20 crime victim of the right to request from the Prisoner
21 Review Board or Department of Juvenile Justice information
22 concerning the release of the defendant;

23 (11) shall request restitution at sentencing and as
24 part of a plea agreement if the victim requests
25 restitution;

26 (12) shall, upon the court entering a verdict of not

1 guilty by reason of insanity, inform the victim of the
2 notification services available from the Department of
3 Human Services, including the statewide telephone number,
4 under subparagraph (d) (2) of this Section;

5 (13) shall provide notice within a reasonable time
6 after receipt of notice from the custodian, of the release
7 of the defendant on bail or personal recognizance or the
8 release from detention of a minor who has been detained;

9 (14) shall explain in nontechnical language the
10 details of any plea or verdict of a defendant, or any
11 adjudication of a juvenile as a delinquent;

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

26 (16) shall provide notice of the ultimate disposition

1 of the cases arising from an indictment or an information,
2 or a petition to have a juvenile adjudicated as a
3 delinquent for a violent crime;

4 (17) shall provide notice of any appeal taken by the
5 defendant and information on how to contact the appropriate
6 agency handling the appeal, and how to request notice of
7 any hearing, oral argument, or decision of an appellate
8 court;

9 (18) shall provide timely notice of any request for
10 post-conviction review filed by the defendant under
11 Article 122 of the Code of Criminal Procedure of 1963, and
12 of the date, time and place of any hearing concerning the
13 petition. Whenever possible, notice of the hearing shall be
14 given within 48 hours of the court's scheduling of the
15 hearing; and

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

21 (c) The court shall ensure that the rights of the victim
22 are afforded.

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

26 (1) Written notice. A victim may complete a written

1 notice of intent to assert rights on a form prepared by the
2 Office of the Attorney General and provided to the victim
3 by the State's Attorney. The victim may at any time provide
4 a revised written notice to the State's Attorney. The
5 State's Attorney shall file the written notice with the
6 court. At the beginning of any court proceeding in which
7 the right of a victim may be at issue, the court and
8 prosecutor shall review the written notice to determine
9 whether the victim has asserted the right that may be at
10 issue.

11 (2) Victim's retained attorney. A victim's attorney
12 shall file an entry of appearance limited to assertion of
13 the victim's rights. Upon the filing of the entry of
14 appearance and service on the State's Attorney and the
15 defendant, the attorney is to receive copies of all
16 notices, motions and court orders filed thereafter in the
17 case.

18 (3) Standing. The victim has standing to assert the
19 rights enumerated in subsection (a) of Article I, Section
20 8.1 of the Illinois Constitution and the statutory rights
21 under Section 4 of this Act in any court exercising
22 jurisdiction over the criminal case. The prosecuting
23 attorney, a victim, or the victim's retained attorney may
24 assert the victim's rights. The defendant in the criminal
25 case has no standing to assert a right of the victim in any
26 court proceeding, including on appeal.

1 (4) Assertion of and enforcement of rights.

2 (A) The prosecuting attorney shall assert a
3 victim's right or request enforcement of a right by
4 filing a motion or by orally asserting the right or
5 requesting enforcement in open court in the criminal
6 case outside the presence of the jury. The prosecuting
7 attorney shall consult with the victim and the victim's
8 attorney regarding the assertion or enforcement of a
9 right. If the prosecuting attorney decides not to
10 assert or enforce a victim's right, the prosecuting
11 attorney shall notify the victim or the victim's
12 attorney in sufficient time to allow the victim or the
13 victim's attorney to assert the right or to seek
14 enforcement of a right.

15 (B) If the prosecuting attorney elects not to
16 assert a victim's right or to seek enforcement of a
17 right, the victim or the victim's attorney may assert
18 the victim's right or request enforcement of a right by
19 filing a motion or by orally asserting the right or
20 requesting enforcement in open court in the criminal
21 case outside the presence of the jury.

22 (C) If the prosecuting attorney asserts a victim's
23 right or seeks enforcement of a right, and the court
24 denies the assertion of the right or denies the request
25 for enforcement of a right, the victim or victim's
26 attorney may file a motion to assert the victim's right

1 or to request enforcement of the right within 10 days
2 of the court's ruling. The motion need not demonstrate
3 the grounds for a motion for reconsideration. The court
4 shall rule on the merits of the motion.

5 (D) The court shall take up and decide any motion
6 or request asserting or seeking enforcement of a
7 victim's right without delay, unless a specific time
8 period is specified by law or court rule. The reasons
9 for any decision denying the motion or request shall be
10 clearly stated on the record.

11 (5) Violation of rights and remedies.

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

18 (A-5) Consideration of an issue of a substantive
19 nature or an issue that implicates the constitutional
20 or statutory right of a victim at a court proceeding
21 labeled as a status hearing shall constitute a per se
22 violation of a victim's right.

23 (B) The appropriate remedy shall include only
24 actions necessary to provide the victim the right to
25 which the victim was entitled and may include reopening
26 previously held proceedings; however, in no event

1 shall the court vacate a conviction. Any remedy shall
2 be tailored to provide the victim an appropriate remedy
3 without violating any constitutional right of the
4 defendant. In no event shall the appropriate remedy be
5 a new trial, damages, or costs.

6 (6) Right to be heard. Whenever a victim has the right
7 to be heard, the court shall allow the victim to exercise
8 the right in any reasonable manner the victim chooses.

9 (7) Right to attend trial. A party must file a written
10 motion to exclude a victim from trial at least 60 days
11 prior to the date set for trial. The motion must state with
12 specificity the reason exclusion is necessary to protect a
13 constitutional right of the party, and must contain an
14 offer of proof. The court shall rule on the motion within
15 30 days. If the motion is granted, the court shall set
16 forth on the record the facts that support its finding that
17 the victim's testimony will be materially affected if the
18 victim hears other testimony at trial.

19 (8) Right to have advocate and support person present
20 at court proceedings.

21 (A) A party who intends to call an advocate as a
22 witness at trial must seek permission of the court
23 before the subpoena is issued. The party must file a
24 written motion at least 90 days before trial that sets
25 forth specifically the issues on which the advocate's
26 testimony is sought and an offer of proof regarding (i)

1 the content of the anticipated testimony of the
2 advocate; and (ii) the relevance, admissibility, and
3 materiality of the anticipated testimony. The court
4 shall consider the motion and make findings within 30
5 days of the filing of the motion. If the court finds by
6 a preponderance of the evidence that: (i) the
7 anticipated testimony is not protected by an absolute
8 privilege; and (ii) the anticipated testimony contains
9 relevant, admissible, and material evidence that is
10 not available through other witnesses or evidence, the
11 court shall issue a subpoena requiring the advocate to
12 appear to testify at an in camera hearing. The
13 prosecuting attorney and the victim shall have 15 days
14 to seek appellate review before the advocate is
15 required to testify at an ex parte in camera
16 proceeding.

17 The prosecuting attorney, the victim, and the
18 advocate's attorney shall be allowed to be present at
19 the ex parte in camera proceeding. If, after conducting
20 the ex parte in camera hearing, the court determines
21 that due process requires any testimony regarding
22 confidential or privileged information or
23 communications, the court shall provide to the
24 prosecuting attorney, the victim, and the advocate's
25 attorney a written memorandum on the substance of the
26 advocate's testimony. The prosecuting attorney, the

1 victim, and the advocate's attorney shall have 15 days
2 to seek appellate review before a subpoena may be
3 issued for the advocate to testify at trial. The
4 presence of the prosecuting attorney at the ex parte in
5 camera proceeding does not make the substance of the
6 advocate's testimony that the court has ruled
7 inadmissible subject to discovery.

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

24 If the prosecuting attorney intends to call the
25 support person as a witness during the State's
26 case-in-chief, the prosecuting attorney shall inform

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

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

23 If the prosecuting attorney does not intend to call
24 the support person in the State's case-in-chief, the
25 court shall verify with the support person whether the
26 support person, if called as a witness, would testify

1 as set forth in the offer of proof. If the court finds
2 that the support person would testify as set forth in
3 the offer of proof, the court shall rule on the
4 relevance, materiality, and admissibility of the
5 anticipated testimony. If the court rules the
6 anticipated testimony is admissible, the court shall
7 issue the subpoena. The support person may remain in
8 the courtroom after the support person testifies and
9 shall be allowed to testify in rebuttal.

10 If the court excludes the victim's support person
11 during the State's case-in-chief, the victim shall be
12 allowed to choose another support person to be present
13 in court.

14 If the victim fails to designate a support person
15 within 60 days of trial and the defendant has
16 subpoenaed the support person to testify at trial, the
17 court may exclude the support person from the trial
18 until the support person testifies. If the court
19 excludes the support person the victim may choose
20 another person as a support person.

21 (9) Right to notice and hearing before disclosure of
22 confidential or privileged information or records. A
23 defendant who seeks to subpoena records of or concerning
24 the victim that are confidential or privileged by law must
25 seek permission of the court before the subpoena is issued.
26 The defendant must file a written motion and an offer of

1 proof regarding the relevance, admissibility and
2 materiality of the records. If the court finds by a
3 preponderance of the evidence that: (A) the records are not
4 protected by an absolute privilege and (B) the records
5 contain relevant, admissible, and material evidence that
6 is not available through other witnesses or evidence, the
7 court shall issue a subpoena requiring a sealed copy of the
8 records be delivered to the court to be reviewed in camera.
9 If, after conducting an in camera review of the records,
10 the court determines that due process requires disclosure
11 of any portion of the records, the court shall provide
12 copies of what it intends to disclose to the prosecuting
13 attorney and the victim. The prosecuting attorney and the
14 victim shall have 30 days to seek appellate review before
15 the records are disclosed to the defendant. The disclosure
16 of copies of any portion of the records to the prosecuting
17 attorney does not make the records subject to discovery.

18 (10) Right to notice of court proceedings. If the
19 victim is not present at a court proceeding in which a
20 right of the victim is at issue, the court shall ask the
21 prosecuting attorney whether the victim was notified of the
22 time, place, and purpose of the court proceeding and that
23 the victim had a right to be heard at the court proceeding.
24 If the court determines that timely notice was not given or
25 that the victim was not adequately informed of the nature
26 of the court proceeding, the court shall not rule on any

1 substantive issues, accept a plea, or impose a sentence and
2 shall continue the hearing for the time necessary to notify
3 the victim of the time, place and nature of the court
4 proceeding. The time between court proceedings shall not be
5 attributable to the State under Section 103-5 of the Code
6 of Criminal Procedure of 1963.

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

1 have been granted, the victim's objections and procedures
2 to avoid further delays. If a continuance is granted over
3 the victim's objection, the court shall specify on the
4 record the reasons for the continuance and the procedures
5 that have been or will be taken to avoid further delays.

6 (12) Right to Restitution.

7 (A) If the victim has asserted the right to
8 restitution and the amount of restitution is known at
9 the time of sentencing, the court shall enter the
10 judgment of restitution at the time of sentencing.

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

1 together with any supporting documentation, a
2 restitution amount recommendation, and the names of
3 any co-defendants and their case numbers. Within 30
4 days after receipt of the proposed judgment for
5 restitution, the defendant shall file any objection to
6 the proposed judgment, a statement of grounds for the
7 objection, and a financial statement. If the defendant
8 does not file an objection, the court may enter the
9 judgment for restitution without further proceedings.
10 If the defendant files an objection and either party
11 requests a hearing, the court shall schedule a hearing.

12 (13) Access to presentence reports.

13 (A) The victim may request a copy of the
14 presentence report prepared under the Unified Code of
15 Corrections from the State's Attorney. The State's
16 Attorney shall redact the following information before
17 providing a copy of the report:

18 (i) the defendant's mental history and
19 condition;

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

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

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

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

5 (D) The State's Attorney must advise the victim
6 that the victim must maintain the confidentiality of
7 the report and other information. Any dissemination of
8 the report or information that was not stated at a
9 court proceeding constitutes indirect criminal
10 contempt of court.

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

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

25 (16) The right to be reasonably protected from the
26 accused throughout the criminal justice process and the

1 right to have the safety of the victim and the victim's
2 family considered in denying or fixing the amount of bail,
3 determining whether to release the defendant, and setting
4 conditions of release after arrest and conviction. A victim
5 of domestic violence, a sexual offense, or stalking may
6 request the entry of a protective order under Article 112A
7 of the Code of Criminal Procedure of 1963.

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

1 most recent information as to victim's or other concerned
2 citizen's residence or other location available to the
3 notifying authority.

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

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

1 apprehended, the Department of Corrections or the Department of
2 Juvenile Justice immediately shall notify the Prisoner Review
3 Board and the Board shall notify the victim.

4 (4) The victim of the crime for which the prisoner has been
5 sentenced shall receive reasonable written notice not less than
6 30 days prior to the parole hearing or target aftercare release
7 date and may submit, in writing, on film, videotape, or other
8 electronic means or in the form of a recording prior to the
9 parole hearing or target aftercare release date or in person at
10 the parole hearing or aftercare release protest hearing or if a
11 victim of a violent crime, by calling the toll-free number
12 established in subsection (f) of this Section, information for
13 consideration by the Prisoner Review Board or Department of
14 Juvenile Justice. The victim shall be notified within 7 days
15 after the prisoner has been granted parole or aftercare release
16 and shall be informed of the right to inspect the registry of
17 parole decisions, established under subsection (g) of Section
18 3-3-5 of the Unified Code of Corrections. The provisions of
19 this paragraph (4) are subject to the Open Parole Hearings Act.
20 Victim impact statements received by the Board shall be
21 confidential and privileged.

22 (5) If a statement is presented under Section 6, the
23 Prisoner Review Board or Department of Juvenile Justice shall
24 inform the victim of any order of discharge pursuant to Section
25 3-2.5-85 or 3-3-8 of the Unified Code of Corrections.

26 (6) At the written or oral request of the victim of the

1 crime for which the prisoner was sentenced or the State's
2 Attorney of the county where the person seeking parole or
3 aftercare release was prosecuted, the Prisoner Review Board or
4 Department of Juvenile Justice shall notify the victim and the
5 State's Attorney of the county where the person seeking parole
6 or aftercare release was prosecuted of the death of the
7 prisoner if the prisoner died while on parole or aftercare
8 release or mandatory supervised release.

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

19 (8) When a defendant has been convicted of a sex offense as
20 defined in Section 2 of the Sex Offender Registration Act and
21 has been sentenced to the Department of Corrections or the
22 Department of Juvenile Justice, the Prisoner Review Board or
23 the Department of Juvenile Justice shall notify the victim of
24 the sex offense of the prisoner's eligibility for release on
25 parole, aftercare release, mandatory supervised release,
26 electronic detention, work release, international transfer or

1 exchange, or by the custodian of the discharge of any
2 individual who was adjudicated a delinquent for a sex offense
3 from State custody and by the sheriff of the appropriate county
4 of any such person's final discharge from county custody. The
5 notification shall be made to the victim at least 30 days,
6 whenever possible, before release of the sex offender.

7 (e) The officials named in this Section may satisfy some or
8 all of their obligations to provide notices and other
9 information through participation in a statewide victim and
10 witness notification system established by the Attorney
11 General under Section 8.5 of this Act.

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

24 (Source: P.A. 99-413, eff. 8-20-15; 99-628, eff. 1-1-17;
25 100-199, eff. 1-1-18; 100-961, eff. 1-1-19; revised 10-3-18.)

1 (725 ILCS 120/6) (from Ch. 38, par. 1406)

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

3 (a) A crime victim shall be allowed to present an oral or
4 written statement in any case in which a defendant has been
5 convicted of a violent crime or a juvenile has been adjudicated
6 delinquent for a violent crime after a bench or jury trial, or
7 a defendant who was charged with a violent crime and has been
8 convicted under a plea agreement of a crime that is not a
9 violent crime as defined in subsection (c) of Section 3 of this
10 Act. The court shall allow a victim to make an oral statement
11 if the victim is present in the courtroom and requests to make
12 an oral statement. An oral statement includes the victim or a
13 representative of the victim reading the written statement. The
14 court may allow persons impacted by the crime who are not
15 victims under subsection (a) of Section 3 of this Act to
16 present an oral or written statement. A victim and any person
17 making an oral statement shall not be put under oath or subject
18 to cross-examination. The court shall consider any statement
19 presented along with all other appropriate factors in
20 determining the sentence of the defendant or disposition of
21 such juvenile.

22 (a-1) In any case where a defendant has been convicted of a
23 violation of any statute, ordinance, or regulation relating to
24 the operation or use of motor vehicles, the use of streets and
25 highways by pedestrians or the operation of any other wheeled
26 or tracked vehicle, except parking violations, if the violation

1 resulted in great bodily harm or death, the person who suffered
2 great bodily harm, the injured person's representative, or the
3 representative of a deceased person shall be entitled to notice
4 of the sentencing hearing. "Representative" includes the
5 spouse, guardian, grandparent, or other immediate family or
6 household member of an injured or deceased person. The injured
7 person or his or her representative and a representative of the
8 deceased person shall have the right to address the court
9 regarding the impact that the defendant's criminal conduct has
10 had upon them. If more than one representative of an injured or
11 deceased person is present in the courtroom at the time of
12 sentencing, the court has discretion to permit one or more of
13 the representatives to present an oral impact statement. A
14 victim and any person making an oral statement shall not be put
15 under oath or subject to cross-examination. The court shall
16 consider any impact statement presented along with all other
17 appropriate factors in determining the sentence of the
18 defendant.

19 (a-5) A crime victim shall be allowed to present an oral
20 and written victim impact statement at a hearing ordered by the
21 court under the Mental Health and Developmental Disabilities
22 Code to determine if the defendant is: (1) in need of mental
23 health services on an inpatient basis; (2) in need of mental
24 health services on an outpatient basis; or (3) not in need of
25 mental health services, unless the defendant was under 18 years
26 of age at the time the offense was committed. The court shall

1 allow a victim to make an oral impact statement if the victim
2 is present in the courtroom and requests to make an oral
3 statement. An oral statement includes the victim or a
4 representative of the victim reading the written impact
5 statement. The court may allow persons impacted by the crime
6 who are not victims under subsection (a) of Section 3 of this
7 Act, to present an oral or written statement. A victim and any
8 person making an oral statement shall not be put under oath or
9 subject to cross-examination. The court may only consider the
10 impact statement along with all other appropriate factors in
11 determining the: (1) threat of serious physical harm posed
12 ~~poised~~ by the respondent to himself or herself, or to another
13 person; (2) location of inpatient or outpatient mental health
14 services ordered by the court, but only after complying with
15 all other applicable administrative, rule, and statutory
16 requirements; (3) maximum period of commitment for inpatient
17 mental health services; and (4) conditions of release for
18 outpatient mental health services ordered by the court.

19 (b) The crime victim has the right to prepare a victim
20 impact statement and present it to the Office of the State's
21 Attorney at any time during the proceedings. Any written victim
22 impact statement submitted to the Office of the State's
23 Attorney shall be considered by the court during its
24 consideration of aggravation and mitigation in plea
25 proceedings under Supreme Court Rule 402.

26 (b-5) The crime victim has the right to register with the

1 Prisoner Review Board's victim registry. The crime victim has
2 the right to submit a victim impact statement to the Board for
3 consideration at hearings as provided in the Open Parole
4 Hearings Act or at an executive clemency hearing as provided in
5 Section 3-3-13 of the Unified Code of Corrections. Victim
6 impact statements received by the Board shall be confidential
7 and privileged.

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

12 (d) If any provision of this Section or its application to
13 any person or circumstance is held invalid, the invalidity of
14 that provision does not affect any other provision or
15 application of this Section that can be given effect without
16 the invalid provision or application.

17 (Source: P.A. 99-413, eff. 8-20-15; 100-961, eff. 1-1-19;
18 revised 10-3-18.)

19 Section 10. The Unified Code of Corrections is amended by
20 changing Sections 3-3-4 and 3-3-13 as follows:

21 (730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

22 Sec. 3-3-4. Preparation for parole hearing.

23 (a) The Prisoner Review Board shall consider the parole of
24 each eligible person committed to the Department of Corrections

1 at least 30 days prior to the date he or she shall first become
2 eligible for parole.

3 (b) A person eligible for parole shall, no less than 15
4 days in advance of his or her parole interview, prepare a
5 parole plan in accordance with the rules of the Prisoner Review
6 Board. The person shall be assisted in preparing his or her
7 parole plan by personnel of the Department of Corrections, and
8 may, for this purpose, be released on furlough under Article
9 11. The Department shall also provide assistance in obtaining
10 information and records helpful to the individual for his or
11 her parole hearing. If the person eligible for parole has a
12 petition or any written submissions prepared on his or her
13 behalf by an attorney or other representative, the attorney or
14 representative for the person eligible for parole must serve by
15 certified mail the State's Attorney of the county where he or
16 she was prosecuted with the petition or any written submissions
17 15 days after his or her parole interview. The State's Attorney
18 shall provide the attorney for the person eligible for parole
19 with a copy of his or her letter in opposition to parole via
20 certified mail within 5 business days of the en banc hearing.

21 (c) Any member of the Board shall have access at all
22 reasonable times to any committed person and to his or her
23 master record file within the Department, and the Department
24 shall furnish such a report to the Board concerning the conduct
25 and character of any such person prior to his or her parole
26 interview.

1 (d) In making its determination of parole, the Board shall
2 consider:

3 (1) (blank);

4 (2) the report under Section 3-8-2 or 3-10-2;

5 (3) a report by the Department and any report by the
6 chief administrative officer of the institution or
7 facility;

8 (4) a parole progress report;

9 (5) a medical and psychological report, if requested by
10 the Board;

11 (6) material in writing, or on film, video tape or
12 other electronic means in the form of a recording submitted
13 by the person whose parole is being considered;

14 (7) material in writing, or on film, video tape or
15 other electronic means in the form of a recording or
16 testimony submitted by the State's Attorney and the victim
17 or a concerned citizen pursuant to the Rights of Crime
18 Victims and Witnesses Act; and

19 (8) the person's eligibility for commitment under the
20 Sexually Violent Persons Commitment Act.

21 (e) The prosecuting State's Attorney's office shall
22 receive from the Board reasonable written notice not less than
23 30 days prior to the parole interview and may submit relevant
24 information by oral argument or testimony of victims and
25 concerned citizens, or both, in writing, or on film, video tape
26 or other electronic means or in the form of a recording to the

1 Board for its consideration. Upon written request of the
2 State's Attorney's office, the Prisoner Review Board shall hear
3 protests to parole, except in counties of 1,500,000 or more
4 inhabitants where there shall be standing objections to all
5 such petitions. If a State's Attorney who represents a county
6 of less than 1,500,000 inhabitants requests a protest hearing,
7 the inmate's counsel or other representative shall also receive
8 notice of such request. This hearing shall take place the month
9 following the inmate's parole interview. If the inmate's parole
10 interview is rescheduled then the Prisoner Review Board shall
11 promptly notify the State's Attorney of the new date. The
12 person eligible for parole shall be heard at the next scheduled
13 en banc hearing date. If the case is to be continued, the
14 State's Attorney's office and the attorney or representative
15 for the person eligible for parole will be notified of any
16 continuance within 5 business days. The State's Attorney may
17 waive the written notice.

18 (f) The victim of the violent crime for which the prisoner
19 has been sentenced shall receive notice of a parole hearing as
20 provided in paragraph (4) of subsection (d) of Section 4.5 of
21 the Rights of Crime Victims and Witnesses Act.

22 (g) Any recording considered under the provisions of
23 subsection (d)(6), (d)(7) or (e) of this Section shall be in
24 the form designated by the Board. Such recording shall be both
25 visual and aural. Every voice on the recording and person
26 present shall be identified and the recording shall contain

1 either a visual or aural statement of the person submitting
2 such recording, the date of the recording and the name of the
3 person whose parole eligibility is being considered. Such
4 recordings shall be retained by the Board and shall be deemed
5 to be submitted at any subsequent parole hearing if the victim
6 or State's Attorney submits in writing a declaration clearly
7 identifying such recording as representing the present
8 position of the victim or State's Attorney regarding the issues
9 to be considered at the parole hearing.

10 (h) The Board shall not release any material to the inmate,
11 the inmate's attorney, any third party, or any other person
12 containing any information from the victim ~~or from a person~~
13 ~~related to the victim by blood, adoption, or marriage~~ who has
14 provided a victim impact statement to the Board ~~written~~
15 ~~objections, testified at any hearing, or submitted audio or~~
16 ~~visual objections to the inmate's parole~~, unless provided with
17 a waiver from the victim ~~that objecting party~~. The Board shall
18 not release the names or addresses of any person on its victim
19 registry to any other person except the victim, a law
20 enforcement agency, or other victim notification system.
21 Victim impact statements shall be confidential and privileged.

22 (Source: P.A. 98-463, eff. 8-16-13; 98-558, eff. 1-1-14;
23 98-717, eff. 1-1-15; 99-628, eff. 1-1-17.)

24 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

25 Sec. 3-3-13. Procedure for Executive Clemency.

1 (a) Petitions seeking pardon, commutation, or reprieve
2 shall be addressed to the Governor and filed with the Prisoner
3 Review Board. The petition shall be in writing and signed by
4 the person under conviction or by a person on his behalf. It
5 shall contain a brief history of the case, the reasons for
6 seeking executive clemency, and other relevant information the
7 Board may require.

8 (a-5) After a petition has been denied by the Governor, the
9 Board may not accept a repeat petition for executive clemency
10 for the same person until one full year has elapsed from the
11 date of the denial. The Chairman of the Board may waive the
12 one-year requirement if the petitioner offers in writing new
13 information that was unavailable to the petitioner at the time
14 of the filing of the prior petition and which the Chairman
15 determines to be significant. The Chairman also may waive the
16 one-year waiting period if the petitioner can show that a
17 change in circumstances of a compelling humanitarian nature has
18 arisen since the denial of the prior petition.

19 (b) Notice of the proposed application shall be given by
20 the Board to the committing court and the state's attorney of
21 the county where the conviction was had.

22 (c) The Board shall, if requested and upon due notice, give
23 a hearing to each application, allowing representation by
24 counsel, if desired, after which it shall confidentially advise
25 the Governor by a written report of its recommendations which
26 shall be determined by majority vote. The Board shall meet to

1 consider such petitions no less than 4 times each year.

2 Application for executive clemency under this Section may
3 not be commenced on behalf of a person who has been sentenced
4 to death without the written consent of the defendant, unless
5 the defendant, because of a mental or physical condition, is
6 incapable of asserting his or her own claim. The written report
7 of the Board's recommendations to the Governor shall be
8 privileged.

9 (d) The Governor shall decide each application and
10 communicate his decision to the Board which shall notify the
11 petitioner.

12 In the event a petitioner who has been convicted of a Class
13 X felony is granted a release, after the Governor has
14 communicated such decision to the Board, the Board shall give
15 written notice to the Sheriff of the county from which the
16 offender was sentenced if such sheriff has requested that such
17 notice be given on a continuing basis. In cases where arrest of
18 the offender or the commission of the offense took place in any
19 municipality with a population of more than 10,000 persons, the
20 Board shall also give written notice to the proper law
21 enforcement agency for said municipality which has requested
22 notice on a continuing basis.

23 (e) Nothing in this Section shall be construed to limit the
24 power of the Governor under the constitution to grant a
25 reprieve, commutation of sentence, or pardon.

26 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

1 Section 15. The Open Parole Hearings Act is amended by
2 changing Section 35 as follows:

3 (730 ILCS 105/35) (from Ch. 38, par. 1685)

4 Sec. 35. Victim impact statements.

5 (a) The Board shall receive and consider victim impact
6 statements.

7 (b) Victim impact statements either oral, written,
8 video-taped, tape recorded or made by other electronic means
9 shall not be considered public documents under provisions of
10 the Freedom of Information Act.

11 (b-5) Other than as provided in subsection (c), the Board
12 shall not release any material to the inmate, the inmate's
13 attorney, any third party, or any other person that contains
14 any information from the victim who has provided a victim
15 impact statement to the Board, unless provided with a waiver
16 from the victim. The Board shall not release the names or
17 addresses of any person on its victim registry to any other
18 person except the victim, a law enforcement agency, or other
19 victim notification system. Victim impact statements received
20 by the Board shall be confidential and privileged.

21 (c) The inmate or his or her attorney shall be informed of
22 the existence of a victim impact statement and its contents
23 under provisions of Board rules. This shall not be construed to
24 permit disclosure to an inmate of any information which might

1 result in the risk of threats or physical harm to a victim or
2 complaining witness.

3 (d) The inmate shall be given the opportunity to answer a
4 victim impact statement, either orally or in writing.

5 (e) All written victim impact statements shall be part of
6 the applicant's, releasee's, or parolee's parole file.

7 (Source: P.A. 97-299, eff. 8-11-11; 98-558, eff. 1-1-14.)