



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4788**

Introduced 2/18/2020, by Rep. Yehiel M. Kalish - Kelly M. Cassidy, Bob Morgan and Daniel Didech

#### SYNOPSIS AS INTRODUCED:

725 ILCS 120/4.5

725 ILCS 120/7

725 ILCS 120/9

from Ch. 38, par. 1407

from Ch. 38, par. 1408

Amends the Rights of Crime Victims and Witnesses Act. Provides that the office of the State's Attorney shall: (1) consult with the crime victim regarding the State's Attorney's decision to charge or not charge an offense, and the victim has the right to have an attorney, advocate, and other support person of the victim's choice attend this consultation with them; and (2) give the crime victim timely notice of any decision not to pursue charges and provide the notice in a way that does not put the victim's safety at risk. Crime victims' rights shall be asserted in the court in which a defendant is being prosecuted for the crime. Provides that if no prosecution has been commenced, a complaint for mandamus, injunctive, or declaratory relief may be filed in the circuit court in the jurisdiction in which the crime occurred. Provides that filing fees that would otherwise be owed by the victim shall be waived for any court filing with the main purpose of enforcing crime victims' rights. Provides that the Act grants a victim a private civil cause of action for injunctive relief and compensatory damages for lost wages, attorney's fees, and costs directly related to enforcing a crime victim's rights when officials willfully or wantonly violate a victim's right or rights and the officials do not correct their actions and afford the right or rights to the victim when given written notice and reasonable time to comply.

LRB101 17979 RLC 67417 b

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, 7, and 9 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 a closed case  
19 to resume investigating, they shall provide notice of the  
20 reopening of the case, except where the State's Attorney  
21 determines that disclosure of such information would  
22 unreasonably interfere with the investigation.

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

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

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

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

16           (3.5) or victim advocate personnel shall provide  
17 information about available victim services, including  
18 referrals to programs, counselors, and agencies that  
19 assist a victim to deal with trauma, loss, and grief;

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

25           (5) or victim advocate personnel shall provide  
26 appropriate employer intercession services to ensure that

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

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

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

14 (8) (blank);

15 (8.5) shall inform the victim of the right to be  
16 present at all court proceedings, unless the victim is to  
17 testify and the court determines that the victim's  
18 testimony would be materially affected if the victim hears  
19 other testimony at trial;

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

24 (9.3) shall inform the victim of the right to retain an  
25 attorney, at the victim's own expense, who, upon written  
26 notice filed with the clerk of the court and State's

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

4 (9.5) shall inform the victim of (A) the victim's right  
5 under Section 6 of this Act to make a statement at the  
6 sentencing hearing; (B) the right of the victim's spouse,  
7 guardian, parent, grandparent, and other immediate family  
8 and household members under Section 6 of this Act to  
9 present a statement at sentencing; and (C) if a presentence  
10 report is to be prepared, the right of the victim's spouse,  
11 guardian, parent, grandparent, and other immediate family  
12 and household members to submit information to the preparer  
13 of the presentence report about the effect the offense has  
14 had on the victim and the person;

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

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

25 (12) shall, upon the court entering a verdict of not  
26 guilty by reason of insanity, inform the victim of the

1 notification services available from the Department of  
2 Human Services, including the statewide telephone number,  
3 under subparagraph (d) (2) of this Section;

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

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

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

25 (16) shall provide notice of the ultimate disposition  
26 of the cases arising from an indictment or an information,

1 or a petition to have a juvenile adjudicated as a  
2 delinquent for a violent crime;

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

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

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

20 (20) shall consult with the crime victim regarding the  
21 State's Attorney's decision to charge or not charge an  
22 offense. The victim has the right to have an attorney,  
23 advocate, and other support person of the victim's choice  
24 attend this consultation with them; and

25 (21) shall give the crime victim timely notice of any  
26 decision not to pursue charges and provide the notice in a

1           way that does not put the victim's safety at risk.

2           (c) The court shall ensure that the rights of the victim  
3 are afforded. Crime victims' rights shall be asserted in the  
4 court in which the defendant is being prosecuted for the crime.  
5 If no prosecution has been commenced, a complaint for mandamus,  
6 injunctive, or declaratory relief may be filed in the circuit  
7 court in the jurisdiction in which the crime occurred. Filing  
8 fees that would otherwise be owed by the victim shall be waived  
9 for any court filing with the main purpose of enforcing crime  
10 victims' rights. If the court denies the relief sought by the  
11 victim, the reasons for the denial shall be clearly stated on  
12 the record in a written opinion, and the victim may appeal the  
13 circuit court's decision to the Appellate Court. The court  
14 shall issue prompt rulings. Proceedings seeking to enforce  
15 victims' rights shall not be stayed or subject to a continuance  
16 of more than 10 days. If the Appellate Court denies the relief  
17 sought, the reasons for the denial shall be clearly stated on  
18 the record in a written opinion.

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

22           (1) Written notice. A victim may complete a written  
23 notice of intent to assert rights on a form prepared by the  
24 Office of the Attorney General and provided to the victim  
25 by the State's Attorney. The victim may at any time provide  
26 a revised written notice to the State's Attorney. The



1 State's Attorney shall file the written notice with the  
2 court. At the beginning of any court proceeding in which  
3 the right of a victim may be at issue, the court and  
4 prosecutor shall review the written notice to determine  
5 whether the victim has asserted the right that may be at  
6 issue.

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

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

23 (4) Assertion of and enforcement of rights.

24 (A) The prosecuting attorney shall assert a  
25 victim's right or request enforcement of a right by  
26 filing a motion or by orally asserting the right or

1            requesting enforcement in open court in the criminal  
2            case outside the presence of the jury. The prosecuting  
3            attorney shall consult with the victim and the victim's  
4            attorney regarding the assertion or enforcement of a  
5            right. If the prosecuting attorney decides not to  
6            assert or enforce a victim's right, the prosecuting  
7            attorney shall notify the victim or the victim's  
8            attorney in sufficient time to allow the victim or the  
9            victim's attorney to assert the right or to seek  
10           enforcement of a right.

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

18           (C) If the prosecuting attorney asserts a victim's  
19           right or seeks enforcement of a right, the victim or  
20           the victim's attorney may request to be heard regarding  
21           the prosecuting attorney's motion or may file a  
22           simultaneous motion to assert or request enforcement  
23           of the victim's right. If the victim or the victim's  
24           attorney were not allowed to be heard regarding the  
25           prosecuting attorney's motion, and did not file a  
26           simultaneous motion, and the court denies the

1        prosecuting attorney's assertion of the right or  
2        denies the request for enforcement of a right, the  
3        victim or victim's attorney may file a motion to assert  
4        the victim's right or to request enforcement of the  
5        right within 10 days of the court's ruling. The motion  
6        need not demonstrate the grounds for a motion for  
7        reconsideration. The court shall rule on the merits of  
8        the motion.

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

15        (5) Violation of rights and remedies.

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

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

1           (B) The appropriate remedy shall include only  
2 actions necessary to provide the victim the right to  
3 which the victim was entitled and return the victim to  
4 the same position that the victim would have occupied  
5 had the right not been violated. Subject to the  
6 limitations in Section 9, remedies may include, but are  
7 not limited to: awarding lost wages, attorney's fees,  
8 and other costs incurred by the victim to enforce the  
9 right; injunctive relief requiring the victim's right  
10 to be afforded; and reopening previously held  
11 proceedings; however, in no event shall the court  
12 vacate a conviction. Any remedy shall be tailored to  
13 provide the victim an appropriate remedy without  
14 violating any constitutional right of the defendant.  
15 In no event shall the appropriate remedy be a new  
16 trial, ~~damages, or costs.~~

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

20           (7) Right to attend trial. A party must file a written  
21 motion to exclude a victim from trial at least 60 days  
22 prior to the date set for trial. The motion must state with  
23 specificity the reason exclusion is necessary to protect a  
24 constitutional right of the party, and must contain an  
25 offer of proof. The court shall rule on the motion within  
26 30 days. If the motion is granted, the court shall set

1           forth on the record the facts that support its finding that  
2           the victim's testimony will be materially affected if the  
3           victim hears other testimony at trial.

4           (8) Right to have advocate and support person present  
5           at court proceedings.

6           (A) A party who intends to call an advocate as a  
7           witness at trial must seek permission of the court  
8           before the subpoena is issued. The party must file a  
9           written motion at least 90 days before trial that sets  
10          forth specifically the issues on which the advocate's  
11          testimony is sought and an offer of proof regarding (i)  
12          the content of the anticipated testimony of the  
13          advocate; and (ii) the relevance, admissibility, and  
14          materiality of the anticipated testimony. The court  
15          shall consider the motion and make findings within 30  
16          days of the filing of the motion. If the court finds by  
17          a preponderance of the evidence that: (i) the  
18          anticipated testimony is not protected by an absolute  
19          privilege; and (ii) the anticipated testimony contains  
20          relevant, admissible, and material evidence that is  
21          not available through other witnesses or evidence, the  
22          court shall issue a subpoena requiring the advocate to  
23          appear to testify at an in camera hearing. The  
24          prosecuting attorney and the victim shall have 15 days  
25          to seek appellate review before the advocate is  
26          required to testify at an ex parte in camera

1 proceeding.

2 The prosecuting attorney, the victim, and the  
3 advocate's attorney shall be allowed to be present at  
4 the ex parte in camera proceeding. If, after conducting  
5 the ex parte in camera hearing, the court determines  
6 that due process requires any testimony regarding  
7 confidential or privileged information or  
8 communications, the court shall provide to the  
9 prosecuting attorney, the victim, and the advocate's  
10 attorney a written memorandum on the substance of the  
11 advocate's testimony. The prosecuting attorney, the  
12 victim, and the advocate's attorney shall have 15 days  
13 to seek appellate review before a subpoena may be  
14 issued for the advocate to testify at trial. The  
15 presence of the prosecuting attorney at the ex parte in  
16 camera proceeding does not make the substance of the  
17 advocate's testimony that the court has ruled  
18 inadmissible subject to discovery.

19 (B) If a victim has asserted the right to have a  
20 support person present at the court proceedings, the  
21 victim shall provide the name of the person the victim  
22 has chosen to be the victim's support person to the  
23 prosecuting attorney, within 60 days of trial. The  
24 prosecuting attorney shall provide the name to the  
25 defendant. If the defendant intends to call the support  
26 person as a witness at trial, the defendant must seek

1 permission of the court before a subpoena is issued.  
2 The defendant must file a written motion at least 45  
3 days prior to trial that sets forth specifically the  
4 issues on which the support person will testify and an  
5 offer of proof regarding: (i) the content of the  
6 anticipated testimony of the support person; and (ii)  
7 the relevance, admissibility, and materiality of the  
8 anticipated testimony.

9 If the prosecuting attorney intends to call the  
10 support person as a witness during the State's  
11 case-in-chief, the prosecuting attorney shall inform  
12 the court of this intent in the response to the  
13 defendant's written motion. The victim may choose a  
14 different person to be the victim's support person. The  
15 court may allow the defendant to inquire about matters  
16 outside the scope of the direct examination during  
17 cross-examination. If the court allows the defendant  
18 to do so, the support person shall be allowed to remain  
19 in the courtroom after the support person has  
20 testified. A defendant who fails to question the  
21 support person about matters outside the scope of  
22 direct examination during the State's case-in-chief  
23 waives the right to challenge the presence of the  
24 support person on appeal. The court shall allow the  
25 support person to testify if called as a witness in the  
26 defendant's case-in-chief or the State's rebuttal.

1           If the court does not allow the defendant to  
2           inquire about matters outside the scope of the direct  
3           examination, the support person shall be allowed to  
4           remain in the courtroom after the support person has  
5           been called by the defendant or the defendant has  
6           rested. The court shall allow the support person to  
7           testify in the State's rebuttal.

8           If the prosecuting attorney does not intend to call  
9           the support person in the State's case-in-chief, the  
10          court shall verify with the support person whether the  
11          support person, if called as a witness, would testify  
12          as set forth in the offer of proof. If the court finds  
13          that the support person would testify as set forth in  
14          the offer of proof, the court shall rule on the  
15          relevance, materiality, and admissibility of the  
16          anticipated testimony. If the court rules the  
17          anticipated testimony is admissible, the court shall  
18          issue the subpoena. The support person may remain in  
19          the courtroom after the support person testifies and  
20          shall be allowed to testify in rebuttal.

21          If the court excludes the victim's support person  
22          during the State's case-in-chief, the victim shall be  
23          allowed to choose another support person to be present  
24          in court.

25          If the victim fails to designate a support person  
26          within 60 days of trial and the defendant has



1 subpoenaed the support person to testify at trial, the  
2 court may exclude the support person from the trial  
3 until the support person testifies. If the court  
4 excludes the support person the victim may choose  
5 another person as a support person.

6 (9) Right to notice and hearing before disclosure of  
7 confidential or privileged information or records. A  
8 defendant, or prosecuting attorney acting without consent  
9 of the crime victim, who seeks to subpoena records of or  
10 concerning the victim that are confidential or privileged  
11 by law must seek permission of the court before the  
12 subpoena is issued.

13 (A) Prior to a prosecution being commenced, if the  
14 victim has not consented to the disclosure of victim's  
15 confidential or privileged information, and the  
16 prosecuting attorney seeks permission of the court to  
17 issue a subpoena for the victim's confidential or  
18 privileged information, the prosecuting attorney must  
19 request permission from the Court to issue the subpoena  
20 and give the victim notice and the option of a hearing.

21 (B) After a prosecution has commenced, the ~~The~~  
22 defendant, or prosecuting attorney acting without  
23 consent of the victim, must file a written motion and  
24 an offer of proof regarding the relevance,  
25 admissibility and materiality of the records. If the  
26 court finds by a preponderance of the evidence that:

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

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

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

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

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

8 (12) Right to Restitution.

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

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

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

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

20 (i) the defendant's mental history and  
21 condition;

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

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

26 (B) The State's Attorney or the defendant may

1 request the court redact other information in the  
2 report that may endanger the safety of any person.

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

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

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

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

1           (16) The right to be reasonably protected from the  
2 accused throughout the criminal justice process and the  
3 right to have the safety of the victim and the victim's  
4 family considered in denying or fixing the amount of bail,  
5 determining whether to release the defendant, and setting  
6 conditions of release after arrest and conviction. A victim  
7 of domestic violence, a sexual offense, or stalking may  
8 request the entry of a protective order under Article 112A  
9 of the Code of Criminal Procedure of 1963.

10       (d) Procedures after the imposition of sentence.

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

1 of such furlough. Upon written request by the victim or any  
2 other concerned citizen, the State's Attorney shall notify  
3 the person once of the times and dates of release of a  
4 prisoner sentenced to periodic imprisonment. Notification  
5 shall be based on the most recent information as to  
6 victim's or other concerned citizen's residence or other  
7 location available to the notifying authority.

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

23 (3) In the event of an escape from State custody, the  
24 Department of Corrections or the Department of Juvenile  
25 Justice immediately shall notify the Prisoner Review Board  
26 of the escape and the Prisoner Review Board shall notify



1 the victim. The notification shall be based upon the most  
2 recent information as to the victim's residence or other  
3 location available to the Board. When no such information  
4 is available, the Board shall make all reasonable efforts  
5 to obtain the information and make the notification. When  
6 the escapee is apprehended, the Department of Corrections  
7 or the Department of Juvenile Justice immediately shall  
8 notify the Prisoner Review Board and the Board shall notify  
9 the victim.

10 (4) The victim of the crime for which the prisoner has  
11 been sentenced has the right to register with the Prisoner  
12 Review Board's victim registry. Victims registered with  
13 the Board shall receive reasonable written notice not less  
14 than 30 days prior to the parole hearing or target  
15 aftercare release date. The victim has the right to submit  
16 a victim statement for consideration by the Prisoner Review  
17 Board or the Department of Juvenile Justice in writing, on  
18 film, videotape, or other electronic means, or in the form  
19 of a recording prior to the parole hearing or target  
20 aftercare release date, or in person at the parole hearing  
21 or aftercare release protest hearing, or by calling the  
22 toll-free number established in subsection (f) of this  
23 Section. 7 The victim shall be notified within 7 days after  
24 the prisoner has been granted parole or aftercare release  
25 and shall be informed of the right to inspect the registry  
26 of parole decisions, established under subsection (g) of

1 Section 3-3-5 of the Unified Code of Corrections. The  
2 provisions of this paragraph (4) are subject to the Open  
3 Parole Hearings Act. Victim statements provided to the  
4 Board shall be confidential and privileged, including any  
5 statements received prior to January 1, 2020 (the effective  
6 date of Public Act 101-288) ~~this amendatory Act of the~~  
7 ~~101st General Assembly~~, except if the statement was an oral  
8 statement made by the victim at a hearing open to the  
9 public.

10 (4-1) The crime victim has the right to submit a victim  
11 statement for consideration by the Prisoner Review Board or  
12 the Department of Juvenile Justice prior to or at a hearing  
13 to determine the conditions of mandatory supervised  
14 release of a person sentenced to a determinate sentence or  
15 at a hearing on revocation of mandatory supervised release  
16 of a person sentenced to a determinate sentence. A victim  
17 statement may be submitted in writing, on film, videotape,  
18 or other electronic means, or in the form of a recording,  
19 or orally at a hearing, or by calling the toll-free number  
20 established in subsection (f) of this Section. Victim  
21 statements provided to the Board shall be confidential and  
22 privileged, including any statements received prior to  
23 January 1, 2020 (the effective date of Public Act 101-288)  
24 ~~this amendatory Act of the 101st General Assembly~~, except  
25 if the statement was an oral statement made by the victim  
26 at a hearing open to the public.

1           (4-2) The crime victim has the right to submit a victim  
2 statement to the Prisoner Review Board for consideration at  
3 an executive clemency hearing as provided in Section 3-3-13  
4 of the Unified Code of Corrections. A victim statement may  
5 be submitted in writing, on film, videotape, or other  
6 electronic means, or in the form of a recording prior to a  
7 hearing, or orally at a hearing, or by calling the  
8 toll-free number established in subsection (f) of this  
9 Section. Victim statements provided to the Board shall be  
10 confidential and privileged, including any statements  
11 received prior to January 1, 2020 (the effective date of  
12 Public Act 101-288) ~~this amendatory Act of the 101st~~  
13 ~~General Assembly~~, except if the statement was an oral  
14 statement made by the victim at a hearing open to the  
15 public.

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

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

1 person seeking parole or aftercare release was prosecuted  
2 of the death of the prisoner if the prisoner died while on  
3 parole or aftercare release or mandatory supervised  
4 release.

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

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

1 offense from State custody and by the sheriff of the  
2 appropriate county of any such person's final discharge  
3 from county custody. The notification shall be made to the  
4 victim at least 30 days, whenever possible, before release  
5 of the sex offender.

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

11 (f) The Prisoner Review Board shall establish a toll-free  
12 number that may be accessed by the crime victim to present a  
13 victim statement to the Board in accordance with paragraphs  
14 (4), (4-1), and (4-2) of subsection (d).

15 (Source: P.A. 100-199, eff. 1-1-18; 100-961, eff. 1-1-19;  
16 101-81, eff. 7-12-19; 101-288, eff. 1-1-20; revised 9-23-19.)

17 (725 ILCS 120/7) (from Ch. 38, par. 1407)

18 Sec. 7. Responsibilities of victims and witnesses. Victims  
19 and witnesses shall have the following responsibilities to aid  
20 in the prosecution of violent crime and to ensure that their  
21 constitutional rights are enforced:

22 (a) To make a timely report of the crime;

23 (b) To cooperate with law enforcement authorities  
24 throughout the investigation, prosecution, and trial;

25 (c) To testify at trial;

1 (c-5) to timely provide information and documentation to  
2 the prosecuting attorney that is related to the assertion of  
3 their rights.

4 (d) To notify law enforcement authorities and the  
5 prosecuting attorney of any change of contact information,  
6 including but not limited to, changes of address and contact  
7 information, including but not limited to changes of address,  
8 telephone number, and email address. Law enforcement  
9 authorities and the prosecuting attorney shall maintain the  
10 confidentiality of this information. A court may find that the  
11 failure to notify the prosecuting attorney of any change in  
12 contact information constitutes waiver of a right.

13 (e) A victim who otherwise cooperates with law enforcement  
14 authorities and the prosecuting attorney, but declines to  
15 provide information and documentation to the prosecuting  
16 attorney that is privileged or confidential under the law, or  
17 chooses not to waive privilege, shall still be considered as  
18 cooperating for the purposes of this Act and maintain the  
19 status of victim and the rights afforded to victims under this  
20 Act.

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

22 (725 ILCS 120/9) (from Ch. 38, par. 1408)

23 Sec. 9. This Act does not limit any rights or  
24 responsibilities otherwise enjoyed by or imposed upon victims  
25 or witnesses of violent crime, ~~nor does it grant any person a~~

1 ~~cause of action in equity or at law for compensation for~~  
2 ~~damages or attorneys fees.~~ Any act of omission or commission by  
3 any law enforcement officer, circuit court clerk, or State's  
4 Attorney, by the Attorney General, Prisoner Review Board,  
5 Department of Corrections, the Department of Juvenile Justice,  
6 Department of Human Services, or other State agency, or private  
7 entity under contract pursuant to Section 8, or by any employee  
8 of any State agency or private entity under contract pursuant  
9 to Section 8 acting in good faith in rendering crime victim's  
10 assistance or otherwise enforcing this Act shall not impose  
11 civil liability upon the individual or entity or his or her  
12 supervisor or employer, except for willful or wanton misconduct  
13 or gross negligence. This Act grants a victim a private civil  
14 cause of action for injunctive relief and compensatory damages  
15 for lost wages, attorney's fees, and costs directly related to  
16 enforcing a crime victim's rights when officials willfully or  
17 wantonly violate a victim's right or rights and the officials  
18 do not correct their actions and afford the right or rights to  
19 the victim when given written notice and reasonable time to  
20 comply. Nothing in this Act shall create a basis for vacating a  
21 conviction or a ground for relief requested by the defendant in  
22 any criminal case.

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