



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5859

Introduced 11/16/2006, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

725 ILCS 145/2.3	from Ch. 70, par. 402.3
725 ILCS 145/2.4 new	
725 ILCS 145/3	from Ch. 70, par. 403
735 ILCS 5/2-2001	
735 ILCS 5/4-101	from Ch. 110, par. 4-101

Amends the Criminal Victims' Asset Discovery Act. Provides that the Act applies to persons convicted of violent crimes (rather than first degree murder, a Class X felony, or aggravated kidnapping). Amends the Code of Civil Procedure to make conforming changes. Provides that a victim of a violent crime (rather than first degree murder, a Class X felony, or aggravated kidnapping) shall have a cause of action against a defendant who has been convicted of a violent crime, or found not guilty by reason of insanity or guilty but mentally ill of a violent crime, to recover damages suffered by the victim of the violent crime.

LRB094 21968 RLC 60466 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 Criminal Victims' Asset Discovery Act is
5 amended by changing Sections 2.3 and 3 and by adding Section
6 2.4 as follows:

7 (725 ILCS 145/2.3) (from Ch. 70, par. 402.3)

8 Sec. 2.3. "Victim" means a person killed or physically
9 injured in this State as a result of a violent crime
10 perpetrated or attempted against that person.

11 (Source: P.A. 81-906.)

12 (725 ILCS 145/2.4 new)

13 Sec. 2.4. Violent crime. "Violent crime" has the meaning
14 ascribed to it in Section 3 of the Rights of Crime Victims and
15 Witnesses Act.

16 (725 ILCS 145/3) (from Ch. 70, par. 403)

17 Sec. 3. Deposition; assets of criminal.

18 (a) Any person who has been convicted of a violent crime
19 ~~first degree murder, a Class X felony, or aggravated kidnapping~~
20 ~~in this State,~~ or who has been found not guilty by reason of
21 insanity or guilty but mentally ill of a violent crime ~~first~~
22 ~~degree murder, a Class X felony, or aggravated kidnapping,~~
23 involving a victim as described in Section 2.3, or any other
24 person who has reasonable grounds to know of any assets of the
25 person convicted of a violent crime ~~first degree murder, a~~
26 ~~Class X felony, or aggravated kidnapping,~~ or who has been found
27 not guilty by reason of insanity or guilty but mentally ill of
28 a violent crime ~~first degree murder, a Class X felony, or~~
29 ~~aggravated kidnapping,~~ may be deposed by the victim or the
30 victim's legal representative concerning those assets.

1 (b) Upon written request of the victim, the Department of
2 Corrections shall notify the victim of any assets of the person
3 convicted of a violent crime ~~first degree murder, a Class X~~
4 ~~felony, or aggravated kidnapping~~, or found not guilty by reason
5 of insanity or guilty but mentally ill of a violent crime ~~first~~
6 ~~degree murder, a Class X felony, or aggravated kidnapping~~,
7 known by the Department.

8 (c) The victim may seek attachment against the property of
9 the person convicted of first degree murder, a violent crime
10 ~~Class X felony, or aggravated kidnapping~~, or found not guilty
11 by reason of insanity or guilty but mentally ill of a violent
12 crime ~~first degree murder, a Class X felony, or aggravated~~
13 ~~kidnapping~~, against him or her.

14 (Source: P.A. 87-1157; 88-378.)

15 Section 10. The Code of Civil Procedure is amended by
16 changing Sections 2-2001 and 4-101 as follows:

17 (735 ILCS 5/2-2001)

18 Sec. 2-2001. Crime victims. A victim of a violent crime as
19 defined in Section 2.3 of the Criminal Victims' Asset Discovery
20 Act shall have a cause of action against a defendant who has
21 been convicted of a violent crime, or found not guilty by
22 reason of insanity or guilty but mentally ill of a violent
23 crime, to recover damages suffered by the victim of the violent
24 crime.

25 The Civil Practice Law shall apply in the proceedings, and
26 the case shall be tried as in other civil cases. If the victim
27 is deceased, the next of kin may maintain the action.

28 (Source: P.A. 88-378.)

29 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

30 Sec. 4-101. Cause. In any court having competent
31 jurisdiction, a creditor having a money claim, whether
32 liquidated or unliquidated, and whether sounding in contract or
33 tort, or based upon a statutory cause of action created by law

1 in favor of the People of the State of Illinois, or any agency
2 of the State, may have an attachment against the property of
3 his or her debtor, or that of any one or more of several
4 debtors, either at the time of commencement of the action or
5 thereafter, when the claim exceeds \$20, in any one of the
6 following cases:

7 1. Where the debtor is not a resident of this State.

8 2. When the debtor conceals himself or herself or
9 stands in defiance of an officer, so that process cannot be
10 served upon him or her.

11 3. Where the debtor has departed from this State with
12 the intention of having his or her effects removed from
13 this State.

14 4. Where the debtor is about to depart from this State
15 with the intention of having his or her effects removed
16 from this State.

17 5. Where the debtor is about to remove his or her
18 property from this State to the injury of such creditor.

19 6. Where the debtor has within 2 years preceding the
20 filing of the affidavit required, fraudulently conveyed or
21 assigned his or her effects, or a part thereof, so as to
22 hinder or delay his or her creditors.

23 7. Where the debtor has, within 2 years prior to the
24 filing of such affidavit, fraudulently concealed or
25 disposed of his or her property so as to hinder or delay
26 his or her creditors.

27 8. Where the debtor is about fraudulently to conceal,
28 assign, or otherwise dispose of his or her property or
29 effects, so as to hinder or delay his or her creditors.

30 9. Where the debt sued for was fraudulently contracted
31 on the part of the debtor. The statements of the debtor,
32 his or her agent or attorney, which constitute the fraud,
33 shall have been reduced to writing, and his or her
34 signature attached thereto, by himself or herself, agent or
35 attorney.

36 10. When the debtor is a person convicted of a violent

1 ~~crime first degree murder, a Class X felony, or aggravated~~
2 ~~kidnapping,~~ or found not guilty by reason of insanity or
3 guilty but mentally ill of a violent crime ~~first degree~~
4 ~~murder, a Class X felony, or aggravated kidnapping,~~ against
5 the creditor and that crime makes the creditor a "victim"
6 under the Criminal Victims' Asset Discovery Act.

7 11. When the debtor is referred by the Department of
8 Corrections to the Attorney General under Section 3-7-6 of
9 the Unified Code of Corrections to recover the expenses
10 incurred as a result of that debtor's cost of
11 incarceration.

12 (Source: P.A. 93-508, eff. 1-1-04.)