



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5860

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

#### SYNOPSIS AS INTRODUCED:

725 ILCS 145/Act title	
725 ILCS 145/1	from Ch. 70, par. 401
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
725 ILCS 145/3.5 new	
725 ILCS 240/10.5 new	
735 ILCS 5/2-2001	
735 ILCS 5/4-101	from Ch. 110, par. 4-101

Amends the Criminal Victims' Asset Discovery Act. Changes the short title of the Act to the Criminal Victims' Asset Discovery and Escrow Account Act. Provides that the Act applies to persons convicted of violent crimes (rather than first degree murder, a Class X felony, or aggravated kidnapping). Provides that a person contracting with any person or the representative or assignee of any person convicted of a violent crime in this State, with respect to the reenactment of the violent crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, or live entertainment, or from the expression of the convicted person's thoughts, feelings, opinions, or emotions regarding the crime if the expression represents the primary contents of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, or live entertainment, shall submit a copy of the contract to the Attorney General and pay over to the Attorney General any moneys that would otherwise, by terms of the contract, be owing to the person convicted or the person's representatives. Provides that the Attorney General shall deposit the moneys in an escrow account for the benefit of and payable to any victim or the legal representative of any victim of violent crimes committed by the convicted person, if the victim, or the legal representative of the victim, within 5 years from the establishment of the escrow account, brings a civil action and recovers a money judgment for damages against the person or the person's representatives. Amends the Violent Crime Victims Assistance Act and the Code of Civil Procedure to make conforming changes.

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FISCAL NOTE ACT  
MAY APPLY

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 the title of the Act and Sections 1, 2.3,  
6 and 3 and by adding Sections 2.4 and 3.5 as follows:

7 (725 ILCS 145/Act title)

8 An Act authorizing depositions and the escrow of ~~concerning~~  
9 the assets of certain criminals ~~and to amend other Acts.~~

10 (725 ILCS 145/1) (from Ch. 70, par. 401)

11 Sec. 1. Short title. This Act may be cited as the Criminal  
12 Victims' Asset Discovery and Escrow Account Act.

13 (Source: P.A. 87-1157.)

14 (725 ILCS 145/2.3) (from Ch. 70, par. 402.3)

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

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

19 (725 ILCS 145/2.4 new)

20 Sec. 2.4. Violent crime. "Violent crime" has the meaning  
21 ascribed to it in Section 3 of the Rights of Crime Victims and  
22 Witnesses Act.

23 (725 ILCS 145/3) (from Ch. 70, par. 403)

24 Sec. 3. Deposition; assets of criminal.

25 (a) Any person who has been convicted of a violent crime  
26 ~~first degree murder, a Class X felony, or aggravated kidnapping~~  
27 ~~in this State,~~ or who has been found not guilty by reason of  
28 insanity or guilty but mentally ill of a violent crime ~~first~~

1 ~~degree murder, a Class X felony, or aggravated kidnapping,~~  
2 involving a victim as described in Section 2.3, or any other  
3 person who has reasonable grounds to know of any assets of the  
4 person convicted of a violent crime ~~first degree murder, a~~  
5 ~~Class X felony, or aggravated kidnapping,~~ or who has been found  
6 not guilty by reason of insanity or guilty but mentally ill of  
7 a violent crime ~~first degree murder, a Class X felony, or~~  
8 ~~aggravated kidnapping,~~ may be deposed by the victim or the  
9 victim's legal representative concerning those assets.

10 (b) Upon written request of the victim, the Department of  
11 Corrections shall notify the victim of any assets of the person  
12 convicted of a violent crime ~~first degree murder, a Class X~~  
13 ~~felony, or aggravated kidnapping,~~ or found not guilty by reason  
14 of insanity or guilty but mentally ill of a violent crime ~~first~~  
15 ~~degree murder, a Class X felony, or aggravated kidnapping,~~  
16 known by the Department.

17 (c) The victim may seek attachment against the property of  
18 the person convicted of first degree murder, a violent crime  
19 ~~Class X felony, or aggravated kidnapping,~~ or found not guilty  
20 by reason of insanity or guilty but mentally ill of a violent  
21 crime ~~first degree murder, a Class X felony, or aggravated~~  
22 ~~kidnapping,~~ against him or her.

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

24 (725 ILCS 145/3.5 new)

25 Sec. 3.5. Escrow account.

26 (a) The General Assembly finds that it is against public  
27 policy and the welfare of the citizens of Illinois to allow a  
28 person accused or convicted of a violent crime to benefit  
29 financially from a published reenactment of the violent crime  
30 or any incidents involved in the violent crime. The General  
31 Assembly further finds that a system is required to provide for  
32 the distribution of moneys received as a result of the  
33 commission of a violent crime in order that victims of violent  
34 crime may be adequately compensated.

35 (b) Every person contracting with any person or the

1 representative or assignee of any person convicted of a violent  
2 crime in this State, with respect to the reenactment of such  
3 violent crime, by way of a movie, book, magazine article, tape  
4 recording, phonograph record, radio or television  
5 presentation, or live entertainment of any kind, or from the  
6 expression of such convicted person's thoughts, feelings,  
7 opinions, or emotions regarding such crime if such expression  
8 represents the primary contents of a movie, book, magazine  
9 article, tape recording, phonograph record, radio or  
10 television presentation, or live entertainment of any kind,  
11 shall submit a copy of such contract to the Attorney General  
12 and pay over to the Attorney General any moneys that would  
13 otherwise, by terms of such contract, be owing to the person  
14 convicted or the person's representatives. The Attorney  
15 General shall deposit such moneys in an escrow account for the  
16 benefit of and payable to any victim or the legal  
17 representative of any victim of violent crimes committed by  
18 such convicted person, provided that such victim, or the legal  
19 representative of any such victim, within 5 years from the  
20 establishment of such escrow account, brings a civil action in  
21 a court of competent jurisdiction and recovers a money judgment  
22 for damages against such person or the person's  
23 representatives.

24 Section 10. The Violent Crime Victims Assistance Act is  
25 amended by adding Section 10.5 as follows:

26 (725 ILCS 240/10.5 new)

27 Sec. 10.5. Administration of escrow account. The Attorney  
28 General shall administer the escrow account created in Section  
29 3.5 of the Criminal Victims' Asset Discovery and Escrow Account  
30 Act.

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

1 (735 ILCS 5/2-2001)

2 Sec. 2-2001. Crime victims. A victim of a violent crime as  
3 defined in Section 2.3 of the Criminal Victims' Asset Discovery  
4 and Escrow Account Act shall have a cause of action against a  
5 defendant who has been convicted of a violent crime, or found  
6 not guilty by reason of insanity or guilty but mentally ill of  
7 a violent crime, to recover damages suffered by the victim of  
8 the violent crime.

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

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

13 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

14 Sec. 4-101. Cause. In any court having competent  
15 jurisdiction, a creditor having a money claim, whether  
16 liquidated or unliquidated, and whether sounding in contract or  
17 tort, or based upon a statutory cause of action created by law  
18 in favor of the People of the State of Illinois, or any agency  
19 of the State, may have an attachment against the property of  
20 his or her debtor, or that of any one or more of several  
21 debtors, either at the time of commencement of the action or  
22 thereafter, when the claim exceeds \$20, in any one of the  
23 following cases:

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

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

28 3. Where the debtor has departed from this State with  
29 the intention of having his or her effects removed from  
30 this State.

31 4. Where the debtor is about to depart from this State  
32 with the intention of having his or her effects removed  
33 from this State.

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

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

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

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

12           9. Where the debt sued for was fraudulently contracted  
13 on the part of the debtor. The statements of the debtor,  
14 his or her agent or attorney, which constitute the fraud,  
15 shall have been reduced to writing, and his or her  
16 signature attached thereto, by himself or herself, agent or  
17 attorney.

18           10. When the debtor is a person convicted of a violent  
19 crime ~~first degree murder, a Class X felony, or aggravated~~  
20 ~~kidnapping~~, or found not guilty by reason of insanity or  
21 guilty but mentally ill of a violent crime ~~first degree~~  
22 ~~murder, a Class X felony, or aggravated kidnapping~~, against  
23 the creditor and that crime makes the creditor a "victim"  
24 under the Criminal Victims' Asset Discovery and Escrow  
25 Account Act.

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

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