



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0045

Introduced 1/19/2007, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

See Index

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.

LRB095 03665 RLC 23691 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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

1 ascribed to it in Section 3 of the Rights of Crime Victims and
2 Witnesses Act.

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

4 Sec. 3. Deposition; assets of criminal.

5 (a) Any person who has been convicted of a violent crime
6 ~~first degree murder, a Class X felony, or aggravated kidnapping~~
7 ~~in this State~~, or who has been found not guilty by reason of
8 insanity or guilty but mentally ill of a violent crime ~~first~~
9 ~~degree murder, a Class X felony, or aggravated kidnapping,~~
10 involving a victim as described in Section 2.3, or any other
11 person who has reasonable grounds to know of any assets of the
12 person convicted of a violent crime ~~first degree murder, a~~
13 ~~Class X felony, or aggravated kidnapping,~~ or who has been found
14 not guilty by reason of insanity or guilty but mentally ill of
15 a violent crime ~~first degree murder, a Class X felony, or~~
16 ~~aggravated kidnapping,~~ may be deposed by the victim or the
17 victim's legal representative concerning those assets.

18 (b) Upon written request of the victim, the Department of
19 Corrections shall notify the victim of any assets of the person
20 convicted of a violent crime ~~first degree murder, a Class X~~
21 ~~felony, or aggravated kidnapping,~~ or found not guilty by reason
22 of insanity or guilty but mentally ill of a violent crime ~~first~~
23 ~~degree murder, a Class X felony, or aggravated kidnapping,~~
24 known by the Department.

25 (c) The victim may seek attachment against the property of

1 the person convicted of first degree murder, a violent crime
2 ~~Class X felony, or aggravated kidnapping,~~ or found not guilty
3 by reason of insanity or guilty but mentally ill of a violent
4 crime ~~first degree murder, a Class X felony, or aggravated~~
5 ~~kidnapping,~~ against him or her.

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

7 (725 ILCS 145/3.5 new)

8 Sec. 3.5. Escrow account.

9 (a) The General Assembly finds that it is against public
10 policy and the welfare of the citizens of Illinois to allow a
11 person accused or convicted of a violent crime to benefit
12 financially from a published reenactment of the violent crime
13 or any incidents involved in the violent crime. The General
14 Assembly further finds that a system is required to provide for
15 the distribution of moneys received as a result of the
16 commission of a violent crime in order that victims of violent
17 crime may be adequately compensated.

18 (b) Every person contracting with any person or the
19 representative or assignee of any person convicted of a violent
20 crime in this State, with respect to the reenactment of such
21 violent crime, by way of a movie, book, magazine article, tape
22 recording, phonograph record, radio or television
23 presentation, or live entertainment of any kind, or from the
24 expression of such convicted person's thoughts, feelings,
25 opinions, or emotions regarding such crime if such expression

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

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

19 (725 ILCS 240/10.5 new)

20 Sec. 10.5. Administration of escrow account. The Attorney
21 General shall administer the escrow account created in Section
22 3.5 of the Criminal Victims' Asset Discovery and Escrow Account
23 Act.

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

3 (735 ILCS 5/2-2001)

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

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

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

15 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

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

1 following cases:

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

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

6 3. Where the debtor has departed from this State with
7 the intention of having his or her effects removed from
8 this State.

9 4. Where the debtor is about to depart from this State
10 with the intention of having his or her effects removed
11 from this State.

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

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

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

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

25 9. Where the debt sued for was fraudulently contracted
26 on the part of the debtor. The statements of the debtor,

1 his or her agent or attorney, which constitute the fraud,
2 shall have been reduced to writing, and his or her
3 signature attached thereto, by himself or herself, agent or
4 attorney.

5 10. When the debtor is a person convicted of a violent
6 crime ~~first degree murder, a Class X felony, or aggravated~~
7 ~~kidnapping~~, or found not guilty by reason of insanity or
8 guilty but mentally ill of a violent crime ~~first degree~~
9 ~~murder, a Class X felony, or aggravated kidnapping~~, against
10 the creditor and that crime makes the creditor a "victim"
11 under the Criminal Victims' Asset Discovery and Escrow
12 Account Act.

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

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

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2	Statutes amended in order of appearance	
3	725 ILCS 145/Act title	
4	725 ILCS 145/1	from Ch. 70, par. 401
5	725 ILCS 145/2.3	from Ch. 70, par. 402.3
6	725 ILCS 145/2.4 new	
7	725 ILCS 145/3	from Ch. 70, par. 403
8	725 ILCS 145/3.5 new	
9	725 ILCS 240/10.5 new	
10	735 ILCS 5/2-2001	
11	735 ILCS 5/4-101	from Ch. 110, par. 4-101