



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6211

Introduced 2/11/2010, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

725 ILCS 120/4.5

Amends the Rights of Crime Victims and Witnesses Act. Provides that if the office of the municipal attorney is prosecuting the case of the death of a person resulting from reckless homicide or a violation of the Illinois Vehicle Code in which the defendant intends to plead guilty to the violation, the office of the municipal attorney prosecuting the case shall notify the spouse, parent, child, or sibling of the decedent of the date of that plea and of the right of such persons to attend such court appearance and of a representative of such family members to present a victim impact statement at sentencing.

LRB096 18953 RLC 35759 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Rights of Crime Victims and Witnesses Act is
5 amended by changing Section 4.5 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) If the office of the municipal attorney is
19 prosecuting the case of the death of a person resulting from
20 reckless homicide or a violation of the Illinois Vehicle Code
21 in which the defendant intends to plead guilty to the
22 violation, the office of the municipal attorney prosecuting the
23 case shall notify the spouse, parent, child, or sibling of the

1 decendent of the date of that plea and of the right of such
2 persons to attend such court appearance and of a representative
3 of such family members to present a victim impact statement at
4 sentencing.

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

6 (1) shall provide notice of the filing of information,
7 the return of an indictment by which a prosecution for any
8 violent crime is commenced, or the filing of a petition to
9 adjudicate a minor as a delinquent for a violent crime;

10 (2) shall provide notice of the date, time, and place
11 of trial;

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

21 (5) or victim advocate personnel shall provide
22 appropriate employer intercession services to ensure that
23 employers of victims will cooperate with the criminal
24 justice system in order to minimize an employee's loss of
25 pay and other benefits resulting from court appearances;

26 (6) shall provide information whenever possible, of a

1 secure waiting area during court proceedings that does not
2 require victims to be in close proximity to defendant or
3 juveniles accused of a violent crime, and their families
4 and friends;

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

11 (8) in the case of the death of a person, which death
12 occurred in the same transaction or occurrence in which
13 acts occurred for which a defendant is charged with an
14 offense, shall notify the spouse, parent, child or sibling
15 of the decedent of the date of the trial of the person or
16 persons allegedly responsible for the death;

17 (9) shall inform the victim of the right to have
18 present at all court proceedings, subject to the rules of
19 evidence, an advocate or other support person of the
20 victim's choice, and the right to retain an attorney, at
21 the victim's own expense, who, upon written notice filed
22 with the clerk of the court and State's Attorney, is to
23 receive copies of all notices, motions and court orders
24 filed thereafter in the case, in the same manner as if the
25 victim were a named party in the case;

26 (10) at the sentencing hearing shall make a good faith

1 attempt to explain the minimum amount of time during which
2 the defendant may actually be physically imprisoned. The
3 Office of the State's Attorney shall further notify the
4 crime victim of the right to request from the Prisoner
5 Review Board information concerning the release of the
6 defendant under subparagraph (d) (1) of this Section;

7 (11) shall request restitution at sentencing and shall
8 consider restitution in any plea negotiation, as provided
9 by law; and

10 (12) shall, upon the court entering a verdict of not
11 guilty by reason of insanity, inform the victim of the
12 notification services available from the Department of
13 Human Services, including the statewide telephone number,
14 under subparagraph (d) (2) of this Section.

15 (c) At the written request of the crime victim, the office
16 of the State's Attorney shall:

17 (1) provide notice a reasonable time in advance of the
18 following court proceedings: preliminary hearing, any
19 hearing the effect of which may be the release of defendant
20 from custody, or to alter the conditions of bond and the
21 sentencing hearing. The crime victim shall also be notified
22 of the cancellation of the court proceeding in sufficient
23 time, wherever possible, to prevent an unnecessary
24 appearance in court;

25 (2) provide notice within a reasonable time after
26 receipt of notice from the custodian, of the release of the

1 defendant on bail or personal recognizance or the release
2 from detention of a minor who has been detained for a
3 violent crime;

4 (3) explain in nontechnical language the details of any
5 plea or verdict of a defendant, or any adjudication of a
6 juvenile as a delinquent for a violent crime;

7 (4) where practical, consult with the crime victim
8 before the Office of the State's Attorney makes an offer of
9 a plea bargain to the defendant or enters into negotiations
10 with the defendant concerning a possible plea agreement,
11 and shall consider the written victim impact statement, if
12 prepared prior to entering into a plea agreement;

13 (5) provide notice of the ultimate disposition of the
14 cases arising from an indictment or an information, or a
15 petition to have a juvenile adjudicated as a delinquent for
16 a violent crime;

17 (6) provide notice of any appeal taken by the defendant
18 and information on how to contact the appropriate agency
19 handling the appeal;

20 (7) provide notice of any request for post-conviction
21 review filed by the defendant under Article 122 of the Code
22 of Criminal Procedure of 1963, and of the date, time and
23 place of any hearing concerning the petition. Whenever
24 possible, notice of the hearing shall be given in advance;

25 (8) forward a copy of any statement presented under
26 Section 6 to the Prisoner Review Board to be considered by

1 the Board in making its determination under subsection (b)
2 of Section 3-3-8 of the Unified Code of Corrections.

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

24 (2) When the defendant has been committed to the Department
25 of Human Services pursuant to Section 5-2-4 or any other
26 provision of the Unified Code of Corrections, the victim may

1 request to be notified by the releasing authority of the
2 defendant's furloughs, temporary release, or final discharge
3 from State custody. The Department of Human Services shall
4 establish and maintain a statewide telephone number to be used
5 by victims to make notification requests under these provisions
6 and shall publicize this telephone number on its website and to
7 the State's Attorney of each county.

8 (3) In the event of an escape from State custody, the
9 Department of Corrections or the Department of Juvenile Justice
10 immediately shall notify the Prisoner Review Board of the
11 escape and the Prisoner Review Board shall notify the victim.
12 The notification shall be based upon the most recent
13 information as to the victim's residence or other location
14 available to the Board. When no such information is available,
15 the Board shall make all reasonable efforts to obtain the
16 information and make the notification. When the escapee is
17 apprehended, the Department of Corrections or the Department of
18 Juvenile Justice immediately shall notify the Prisoner Review
19 Board and the Board shall notify the victim.

20 (4) The victim of the crime for which the prisoner has been
21 sentenced shall receive reasonable written notice not less than
22 30 days prior to the parole interview and may submit, in
23 writing, on film, videotape or other electronic means or in the
24 form of a recording or in person at the parole interview or if
25 a victim of a violent crime, by calling the toll-free number
26 established in subsection (f) of this Section, information for

1 consideration by the Prisoner Review Board. The victim shall be
2 notified within 7 days after the prisoner has been granted
3 parole and shall be informed of the right to inspect the
4 registry of parole decisions, established under subsection (g)
5 of Section 3-3-5 of the Unified Code of Corrections. The
6 provisions of this paragraph (4) are subject to the Open Parole
7 Hearings Act.

8 (5) If a statement is presented under Section 6, the
9 Prisoner Review Board shall inform the victim of any order of
10 discharge entered by the Board pursuant to Section 3-3-8 of the
11 Unified Code of Corrections.

12 (6) At the written request of the victim of the crime for
13 which the prisoner was sentenced or the State's Attorney of the
14 county where the person seeking parole was prosecuted, the
15 Prisoner Review Board shall notify the victim and the State's
16 Attorney of the county where the person seeking parole was
17 prosecuted of the death of the prisoner if the prisoner died
18 while on parole or mandatory supervised release.

19 (7) When a defendant who has been committed to the
20 Department of Corrections, the Department of Juvenile Justice,
21 or the Department of Human Services is released or discharged
22 and subsequently committed to the Department of Human Services
23 as a sexually violent person and the victim had requested to be
24 notified by the releasing authority of the defendant's
25 discharge from State custody, the releasing authority shall
26 provide to the Department of Human Services such information

1 that would allow the Department of Human Services to contact
2 the victim.

3 (8) When a defendant has been convicted of a sex offense as
4 defined in Section 2 of the Sex Offender Registration Act and
5 has been sentenced to the Department of Corrections or the
6 Department of Juvenile Justice, the Prisoner Review Board shall
7 notify the victim of the sex offense of the prisoner's
8 eligibility for release on parole, mandatory supervised
9 release, electronic detention, work release, international
10 transfer or exchange, or by the custodian of the discharge of
11 any individual who was adjudicated a delinquent for a sex
12 offense from State custody and by the sheriff of the
13 appropriate county of any such person's final discharge from
14 county custody. The notification shall be made to the victim at
15 least 30 days, whenever possible, before release of the sex
16 offender.

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

22 (f) To permit a victim of a violent crime to provide
23 information to the Prisoner Review Board for consideration by
24 the Board at a parole hearing of a person who committed the
25 crime against the victim in accordance with clause (d)(4) of
26 this Section or at a proceeding to determine the conditions of

1 mandatory supervised release of a person sentenced to a
2 determinate sentence or at a hearing on revocation of mandatory
3 supervised release of a person sentenced to a determinate
4 sentence, the Board shall establish a toll-free number that may
5 be accessed by the victim of a violent crime to present that
6 information to the Board.

7 (Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09;
8 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff. 8-11-09;
9 96-875, eff. 1-22-10.)