



Sen. John J. Millner

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LRB096 00916 RLC 23862 a

1 AMENDMENT TO SENATE BILL 42

2 AMENDMENT NO. _____. Amend Senate Bill 42 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 3-800 as
6 follows:

7 (405 ILCS 5/3-800) (from Ch. 91 1/2, par. 3-800)

8 Sec. 3-800. (a) Unless otherwise indicated, court hearings
9 under this Chapter shall be held pursuant to this Article.
10 Hearings shall be held in such quarters as the court directs.
11 To the extent practical, hearings shall be held in the mental
12 health facility where the respondent is hospitalized. Any party
13 may request a change of venue or transfer to any other county
14 because of the convenience of parties or witnesses or the
15 condition of the respondent. The respondent may request to have
16 the proceedings transferred to the county of his residence.

1 (b) If the court grants a continuance on its own motion or
2 upon the motion of one of the parties, the respondent may
3 continue to be detained pending further order of the court.
4 Such continuance shall not extend beyond 15 days except to the
5 extent that continuances are requested by the respondent.

6 (c) Court hearings under this Chapter, including hearings
7 under Section 2-107.1, shall be open to the press and public
8 unless the respondent or some other party requests that they be
9 closed. The court may also indicate its intention to close a
10 hearing, including when it determines that the respondent may
11 be unable to make a reasoned decision to request that the
12 hearing be closed. A request that a hearing be closed shall be
13 granted unless there is an objection to closing the hearing by
14 a party or any other person. If an objection is made, the court
15 shall not close the hearing unless, following a hearing, it
16 determines that the patient's interest in having the hearing
17 closed is compelling. The court shall support its determination
18 with written findings of fact and conclusions of law. The court
19 shall not close the hearing if the respondent objects to its
20 closure. Whenever a court determines that a hearing shall be
21 closed, access to the records of the hearing, including but not
22 limited to transcripts and pleadings, shall be limited to the
23 parties involved in the hearing, court personnel, and any
24 person or agency providing mental health services that are the
25 subject of the hearing. Access may also be granted, however,
26 pursuant to the provisions of the Mental Health and

1 Developmental Disabilities Confidentiality Act.

2 (d) The provisions of subsection (a-5) of Section 6 of the
3 Rights of Crime Victims and Witnesses Act shall apply to the
4 initial commitment hearing, as provided under Section 5-2-4 of
5 the Unified Code of Corrections, for a respondent found not
6 guilty by reason of insanity of a violent crime in a criminal
7 proceeding and the hearing has been ordered by the court under
8 this Code to determine if the defendant is:

9 (1) in need of mental health services on an inpatient
10 basis;

11 (2) in need of mental health services on an outpatient
12 basis; or

13 (3) not in need of mental health services.

14 While the impact statement to the court allowed under this
15 subsection (d) may include the impact that the respondent's
16 criminal conduct has had upon the victim, victim's
17 representative, or victim's family or household member, the
18 court may only consider the impact statement along with all
19 other appropriate factors in determining the:

20 (i) threat of serious physical harm posed by the
21 respondent to himself or herself, or to another person;

22 (ii) location of inpatient or outpatient mental health
23 services ordered by the court, but only after complying
24 with all other applicable administrative requirements,
25 rules, and statutory requirements;

26 (iii) maximum period of commitment for inpatient

1 mental health services; and

2 (iv) conditions of release for outpatient mental
3 health services ordered by the court.

4 (Source: P.A. 90-538, eff. 12-1-97.)

5 Section 10. The Rights of Crime Victims and Witnesses Act
6 is amended by changing Section 6 as follows:

7 (725 ILCS 120/6) (from Ch. 38, par. 1406)

8 Sec. 6. Rights to present victim impact statement.

9 (a) In any case where a defendant has been convicted of a
10 violent crime or a juvenile has been adjudicated a delinquent
11 for a violent crime and a victim of the violent crime or the
12 victim's spouse, guardian, parent, grandparent, or other
13 immediate family or household member is present in the
14 courtroom at the time of the sentencing or the disposition
15 hearing, the victim or his or her representative shall have the
16 right and the victim's spouse, guardian, parent, grandparent,
17 and other immediate family or household member upon his, her,
18 or their request may be permitted by the court to address the
19 court regarding the impact that the defendant's criminal
20 conduct or the juvenile's delinquent conduct has had upon them
21 and the victim. The court has discretion to determine the
22 number of oral presentations of victim impact statements. Any
23 impact statement must have been prepared in writing in
24 conjunction with the Office of the State's Attorney prior to

1 the initial hearing or sentencing, before it can be presented
2 orally or in writing at the sentencing hearing. In conjunction
3 with the Office of the State's Attorney, a victim impact
4 statement that is presented orally may be done so by the victim
5 or the victim's spouse, guardian, parent, grandparent, or other
6 immediate family or household member or his, her, or their
7 representative. At the sentencing hearing, the prosecution may
8 introduce that evidence either in its case in chief or in
9 rebuttal. The court shall consider any impact statement
10 admitted along with all other appropriate factors in
11 determining the sentence of the defendant or disposition of
12 such juvenile.

13 (a-5) In any case where a defendant has been found not
14 guilty by reason of insanity of a violent crime and a hearing
15 has been ordered by the court under the Mental Health and
16 Developmental Disabilities Code to determine if the defendant
17 is: (1) in need of mental health services on an inpatient
18 basis; (2) in need of mental health services on an outpatient
19 basis; or (3) not in need of mental health services and a
20 victim of the violent crime or the victim's spouse, guardian,
21 parent, grandparent, or other immediate family or household
22 member is present in the courtroom at the time of the initial
23 commitment hearing, the victim or his or her representative
24 shall have the right and the victim's spouse, guardian, parent,
25 grandparent, and other immediate family or household members
26 upon their request may be permitted by the court to address the

1 court regarding the impact that the defendant's criminal
2 conduct has had upon them and the victim. The court has
3 discretion to determine the number of oral presentations of
4 victim impact statements. Any impact statement must have been
5 prepared in writing in conjunction with the Office of the
6 State's Attorney prior to the initial commitment hearing,
7 before it may be presented orally or in writing at the
8 commitment hearing. In conjunction with the Office of the
9 State's Attorney, a victim impact statement that is presented
10 orally may be presented so by the victim or the victim's
11 spouse, guardian, parent, grandparent, or other immediate
12 family or household member or his or her representative. At the
13 initial commitment hearing, the State's Attorney may introduce
14 the statement either in its case in chief or in rebuttal. The
15 court may only consider the impact statement along with all
16 other appropriate factors in determining the: (1) threat of
17 serious physical harm poised by the respondent to himself or
18 herself, or to another person; (2) location of inpatient or
19 outpatient mental health services ordered by the court, but
20 only after complying with all other applicable administrative,
21 rule, and statutory requirements; (3) maximum period of
22 commitment for inpatient mental health services; and (4)
23 conditions of release for outpatient mental health services
24 ordered by the court.

25 (b) The crime victim has the right to prepare a victim
26 impact statement and present it to the Office of the State's

1 Attorney at any time during the proceedings. Any written victim
2 impact statement submitted to the Office of the State's
3 Attorney shall be considered by the court during its
4 consideration of aggravation and mitigation in plea
5 proceedings under Supreme Court Rule 402.

6 (c) This Section shall apply to any victims of a violent
7 crime during any dispositional hearing under Section 5-705 of
8 the Juvenile Court Act of 1987 which takes place pursuant to an
9 adjudication or trial or plea of delinquency for any such
10 offense.

11 (Source: P.A. 95-591, eff. 6-1-08.)"