



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2635

Introduced 2/21/2013, by Rep. Martin J Moylan

SYNOPSIS AS INTRODUCED:

725 ILCS 120/6

from Ch. 38, par. 1406

Amends the Rights of Crime Victims and Witnesses Act. Provides that in any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime, the victim or his or her representative and immediate family or household member upon their request shall (rather than may) be permitted by the court to orally address (rather than address) the court regarding the impact of the defendant's criminal conduct or juvenile delinquent conduct has upon them. Deletes provision that the court has discretion to determine the number of oral presentations of victim impact statements.

LRB098 07969 RLC 38058 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 Rights of Crime Victims and Witnesses Act is
5 amended by changing Section 6 as follows:

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

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

8 (a) In any case where a defendant has been convicted of a
9 violent crime or a juvenile has been adjudicated a delinquent
10 for a violent crime and a victim of the violent crime or the
11 victim's spouse, guardian, parent, grandparent, or other
12 immediate family or household member is present in the
13 courtroom at the time of the sentencing or the disposition
14 hearing, the victim or his or her representative shall have the
15 right and the victim's spouse, guardian, parent, grandparent,
16 and other immediate family or household member upon his, her,
17 or their request shall ~~may~~ be permitted by the court to orally
18 address the court regarding the impact that the defendant's
19 criminal conduct or the juvenile's delinquent conduct has had
20 upon them and the victim. ~~The court has discretion to determine~~
21 ~~the number of oral presentations of victim impact statements.~~
22 Any impact statement must have been prepared in writing in
23 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-1) In any case where a defendant has been convicted of a
14 violation of any statute, ordinance, or regulation relating to
15 the operation or use of motor vehicles, the use of streets and
16 highways by pedestrians or the operation of any other wheeled
17 or tracked vehicle, except parking violations, if the violation
18 resulted in great bodily harm or death, the person who suffered
19 great bodily harm, the injured person's representative, or the
20 representative of a deceased person shall be entitled to notice
21 of the sentencing hearing. "Representative" includes the
22 spouse, guardian, grandparent, or other immediate family or
23 household member of an injured or deceased person. If the
24 injured person, the injured person's representative, or a
25 representative of a deceased person is present in the courtroom
26 at the time of sentencing, the injured person or his or her

1 representative and a representative of the deceased person
2 shall have the right to address the court regarding the impact
3 that the defendant's criminal conduct has had upon them. If
4 more than one representative of an injured or deceased person
5 is present in the courtroom at the time of sentencing, the
6 court has discretion to permit one or more of the
7 representatives to present an oral impact statement. Any impact
8 statement must have been prepared in writing in conjunction
9 with the Office of the State's Attorney prior to the initial
10 hearing or sentencing, before it can be presented orally or in
11 writing at the sentencing hearing. In conjunction with the
12 Office of the State's Attorney, an impact statement that is
13 presented orally may be done so by the injured person or the
14 representative of an injured or deceased person. At the
15 sentencing hearing, the prosecution may introduce that
16 evidence either in its case in chief or in rebuttal. The court
17 shall consider any impact statement admitted along with all
18 other appropriate factors in determining the sentence of the
19 defendant.

20 (a-5) In any case where a defendant has been found not
21 guilty by reason of insanity of a violent crime and a hearing
22 has been ordered by the court under the Mental Health and
23 Developmental Disabilities Code to determine if the defendant
24 is: (1) in need of mental health services on an inpatient
25 basis; (2) in need of mental health services on an outpatient
26 basis; or (3) not in need of mental health services and a

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

1 only after complying with all other applicable administrative,
2 rule, and statutory requirements; (3) maximum period of
3 commitment for inpatient mental health services; and (4)
4 conditions of release for outpatient mental health services
5 ordered by the court.

6 (b) The crime victim has the right to prepare a victim
7 impact statement and present it to the Office of the State's
8 Attorney at any time during the proceedings. Any written victim
9 impact statement submitted to the Office of the State's
10 Attorney shall be considered by the court during its
11 consideration of aggravation and mitigation in plea
12 proceedings under Supreme Court Rule 402.

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

18 (Source: P.A. 96-117, eff. 1-1-10; 97-572, eff. 1-1-12.)