

1 AN ACT concerning corrections.

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
5 Act is 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
9 enforcement, prosecutors, judges and corrections will provide
10 information, 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
13 the status of the investigation, except where the State's
14 Attorney determines that disclosure of such information would
15 unreasonably interfere with the investigation, until such
16 time as the alleged assailant is apprehended or the
17 investigation is closed.

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

19 (1) shall provide notice of the filing of
20 information, the return of an indictment by which a
21 prosecution for any violent crime is commenced, or the
22 filing of a petition to adjudicate a minor as a
23 delinquent for a violent crime;

24 (2) shall provide notice of the date, time, and
25 place of trial;

26 (3) or victim advocate personnel shall provide
27 information of social services and financial assistance
28 available for victims of crime, including information of
29 how to apply for these services and assistance;

30 (4) shall assist in having any stolen or other
31 personal property held by law enforcement authorities for

1 evidentiary or other purposes returned as expeditiously
2 as possible, pursuant to the procedures set out in
3 Section 115-9 of the Code of Criminal Procedure of 1963;

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

9 (6) shall provide information whenever possible, of
10 a secure waiting area during court proceedings that does
11 not require victims to be in close proximity to defendant
12 or juveniles accused of a violent crime, and their
13 families and friends;

14 (7) shall provide notice to the crime victim of the
15 right to have a translator present at all court
16 proceedings;

17 (8) in the case of the death of a person, which
18 death occurred in the same transaction or occurrence in
19 which acts occurred for which a defendant is charged with
20 an offense, shall notify the spouse, parent, child or
21 sibling of the decedent of the date of the trial of the
22 person or persons allegedly responsible for the death;

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

32 (10) at the sentencing hearing shall make a good
33 faith attempt to explain the minimum amount of time
34 during which the defendant may actually be physically

1 imprisoned. The Office of the State's Attorney shall
2 further notify the crime victim of the right to request
3 from the Prisoner Review Board information concerning the
4 release of the defendant under subparagraph (d)(1) of
5 this Section; and

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

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

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

19 (2) provide notice within a reasonable time after
20 receipt of notice from the custodian, of the release of
21 the defendant on bail or personal recognizance or the
22 release from detention of a minor who has been detained
23 for a violent crime;

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

27 (4) where practical, consult with the crime victim
28 before the Office of the State's Attorney makes an offer
29 of a plea bargain to the defendant or enters into
30 negotiations with the defendant concerning a possible
31 plea agreement, and shall consider the written victim
32 impact statement, if prepared prior to entering into a
33 plea agreement;

34 (5) provide notice of the ultimate disposition of

1 the cases arising from an indictment or an information,
2 or a petition to have a juvenile adjudicated as a
3 delinquent for a violent crime;

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

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

13 (8) forward a copy of any statement presented under
14 Section 6 to the Prisoner Review Board to be considered
15 by the Board in making its determination under subsection
16 (b) of Section 3-3-8 of the Unified Code of Corrections.

17 (d) (1) The Prisoner Review Board shall inform a victim
18 or any other concerned citizen, upon written request, of
19 the prisoner's release on parole, mandatory supervised
20 release, electronic detention, work release or by the
21 custodian of the discharge of any individual who was
22 adjudicated a delinquent for a violent crime from State
23 custody and by the sheriff of the appropriate county of
24 any such person's final discharge from county custody.
25 The Prisoner Review Board, upon written request, shall
26 provide to a victim or any other concerned citizen a
27 recent photograph of any person convicted of a felony,
28 upon his or her release from custody. The Prisoner Review
29 Board, upon written request, shall inform a victim or any
30 other concerned citizen when feasible at least 7 days
31 prior to the prisoner's release on furlough of the times
32 and dates of such furlough. Upon written request by the
33 victim or any other concerned citizen, the State's
34 Attorney shall notify the person once of the times and

1 dates of release of a prisoner sentenced to periodic
2 imprisonment. Notification shall be based on the most
3 recent information as to victim's or other concerned
4 citizen's residence or other location available to the
5 notifying authority. For purposes of this paragraph (1)
6 of subsection (d), "concerned citizen" includes relatives
7 of the victim, friends of the victim, witnesses to the
8 crime, or any other person associated with the victim or
9 prisoner.

10 (2) When the defendant has been committed to the
11 Department of Human Services pursuant to Section 5-2-4 or
12 any other provision of the Unified Code of Corrections,
13 the victim may request to be notified by the releasing
14 authority of the defendant's discharge from State
15 custody.

16 (3) In the event of an escape from State custody,
17 the Department of Corrections immediately shall notify
18 the Prisoner Review Board of the escape and the Prisoner
19 Review Board shall notify the victim. The notification
20 shall be based upon the most recent information as to the
21 victim's residence or other location available to the
22 Board. When no such information is available, the Board
23 shall make all reasonable efforts to obtain the
24 information and make the notification. When the escapee
25 is apprehended, the Department of Corrections immediately
26 shall notify the Prisoner Review Board and the Board
27 shall notify the victim.

28 (4) The victim of the crime for which the prisoner
29 has been sentenced shall receive reasonable written
30 notice not less than 15 days prior to the parole hearing
31 and may submit, in writing, on film, videotape or other
32 electronic means or in the form of a recording or in
33 person at the parole hearing, information for
34 consideration by the Prisoner Review Board. The victim

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

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

11 (6) At the written request of the victim of the
12 crime for which the prisoner was sentenced, the Prisoner
13 Review Board shall notify the victim of the death of the
14 prisoner if the prisoner died while on parole or
15 mandatory supervised release.

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

26 (d-5) If the prisoner has filed a petition for executive
27 clemency under Section 3-3-13 of the Unified Code of
28 Corrections, the Prisoner Review Board shall give written
29 notice and forward a copy of the petition to the victim of
30 the crime for which the prisoner has been sentenced and upon
31 written request notify any other concerned citizen as defined
32 in paragraph (1) of this Section at least 15 days before the
33 executive clemency hearing of the date of the hearing. The
34 victim and any other concerned citizen may submit, in

1 writing, on film, videotape, or other electronic means or in
2 the form of a recording or in person at the parole hearing
3 relevant information for consideration by the Prisoner Review
4 Board.

5 The victim may waive the 15-day written notice
6 requirement. In the case of an emergency where 15 days
7 written notice is not practicable, the 15-day written notice
8 requirement may be waived by the Board or the Governor.

9 If the Board or Governor waives the 15-day written notice
10 requirement, the reason for such waiver must be clearly
11 stated on the record at the hearing and must be included in
12 the Board's Report to the Governor. The fact that the
13 Governor's term in office or the term of any member of the
14 Board is expiring shall not be, in and of itself, cause to
15 wave the 15-day written notice requirement.

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

21 (Source: P.A. 90-14, eff. 7-1-97; 90-793, eff. 8-14-98;
22 91-237, eff. 1-1-00; 91-693, eff. 4-13-00.)

23 Section 10. The Unified Code of Corrections is amended
24 by changing Section 3-3-13 as follows:

25 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

26 Sec. 3-3-13. Procedure for Executive Clemency.

27 (a) Petitions seeking pardon, commutation, or reprieve
28 shall be addressed to the Governor and filed with the
29 Prisoner Review Board. The petition shall be in writing and
30 signed by the person under conviction or by a person on his
31 behalf. It shall contain a brief history of the case, the
32 reasons for seeking executive clemency, and other relevant

1 information the Board may require.

2 (a-5) After a petition has been denied by the Governor,
3 the Board may not accept a repeat petition for executive
4 clemency for the same person until one full year has elapsed
5 from the date of the denial. The Chairman of the Board may
6 waive the one-year requirement if the petitioner offers in
7 writing new information that was unavailable to the
8 petitioner at the time of the filing of the prior petition
9 and which the Chairman determines to be significant. The
10 Chairman also may waive the one-year waiting period if the
11 petitioner can show that a change in circumstances of a
12 compelling humanitarian nature has arisen since the denial of
13 the prior petition.

14 (b) Notice of the proposed application shall be given by
15 the Board to the committing court and the state's attorney of
16 the county where the conviction was had.

17 (c) The Board shall, if requested and upon due notice,
18 give a hearing to each application, allowing representation
19 by counsel, if desired, after which it shall confidentially
20 advise the Governor by a written report of its
21 recommendations which shall be determined by majority vote.
22 The Board shall also advise the Governor by a written report
23 of its recommendations determined by majority vote in any
24 case in which no hearing is requested. The written report of
25 the Board shall contain a statement outlining the sentence
26 that would be in effect if a commutation is granted for a
27 person sentenced to death. The Board shall meet to consider
28 such petitions no less than 4 times each year. The hearing
29 shall be sufficiently comprehensive to ensure that the
30 interests of the victim, the defendant, and the People of the
31 State of Illinois are protected. Regardless of whether a
32 hearing is requested, the Board must issue its written report
33 advising the Governor of its recommendations no later than
34 120 days after the filing of a petition seeking a pardon,

1 commutation, or reprieve.

2 (c-5) In making its recommendations on a petition
3 seeking a pardon, commutation, or reprieve, the Board shall
4 consider, but not be limited to:

5 (1) any material transmitted to the Department by
6 the clerk of the committing court under Section 5-4-1 or
7 Section 5-10 of the Juvenile Court Act or Section 5-750
8 of the Juvenile Court Act of 1987;

9 (2) a report, if submitted, under Section 3-8-2 or
10 3-10-2;

11 (3) any report by the Department and any report by
12 the chief administrative officer of the institution or
13 facility;

14 (4) any parole progress report;

15 (5) any medical and psychological report, if
16 requested by the Board;

17 (6) in addition to any live testimony submitted,
18 any material in writing or on film, video tape, or other
19 electronic means in the form of a recording submitted by
20 the person whose petition for executive clemency is being
21 considered; and

22 (7) in addition to any live testimony submitted,
23 any material in writing or on film, video tape, or other
24 electronic means in the form of a recording or testimony
25 submitted by the State's Attorney, the victim, or a
26 concerned citizen pursuant to the Rights of Crime Victims
27 and Witnesses Act.

28 (c-6) The prosecuting State's Attorney's office shall
29 receive reasonable written notice not less than 15 days prior
30 to the executive clemency hearing and may submit relevant
31 information in writing, or on film, video tape, or other
32 electronic means or in the form of a recording to the Board
33 for its consideration. The State's Attorney may waive the
34 15-day written notice requirement. In the case of an

1 emergency where 15 days' written notice is not practicable,
2 the 15-day written notice requirement may also be waived by
3 either the Board or the Governor.

4 (c-7) The victim of the crime for which the prisoner has
5 been sentenced shall receive notice of an executive clemency
6 hearing as provided in subsection (d-5) of Section 4.5 of the
7 Rights of Crime Victims and Witnesses Act.

8 Any recording considered under the provisions of clause
9 (c-5)(6), (c-5)(7), or (c-6) of this Section shall be in the
10 form designated by the Board. The recording shall be either
11 visual or aural. Every voice on the recording and person
12 present shall be identified and the recording shall contain
13 either a visual or aural statement of the person submitting
14 the recording, the date of the recording and the name of the
15 person whose petition for executive clemency is being
16 considered. The recordings, if retained by the Board shall
17 be deemed to be submitted at any subsequent hearing on
18 executive clemency or if the State's Attorney submits in
19 writing a declaration clearly identifying the recording as
20 representing the present position of the victim or State's
21 Attorney regarding the issues to be considered at the
22 executive clemency hearing.

23 Application for executive clemency under this Section may
24 not be commenced on behalf of a person who has been sentenced
25 to death without the written consent of the defendant, unless
26 the defendant, because of a mental or physical condition, is
27 incapable of asserting his or her own claim.

28 (d) The Governor shall decide each application and
29 communicate his decision to the Board which shall notify the
30 petitioner.

31 In the event a petitioner who has been convicted of a
32 Class X felony is granted a release, after the Governor has
33 communicated such decision to the Board, the Board shall give
34 written notice to the Sheriff of the county from which the

1 offender was sentenced if such sheriff has requested that
2 such notice be given on a continuing basis. In cases where
3 arrest of the offender or the commission of the offense took
4 place in any municipality with a population of more than
5 10,000 persons, the Board shall also give written notice to
6 the proper law enforcement agency for said municipality which
7 has requested notice on a continuing basis.

8 (e) No action may be taken by the Governor in the
9 absence of a report by the Board, unless (1) the Governor
10 finds that action is required in the absence of a report due
11 to the existence of exigent circumstances, or (2) the Board
12 has failed to issue a report within 120 days of the filing of
13 the petition, as required by subsection (c) of this Section.
14 Any exigent circumstances relied upon by the Governor shall
15 be identified in the Governor's order granting clemency. The
16 fact that the Governor's term in office is ending shall not,
17 in and of itself, qualify as an exigent circumstance for
18 purposes of this Section. Nothing in this Section shall be
19 construed to limit the power of the Governor under the
20 constitution to grant a reprieve, commutation of sentence, or
21 pardon.

22 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.