



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3534

Introduced 2/22/2021, by Rep. Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

725 ILCS 115/3.5 new

725 ILCS 120/4.5

725 ILCS 120/7

from Ch. 38, par. 1407

725 ILCS 120/9

from Ch. 38, par. 1408

Amends the Bill of Rights for Children. Provides that every child reported to the Department of Children and Family Services or law enforcement to be a victim of sexual assault or sexual abuse whose case is accepted by either agency for investigation has the right to have that child's forensic interview conducted by a forensic interviewer from a children's advocacy center accredited according to the Children's Advocacy Center Act and serving the child's area, when such service is available. Amends the Rights of Crime Victims and Witnesses Act. Provides that the office of the State's Attorney shall consult with the crime victim regarding the State's Attorney's decision not to charge an offense and that the victim has the right to have an attorney, advocate, and other support person of the victim's choice attend this consultation with them. Provides that the office of the State's Attorney shall give the crime victim timely notice of any decision not to pursue charges and consider the safety of the victim when deciding how to give such notice. Grants a victim a private civil cause of action for injunctive, declaratory, or mandamus relief when certain officials or agencies willfully or wantonly violate a victim's right or rights and the officials or agencies do not correct their actions and afford the right or rights to the victim when given written notice and reasonable time to comply. Makes other changes.

LRB102 15229 KMF 20584 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 Bill of Rights for Children is amended by  
5 adding Section 3.5 as follows:

6 (725 ILCS 115/3.5 new)

7 Sec. 3.5. Right to forensic interview with children's  
8 advocacy center. Every child reported to the Department of  
9 Children and Family Services or law enforcement to be a victim  
10 of sexual assault or sexual abuse whose case is accepted by  
11 either agency for investigation has the right to have that  
12 child's forensic interview conducted by a forensic interviewer  
13 from a children's advocacy center accredited according to the  
14 Children's Advocacy Center Act and serving the child's area,  
15 when such service is available. This right may be asserted by  
16 the child or the child's parent or guardian informing the  
17 investigating personnel at the Department of Children and  
18 Family Services or the law enforcement agency that the parent  
19 or guardian wants the child to have the child's interview  
20 conducted by the children's advocacy center.

21 Section 10. The Rights of Crime Victims and Witnesses Act  
22 is amended by changing Sections 4.5, 7, and 9 as follows:

1 (725 ILCS 120/4.5)

2 Sec. 4.5. Procedures to implement the rights of crime  
3 victims. To afford crime victims their rights, law  
4 enforcement, prosecutors, judges, and corrections will provide  
5 information, as appropriate, of the following procedures:

6 (a) At the request of the crime victim, law enforcement  
7 authorities investigating the case shall provide notice of the  
8 status of the investigation, except where the State's Attorney  
9 determines that disclosure of such information would  
10 unreasonably interfere with the investigation, until such time  
11 as the alleged assailant is apprehended or the investigation  
12 is closed.

13 (a-5) When law enforcement authorities reopen a closed  
14 case to resume investigating, they shall provide notice of the  
15 reopening of the case, except where the State's Attorney  
16 determines that disclosure of such information would  
17 unreasonably interfere with the investigation.

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

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

23 (2) shall provide timely notice of the date, time, and  
24 place of court proceedings; of any change in the date,  
25 time, and place of court proceedings; and of any

1 cancellation of court proceedings. Notice shall be  
2 provided in sufficient time, wherever possible, for the  
3 victim to make arrangements to attend or to prevent an  
4 unnecessary appearance at court proceedings;

5 (3) or victim advocate personnel shall provide  
6 information of social services and financial assistance  
7 available for victims of crime, including information of  
8 how to apply for these services and assistance;

9 (3.5) or victim advocate personnel shall provide  
10 information about available victim services, including  
11 referrals to programs, counselors, and agencies that  
12 assist a victim to deal with trauma, loss, and grief;

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

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

23 (6) shall provide, whenever possible, a secure waiting  
24 area during court proceedings that does not require  
25 victims to be in close proximity to defendants or  
26 juveniles accused of a violent crime, and their families

1 and friends;

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

8 (8) (blank);

9 (8.5) shall inform the victim of the right to be  
10 present at all court proceedings, unless the victim is to  
11 testify and the court determines that the victim's  
12 testimony would be materially affected if the victim hears  
13 other testimony at trial;

14 (9) shall inform the victim of the right to have  
15 present at all court proceedings, subject to the rules of  
16 evidence and confidentiality, an advocate and other  
17 support person of the victim's choice;

18 (9.3) shall inform the victim of the right to retain  
19 an attorney, at the victim's own expense, who, upon  
20 written notice filed with the clerk of the court and  
21 State's Attorney, is to receive copies of all notices,  
22 motions, and court orders filed thereafter in the case, in  
23 the same manner as if the victim were a named party in the  
24 case;

25 (9.5) shall inform the victim of (A) the victim's  
26 right under Section 6 of this Act to make a statement at

1 the sentencing hearing; (B) the right of the victim's  
2 spouse, guardian, parent, grandparent, and other immediate  
3 family and household members under Section 6 of this Act  
4 to present a statement at sentencing; and (C) if a  
5 presentence report is to be prepared, the right of the  
6 victim's spouse, guardian, parent, grandparent, and other  
7 immediate family and household members to submit  
8 information to the preparer of the presentence report  
9 about the effect the offense has had on the victim and the  
10 person;

11 (10) at the sentencing shall make a good faith attempt  
12 to explain the minimum amount of time during which the  
13 defendant may actually be physically imprisoned. The  
14 Office of the State's Attorney shall further notify the  
15 crime victim of the right to request from the Prisoner  
16 Review Board or Department of Juvenile Justice information  
17 concerning the release of the defendant;

18 (11) shall request restitution at sentencing and as  
19 part of a plea agreement if the victim requests  
20 restitution;

21 (12) shall, upon the court entering a verdict of not  
22 guilty by reason of insanity, inform the victim of the  
23 notification services available from the Department of  
24 Human Services, including the statewide telephone number,  
25 under subparagraph (d) (2) of this Section;

26 (13) shall provide notice within a reasonable time

1 after receipt of notice from the custodian, of the release  
2 of the defendant on bail or personal recognizance or the  
3 release from detention of a minor who has been detained;

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

7 (15) shall make all reasonable efforts to consult with  
8 the crime victim before the Office of the State's Attorney  
9 makes an offer of a plea bargain to the defendant or enters  
10 into negotiations with the defendant concerning a possible  
11 plea agreement, and shall consider the written statement,  
12 if prepared prior to entering into a plea agreement. The  
13 right to consult with the prosecutor does not include the  
14 right to veto a plea agreement or to insist the case go to  
15 trial. If the State's Attorney has not consulted with the  
16 victim prior to making an offer or entering into plea  
17 negotiations with the defendant, the Office of the State's  
18 Attorney shall notify the victim of the offer or the  
19 negotiations within 2 business days and confer with the  
20 victim;

21 (16) shall provide notice of the ultimate disposition  
22 of the cases arising from an indictment or an information,  
23 or a petition to have a juvenile adjudicated as a  
24 delinquent for a violent crime;

25 (17) shall provide notice of any appeal taken by the  
26 defendant and information on how to contact the

1 appropriate agency handling the appeal, and how to request  
2 notice of any hearing, oral argument, or decision of an  
3 appellate court;

4 (18) shall provide timely notice of any request for  
5 post-conviction review filed by the defendant under  
6 Article 122 of the Code of Criminal Procedure of 1963, and  
7 of the date, time and place of any hearing concerning the  
8 petition. Whenever possible, notice of the hearing shall  
9 be given within 48 hours of the court's scheduling of the  
10 hearing; ~~and~~

11 (19) shall forward a copy of any statement presented  
12 under Section 6 to the Prisoner Review Board or Department  
13 of Juvenile Justice to be considered in making a  
14 determination under Section 3-2.5-85 or subsection (b) of  
15 Section 3-3-8 of the Unified Code of Corrections; ~~and~~

16 (20) shall consult with the crime victim regarding the  
17 decision of the State's Attorney not to charge an offense.  
18 The victim has the right to have an attorney, advocate,  
19 and other support person of the victim's choice attend  
20 this consultation with the victim; and

21 (21) shall give the crime victim timely notice of any  
22 decision not to pursue charges and consider the safety of  
23 the victim when deciding how to give such notice.

24 (c) The court shall ensure that the rights of the victim  
25 are afforded.

26 (c-5) The following procedures shall be followed to afford



1 victims the rights guaranteed by Article I, Section 8.1 of the  
2 Illinois Constitution:

3 (1) Written notice. A victim may complete a written  
4 notice of intent to assert rights on a form prepared by the  
5 Office of the Attorney General and provided to the victim  
6 by the State's Attorney. The victim may at any time  
7 provide a revised written notice to the State's Attorney.  
8 The State's Attorney shall file the written notice with  
9 the court. At the beginning of any court proceeding in  
10 which the right of a victim may be at issue, the court and  
11 prosecutor shall review the written notice to determine  
12 whether the victim has asserted the right that may be at  
13 issue.

14 (2) Victim's retained attorney. A victim's attorney  
15 shall file an entry of appearance limited to assertion of  
16 the victim's rights. Upon the filing of the entry of  
17 appearance and service on the State's Attorney and the  
18 defendant, the attorney is to receive copies of all  
19 notices, motions and court orders filed thereafter in the  
20 case.

21 (3) Standing. The victim has standing to assert the  
22 rights enumerated in subsection (a) of Article I, Section  
23 8.1 of the Illinois Constitution and the statutory rights  
24 under Section 4 of this Act in any court exercising  
25 jurisdiction over the criminal case. The prosecuting  
26 attorney, a victim, or the victim's retained attorney may

1           assert the victim's rights. The defendant in the criminal  
2           case has no standing to assert a right of the victim in any  
3           court proceeding, including on appeal.

4           (4) Assertion of and enforcement of rights.

5           (A) The prosecuting attorney shall assert a  
6           victim's right or request enforcement of a right by  
7           filing a motion or by orally asserting the right or  
8           requesting enforcement in open court in the criminal  
9           case outside the presence of the jury. The prosecuting  
10          attorney shall consult with the victim and the  
11          victim's attorney regarding the assertion or  
12          enforcement of a right. If the prosecuting attorney  
13          decides not to assert or enforce a victim's right, the  
14          prosecuting attorney shall notify the victim or the  
15          victim's attorney in sufficient time to allow the  
16          victim or the victim's attorney to assert the right or  
17          to seek enforcement of a right.

18          (B) If the prosecuting attorney elects not to  
19          assert a victim's right or to seek enforcement of a  
20          right, the victim or the victim's attorney may assert  
21          the victim's right or request enforcement of a right  
22          by filing a motion or by orally asserting the right or  
23          requesting enforcement in open court in the criminal  
24          case outside the presence of the jury.

25          (C) If the prosecuting attorney asserts a victim's  
26          right or seeks enforcement of a right, unless the

1 prosecuting attorney objects or the trial court does  
2 not allow it, the victim or the victim's attorney may  
3 be heard regarding the prosecuting attorney's motion  
4 or may file a simultaneous motion to assert or request  
5 enforcement of the victim's right. If the victim or  
6 the victim's attorney was not allowed to be heard at  
7 the hearing regarding the prosecuting attorney's  
8 motion, and the court denies the prosecuting  
9 attorney's assertion of the right or denies the  
10 request for enforcement of a right, the victim or  
11 victim's attorney may file a motion to assert the  
12 victim's right or to request enforcement of the right  
13 within 10 days of the court's ruling. The motion need  
14 not demonstrate the grounds for a motion for  
15 reconsideration. The court shall rule on the merits of  
16 the motion.

17 (D) The court shall take up and decide any motion  
18 or request asserting or seeking enforcement of a  
19 victim's right without delay, unless a specific time  
20 period is specified by law or court rule. The reasons  
21 for any decision denying the motion or request shall  
22 be clearly stated on the record.

23 (E) Crime victims' rights may also be asserted by  
24 filing a complaint for mandamus, injunctive, or  
25 declaratory relief in the jurisdiction in which the  
26 victim's right is being violated or where the crime is

1 being prosecuted. The clerk of court shall waive  
2 filing fees that would otherwise be owed by the victim  
3 for any court filing with the purpose of enforcing  
4 crime victims' rights. If the court denies the relief  
5 sought by the victim, the reasons for the denial shall  
6 be clearly stated on the record in the transcript of  
7 the proceedings, in a written opinion, or in the  
8 docket entry, and the victim may appeal the circuit  
9 court's decision to the appellate court. The court  
10 shall issue prompt rulings regarding victims' rights.  
11 Proceedings seeking to enforce victims' rights shall  
12 not be stayed or subject to unreasonable delay via  
13 continuances. If the appellate court denies the relief  
14 sought, the reasons for the denial shall be clearly  
15 stated on the record in a written opinion.

16 (5) Violation of rights and remedies.

17 (A) If the court determines that a victim's right  
18 has been violated, the court shall determine the  
19 appropriate remedy for the violation of the victim's  
20 right by hearing from the victim and the parties,  
21 considering all factors relevant to the issue, and  
22 then awarding appropriate relief to the victim.

23 (A-5) Consideration of an issue of a substantive  
24 nature or an issue that implicates the constitutional  
25 or statutory right of a victim at a court proceeding  
26 labeled as a status hearing shall constitute a per se

1 violation of a victim's right.

2 (B) The appropriate remedy shall include ~~only~~  
3 actions necessary to provide the victim the right to  
4 which the victim was entitled. Remedies may include,  
5 but are not limited to: injunctive relief requiring  
6 the victim's right to be afforded; declaratory  
7 judgment recognizing or clarifying the victim's  
8 rights; a writ of mandamus; and ~~may include~~ reopening  
9 previously held proceedings; however, in no event  
10 shall the court vacate a conviction. Any remedy shall  
11 be tailored to provide the victim an appropriate  
12 remedy without violating any constitutional right of  
13 the defendant. In no event shall the appropriate  
14 remedy be a new trial, ~~damages, or costs.~~

15 (6) Right to be heard. Whenever a victim has the right  
16 to be heard, the court shall allow the victim to exercise  
17 the right in any reasonable manner the victim chooses.

18 (7) Right to attend trial. A party must file a written  
19 motion to exclude a victim from trial at least 60 days  
20 prior to the date set for trial. The motion must state with  
21 specificity the reason exclusion is necessary to protect a  
22 constitutional right of the party, and must contain an  
23 offer of proof. The court shall rule on the motion within  
24 30 days. If the motion is granted, the court shall set  
25 forth on the record the facts that support its finding  
26 that the victim's testimony will be materially affected if

1 the victim hears other testimony at trial.

2 (8) Right to have advocate and support person present  
3 at court proceedings.

4 (A) A party who intends to call an advocate as a  
5 witness at trial must seek permission of the court  
6 before the subpoena is issued. The party must file a  
7 written motion at least 90 days before trial that sets  
8 forth specifically the issues on which the advocate's  
9 testimony is sought and an offer of proof regarding  
10 (i) the content of the anticipated testimony of the  
11 advocate; and (ii) the relevance, admissibility, and  
12 materiality of the anticipated testimony. The court  
13 shall consider the motion and make findings within 30  
14 days of the filing of the motion. If the court finds by  
15 a preponderance of the evidence that: (i) the  
16 anticipated testimony is not protected by an absolute  
17 privilege; and (ii) the anticipated testimony contains  
18 relevant, admissible, and material evidence that is  
19 not available through other witnesses or evidence, the  
20 court shall issue a subpoena requiring the advocate to  
21 appear to testify at an in camera hearing. The  
22 prosecuting attorney and the victim shall have 15 days  
23 to seek appellate review before the advocate is  
24 required to testify at an ex parte in camera  
25 proceeding.

26 The prosecuting attorney, the victim, and the

1 advocate's attorney shall be allowed to be present at  
2 the ex parte in camera proceeding. If, after  
3 conducting the ex parte in camera hearing, the court  
4 determines that due process requires any testimony  
5 regarding confidential or privileged information or  
6 communications, the court shall provide to the  
7 prosecuting attorney, the victim, and the advocate's  
8 attorney a written memorandum on the substance of the  
9 advocate's testimony. The prosecuting attorney, the  
10 victim, and the advocate's attorney shall have 15 days  
11 to seek appellate review before a subpoena may be  
12 issued for the advocate to testify at trial. The  
13 presence of the prosecuting attorney at the ex parte  
14 in camera proceeding does not make the substance of  
15 the advocate's testimony that the court has ruled  
16 inadmissible subject to discovery.

17 (B) If a victim has asserted the right to have a  
18 support person present at the court proceedings, the  
19 victim shall provide the name of the person the victim  
20 has chosen to be the victim's support person to the  
21 prosecuting attorney, within 60 days of trial. The  
22 prosecuting attorney shall provide the name to the  
23 defendant. If the defendant intends to call the  
24 support person as a witness at trial, the defendant  
25 must seek permission of the court before a subpoena is  
26 issued. The defendant must file a written motion at

1           least 45 days prior to trial that sets forth  
2           specifically the issues on which the support person  
3           will testify and an offer of proof regarding: (i) the  
4           content of the anticipated testimony of the support  
5           person; and (ii) the relevance, admissibility, and  
6           materiality of the anticipated testimony.

7           If the prosecuting attorney intends to call the  
8           support person as a witness during the State's  
9           case-in-chief, the prosecuting attorney shall inform  
10          the court of this intent in the response to the  
11          defendant's written motion. The victim may choose a  
12          different person to be the victim's support person.  
13          The court may allow the defendant to inquire about  
14          matters outside the scope of the direct examination  
15          during cross-examination. If the court allows the  
16          defendant to do so, the support person shall be  
17          allowed to remain in the courtroom after the support  
18          person has testified. A defendant who fails to  
19          question the support person about matters outside the  
20          scope of direct examination during the State's  
21          case-in-chief waives the right to challenge the  
22          presence of the support person on appeal. The court  
23          shall allow the support person to testify if called as  
24          a witness in the defendant's case-in-chief or the  
25          State's rebuttal.

26          If the court does not allow the defendant to



1           inquire about matters outside the scope of the direct  
2           examination, the support person shall be allowed to  
3           remain in the courtroom after the support person has  
4           been called by the defendant or the defendant has  
5           rested. The court shall allow the support person to  
6           testify in the State's rebuttal.

7           If the prosecuting attorney does not intend to  
8           call the support person in the State's case-in-chief,  
9           the court shall verify with the support person whether  
10          the support person, if called as a witness, would  
11          testify as set forth in the offer of proof. If the  
12          court finds that the support person would testify as  
13          set forth in the offer of proof, the court shall rule  
14          on the relevance, materiality, and admissibility of  
15          the anticipated testimony. If the court rules the  
16          anticipated testimony is admissible, the court shall  
17          issue the subpoena. The support person may remain in  
18          the courtroom after the support person testifies and  
19          shall be allowed to testify in rebuttal.

20          If the court excludes the victim's support person  
21          during the State's case-in-chief, the victim shall be  
22          allowed to choose another support person to be present  
23          in court.

24          If the victim fails to designate a support person  
25          within 60 days of trial and the defendant has  
26          subpoenaed the support person to testify at trial, the

1 court may exclude the support person from the trial  
2 until the support person testifies. If the court  
3 excludes the support person the victim may choose  
4 another person as a support person.

5 (9) Right to notice and hearing before disclosure of  
6 confidential or privileged information or records.

7 (A) A defendant who seeks to subpoena testimony or  
8 records of or concerning the victim that are  
9 confidential or privileged by law must seek permission  
10 of the court before the subpoena is issued. The  
11 defendant must file a written motion and an offer of  
12 proof regarding the relevance, admissibility and  
13 materiality of the testimony or records. If the court  
14 finds by a preponderance of the evidence that:

15 (i) ~~(A)~~ the testimony or records are not  
16 protected by an absolute privilege and

17 (ii) ~~(B)~~ the testimony or records contain  
18 relevant, admissible, and material evidence that  
19 is not available through other witnesses or  
20 evidence, the court shall issue a subpoena  
21 requiring the witness to appear in camera or a  
22 sealed copy of the records be delivered to the  
23 court to be reviewed in camera. If, after  
24 conducting an in camera review of the witness  
25 statement or records, the court determines that  
26 due process requires disclosure of any potential

1           testimony or any portion of the records, the court  
2           shall provide a summary of potential testimony or  
3           copies of the records that ~~what~~ it intends to  
4           disclose to the prosecuting attorney and the  
5           victim. The prosecuting attorney and the victim  
6           shall have 30 days to seek appellate review before  
7           the summary of potential testimony or records are  
8           disclosed to the defendant, used in any court  
9           proceeding, or disclosed to anyone or in any way  
10          that would subject the testimony or records to  
11          public review. The disclosure of copies of any  
12          portion of the summary of potential testimony or  
13          records to the prosecuting attorney under this  
14          Section does not make the records subject to  
15          discovery or required to be provided to the  
16          defendant.

17          (B) A prosecuting attorney who seeks to subpoena  
18          information or records concerning the victim that are  
19          confidential or privileged by law must first request  
20          the written consent of the crime victim. If the victim  
21          does not provide such written consent, including where  
22          necessary the appropriate signed document required for  
23          waiving privilege, the prosecuting attorney must serve  
24          the subpoena at least 21 days prior to the date a  
25          response or appearance is required to allow the  
26          subject of the subpoena time to file a motion to quash

1           or request a hearing. The prosecuting attorney must  
2           also send a written notice to the victim at least 21  
3           days prior to the response date to allow the victim to  
4           file a motion or request a hearing. The notice to the  
5           victim shall inform the victim (1) that a subpoena has  
6           been issued for confidential information or records  
7           concerning the victim, (2) that the victim has the  
8           right to request a hearing prior to the response date  
9           of the subpoena, and (3) how to request the hearing.  
10          The notice to the victim shall also include a copy of  
11          the subpoena. If requested, a hearing regarding the  
12          subpoena shall occur before information or records are  
13          provided to the prosecuting attorney.

14           (10) Right to notice of court proceedings. If the  
15          victim is not present at a court proceeding in which a  
16          right of the victim is at issue, the court shall ask the  
17          prosecuting attorney whether the victim was notified of  
18          the time, place, and purpose of the court proceeding and  
19          that the victim had a right to be heard at the court  
20          proceeding. If the court determines that timely notice was  
21          not given or that the victim was not adequately informed  
22          of the nature of the court proceeding, the court shall not  
23          rule on any substantive issues, accept a plea, or impose a  
24          sentence and shall continue the hearing for the time  
25          necessary to notify the victim of the time, place and  
26          nature of the court proceeding. The time between court

1 proceedings shall not be attributable to the State under  
2 Section 103-5 of the Code of Criminal Procedure of 1963.

3 (11) Right to timely disposition of the case. A victim  
4 has the right to timely disposition of the case so as to  
5 minimize the stress, cost, and inconvenience resulting  
6 from the victim's involvement in the case. Before ruling  
7 on a motion to continue trial or other court proceeding,  
8 the court shall inquire into the circumstances for the  
9 request for the delay and, if the victim has provided  
10 written notice of the assertion of the right to a timely  
11 disposition, and whether the victim objects to the delay.  
12 If the victim objects, the prosecutor shall inform the  
13 court of the victim's objections. If the prosecutor has  
14 not conferred with the victim about the continuance, the  
15 prosecutor shall inform the court of the attempts to  
16 confer. If the court finds the attempts of the prosecutor  
17 to confer with the victim were inadequate to protect the  
18 victim's right to be heard, the court shall give the  
19 prosecutor at least 3 but not more than 5 business days to  
20 confer with the victim. In ruling on a motion to continue,  
21 the court shall consider the reasons for the requested  
22 continuance, the number and length of continuances that  
23 have been granted, the victim's objections and procedures  
24 to avoid further delays. If a continuance is granted over  
25 the victim's objection, the court shall specify on the  
26 record the reasons for the continuance and the procedures

1           that have been or will be taken to avoid further delays.

2           (12) Right to Restitution.

3           (A) If the victim has asserted the right to  
4           restitution and the amount of restitution is known at  
5           the time of sentencing, the court shall enter the  
6           judgment of restitution at the time of sentencing.

7           (B) If the victim has asserted the right to  
8           restitution and the amount of restitution is not known  
9           at the time of sentencing, the prosecutor shall,  
10          within 5 days after sentencing, notify the victim what  
11          information and documentation related to restitution  
12          is needed and that the information and documentation  
13          must be provided to the prosecutor within 45 days  
14          after sentencing. Failure to timely provide  
15          information and documentation related to restitution  
16          shall be deemed a waiver of the right to restitution.  
17          The prosecutor shall file and serve within 60 days  
18          after sentencing a proposed judgment for restitution  
19          and a notice that includes information concerning the  
20          identity of any victims or other persons seeking  
21          restitution, whether any victim or other person  
22          expressly declines restitution, the nature and amount  
23          of any damages together with any supporting  
24          documentation, a restitution amount recommendation,  
25          and the names of any co-defendants and their case  
26          numbers. Within 30 days after receipt of the proposed

1 judgment for restitution, the defendant shall file any  
2 objection to the proposed judgment, a statement of  
3 grounds for the objection, and a financial statement.  
4 If the defendant does not file an objection, the court  
5 may enter the judgment for restitution without further  
6 proceedings. If the defendant files an objection and  
7 either party requests a hearing, the court shall  
8 schedule a hearing.

9 (13) Access to presentence reports.

10 (A) The victim may request a copy of the  
11 presentence report prepared under the Unified Code of  
12 Corrections from the State's Attorney. The State's  
13 Attorney shall redact the following information before  
14 providing a copy of the report:

15 (i) the defendant's mental history and  
16 condition;

17 (ii) any evaluation prepared under subsection  
18 (b) or (b-5) of Section 5-3-2; and

19 (iii) the name, address, phone number, and  
20 other personal information about any other victim.

21 (B) The State's Attorney or the defendant may  
22 request the court redact other information in the  
23 report that may endanger the safety of any person.

24 (C) The State's Attorney may orally disclose to  
25 the victim any of the information that has been  
26 redacted if there is a reasonable likelihood that the

1 information will be stated in court at the sentencing.

2 (D) The State's Attorney must advise the victim  
3 that the victim must maintain the confidentiality of  
4 the report and other information. Any dissemination of  
5 the report or information that was not stated at a  
6 court proceeding constitutes indirect criminal  
7 contempt of court.

8 (14) Appellate relief. If the trial court denies the  
9 relief requested, the victim, the victim's attorney, or  
10 the prosecuting attorney may file an appeal within 30 days  
11 of the trial court's ruling. The trial or appellate court  
12 may stay the court proceedings if the court finds that a  
13 stay would not violate a constitutional right of the  
14 defendant. If the appellate court denies the relief  
15 sought, the reasons for the denial shall be clearly stated  
16 in a written opinion. In any appeal in a criminal case, the  
17 State may assert as error the court's denial of any crime  
18 victim's right in the proceeding to which the appeal  
19 relates.

20 (15) Limitation on appellate relief. In no case shall  
21 an appellate court provide a new trial to remedy the  
22 violation of a victim's right.

23 (16) The right to be reasonably protected from the  
24 accused throughout the criminal justice process and the  
25 right to have the safety of the victim and the victim's  
26 family considered in denying or fixing the amount of bail,



1 determining whether to release the defendant, and setting  
2 conditions of release after arrest and conviction. A  
3 victim of domestic violence, a sexual offense, or stalking  
4 may request the entry of a protective order under Article  
5 112A of the Code of Criminal Procedure of 1963.

6 (d) Procedures after the imposition of sentence.

7 (1) The Prisoner Review Board shall inform a victim or  
8 any other concerned citizen, upon written request, of the  
9 prisoner's release on parole, mandatory supervised  
10 release, electronic detention, work release, international  
11 transfer or exchange, or by the custodian, other than the  
12 Department of Juvenile Justice, of the discharge of any  
13 individual who was adjudicated a delinquent for a crime  
14 from State custody and by the sheriff of the appropriate  
15 county of any such person's final discharge from county  
16 custody. The Prisoner Review Board, upon written request,  
17 shall provide to a victim or any other concerned citizen a  
18 recent photograph of any person convicted of a felony,  
19 upon his or her release from custody. The Prisoner Review  
20 Board, upon written request, shall inform a victim or any  
21 other concerned citizen when feasible at least 7 days  
22 prior to the prisoner's release on furlough of the times  
23 and dates of such furlough. Upon written request by the  
24 victim or any other concerned citizen, the State's  
25 Attorney shall notify the person once of the times and  
26 dates of release of a prisoner sentenced to periodic

1 imprisonment. Notification shall be based on the most  
2 recent information as to victim's or other concerned  
3 citizen's residence or other location available to the  
4 notifying authority.

5 (2) When the defendant has been committed to the  
6 Department of Human Services pursuant to Section 5-2-4 or  
7 any other provision of the Unified Code of Corrections,  
8 the victim may request to be notified by the releasing  
9 authority of the approval by the court of an on-grounds  
10 pass, a supervised off-grounds pass, an unsupervised  
11 off-grounds pass, or conditional release; the release on  
12 an off-grounds pass; the return from an off-grounds pass;  
13 transfer to another facility; conditional release; escape;  
14 death; or final discharge from State custody. The  
15 Department of Human Services shall establish and maintain  
16 a statewide telephone number to be used by victims to make  
17 notification requests under these provisions and shall  
18 publicize this telephone number on its website and to the  
19 State's Attorney of each county.

20 (3) In the event of an escape from State custody, the  
21 Department of Corrections or the Department of Juvenile  
22 Justice immediately shall notify the Prisoner Review Board  
23 of the escape and the Prisoner Review Board shall notify  
24 the victim. The notification shall be based upon the most  
25 recent information as to the victim's residence or other  
26 location available to the Board. When no such information

1 is available, the Board shall make all reasonable efforts  
2 to obtain the information and make the notification. When  
3 the escapee is apprehended, the Department of Corrections  
4 or the Department of Juvenile Justice immediately shall  
5 notify the Prisoner Review Board and the Board shall  
6 notify the victim.

7 (4) The victim of the crime for which the prisoner has  
8 been sentenced has the right to register with the Prisoner  
9 Review Board's victim registry. Victims registered with  
10 the Board shall receive reasonable written notice not less  
11 than 30 days prior to the parole hearing or target  
12 aftercare release date. The victim has the right to submit  
13 a victim statement for consideration by the Prisoner  
14 Review Board or the Department of Juvenile Justice in  
15 writing, on film, videotape, or other electronic means, or  
16 in the form of a recording prior to the parole hearing or  
17 target aftercare release date, or in person at the parole  
18 hearing or aftercare release protest hearing, or by  
19 calling the toll-free number established in subsection (f)  
20 of this Section. The victim shall be notified within 7  
21 days after the prisoner has been granted parole or  
22 aftercare release and shall be informed of the right to  
23 inspect the registry of parole decisions, established  
24 under subsection (g) of Section 3-3-5 of the Unified Code  
25 of Corrections. The provisions of this paragraph (4) are  
26 subject to the Open Parole Hearings Act. Victim statements

1 provided to the Board shall be confidential and  
2 privileged, including any statements received prior to  
3 January 1, 2020 (the effective date of Public Act 101-288)  
4 ~~this amendatory Act of the 101st General Assembly~~, except  
5 if the statement was an oral statement made by the victim  
6 at a hearing open to the public.

7 (4-1) The crime victim has the right to submit a  
8 victim statement for consideration by the Prisoner Review  
9 Board or the Department of Juvenile Justice prior to or at  
10 a hearing to determine the conditions of mandatory  
11 supervised release of a person sentenced to a determinate  
12 sentence or at a hearing on revocation of mandatory  
13 supervised release of a person sentenced to a determinate  
14 sentence. A victim statement may be submitted in writing,  
15 on film, videotape, or other electronic means, or in the  
16 form of a recording, or orally at a hearing, or by calling  
17 the toll-free number established in subsection (f) of this  
18 Section. Victim statements provided to the Board shall be  
19 confidential and privileged, including any statements  
20 received prior to January 1, 2020 (the effective date of  
21 Public Act 101-288) ~~this amendatory Act of the 101st~~  
22 ~~General Assembly~~, except if the statement was an oral  
23 statement made by the victim at a hearing open to the  
24 public.

25 (4-2) The crime victim has the right to submit a  
26 victim statement to the Prisoner Review Board for

1 consideration at an executive clemency hearing as provided  
2 in Section 3-3-13 of the Unified Code of Corrections. A  
3 victim statement may be submitted in writing, on film,  
4 videotape, or other electronic means, or in the form of a  
5 recording prior to a hearing, or orally at a hearing, or by  
6 calling the toll-free number established in subsection (f)  
7 of this Section. Victim statements provided to the Board  
8 shall be confidential and privileged, including any  
9 statements received prior to January 1, 2020 (the  
10 effective date of Public Act 101-288) ~~this amendatory Act~~  
11 ~~of the 101st General Assembly~~, except if the statement was  
12 an oral statement made by the victim at a hearing open to  
13 the public.

14 (5) If a statement is presented under Section 6, the  
15 Prisoner Review Board or Department of Juvenile Justice  
16 shall inform the victim of any order of discharge pursuant  
17 to Section 3-2.5-85 or 3-3-8 of the Unified Code of  
18 Corrections.

19 (6) At the written or oral request of the victim of the  
20 crime for which the prisoner was sentenced or the State's  
21 Attorney of the county where the person seeking parole or  
22 aftercare release was prosecuted, the Prisoner Review  
23 Board or Department of Juvenile Justice shall notify the  
24 victim and the State's Attorney of the county where the  
25 person seeking parole or aftercare release was prosecuted  
26 of the death of the prisoner if the prisoner died while on

1 parole or aftercare release or mandatory supervised  
2 release.

3 (7) When a defendant who has been committed to the  
4 Department of Corrections, the Department of Juvenile  
5 Justice, or the Department of Human Services is released  
6 or discharged and subsequently committed to the Department  
7 of Human Services as a sexually violent person and the  
8 victim had requested to be notified by the releasing  
9 authority of the defendant's discharge, conditional  
10 release, death, or escape from State custody, the  
11 releasing authority shall provide to the Department of  
12 Human Services such information that would allow the  
13 Department of Human Services to contact the victim.

14 (8) When a defendant has been convicted of a sex  
15 offense as defined in Section 2 of the Sex Offender  
16 Registration Act and has been sentenced to the Department  
17 of Corrections or the Department of Juvenile Justice, the  
18 Prisoner Review Board or the Department of Juvenile  
19 Justice shall notify the victim of the sex offense of the  
20 prisoner's eligibility for release on parole, aftercare  
21 release, mandatory supervised release, electronic  
22 detention, work release, international transfer or  
23 exchange, or by the custodian of the discharge of any  
24 individual who was adjudicated a delinquent for a sex  
25 offense from State custody and by the sheriff of the  
26 appropriate county of any such person's final discharge

1 from county custody. The notification shall be made to the  
2 victim at least 30 days, whenever possible, before release  
3 of the sex offender.

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

9 (f) The Prisoner Review Board shall establish a toll-free  
10 number that may be accessed by the crime victim to present a  
11 victim statement to the Board in accordance with paragraphs  
12 (4), (4-1), and (4-2) of subsection (d).

13 (Source: P.A. 100-199, eff. 1-1-18; 100-961, eff. 1-1-19;  
14 101-81, eff. 7-12-19; 101-288, eff. 1-1-20; revised 9-23-19.)

15 (725 ILCS 120/7) (from Ch. 38, par. 1407)

16 Sec. 7. Responsibilities of victims and witnesses. Victims  
17 and witnesses shall have the following responsibilities to aid  
18 in the prosecution of violent crime and to ensure that their  
19 constitutional rights are enforced:

20 (a) To make a timely report of the crime;

21 (b) To cooperate with law enforcement authorities  
22 throughout the investigation, prosecution, and trial;

23 (c) To testify at trial;

24 (c-5) to timely provide information and documentation to  
25 the prosecuting attorney that is related to the assertion of

1 their rights.

2 (d) To notify law enforcement authorities and the  
3 prosecuting attorney of any change of contact information,  
4 including but not limited to, changes of address and contact  
5 information, including but not limited to changes of address,  
6 telephone number, and email address. Law enforcement  
7 authorities and the prosecuting attorney shall maintain the  
8 confidentiality of this information. A court may find that the  
9 failure to notify the prosecuting attorney of any change in  
10 contact information constitutes waiver of a right.

11 (e) A victim who otherwise cooperates with law enforcement  
12 authorities and the prosecuting attorney, but declines to  
13 provide information and documentation to the prosecuting  
14 attorney that is privileged or confidential under the law, or  
15 chooses not to waive privilege, shall still be considered as  
16 cooperating for the purposes of this Act and maintain the  
17 status of victim and the rights afforded to victims under this  
18 Act.

19 (Source: P.A. 99-413, eff. 8-20-15.)

20 (725 ILCS 120/9) (from Ch. 38, par. 1408)

21 Sec. 9. This Act does not limit any rights or  
22 responsibilities otherwise enjoyed by or imposed upon victims  
23 or witnesses of violent crime, ~~nor does it grant any person a~~  
24 ~~cause of action in equity or at law for compensation for~~  
25 ~~damages or attorneys fees.~~ Any act of omission or commission



1 by any law enforcement officer, circuit court clerk, or  
2 State's Attorney, by the Attorney General, Prisoner Review  
3 Board, Department of Corrections, the Department of Juvenile  
4 Justice, Department of Human Services, or other State agency,  
5 or private entity under contract pursuant to Section 8, or by  
6 any employee of any State agency or private entity under  
7 contract pursuant to Section 8 acting in good faith in  
8 rendering crime victim's assistance or otherwise enforcing  
9 this Act shall not impose civil liability upon the individual  
10 or entity or his or her supervisor or employer. This Act grants  
11 a victim a private civil cause of action for injunctive,  
12 declaratory, or mandamus relief when officials or agencies  
13 named in this Section willfully or wantonly violate a victim's  
14 right or rights and the officials or agencies do not correct  
15 their actions and afford the right or rights to the victim when  
16 given written notice and reasonable time to comply. Nothing in  
17 this Act shall create a basis for vacating a conviction or a  
18 ground for relief requested by the defendant in any criminal  
19 case.

20 (Source: P.A. 99-413, eff. 8-20-15.)