



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3537

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
735 ILCS 5/8-802.1	from Ch. 110, par. 8-802.1

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 the victim. 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. Amends the Code of Civil Procedure. Provides that, for purposes of the Section concerning confidentiality of communications to rape crisis personnel, "rape crisis organization" includes, but is not limited to, any rape crisis center certified by a statewide sexual assault coalition.

LRB102 16848 KMF 22254 b

1 AN ACT concerning crime victims.

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.)

21 Section 15. The Code of Civil Procedure is amended by
22 changing Sections 8-802.1 as follows:

23 (735 ILCS 5/8-802.1) (from Ch. 110, par. 8-802.1)

24 Sec. 8-802.1. Confidentiality of Statements Made to Rape

1 Crisis Personnel.

2 (a) Purpose. This Section is intended to protect victims
3 of rape from public disclosure of statements they make in
4 confidence to counselors of organizations established to help
5 them. On or after July 1, 1984, "rape" means an act of forced
6 sexual penetration or sexual conduct, as defined in Section
7 11-0.1 of the Criminal Code of 2012, including acts prohibited
8 under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16
9 of the Criminal Code of 1961 or the Criminal Code of 2012.
10 Because of the fear and stigma that often results from those
11 crimes, many victims hesitate to seek help even where it is
12 available at no cost to them. As a result they not only fail to
13 receive needed medical care and emergency counseling, but may
14 lack the psychological support necessary to report the crime
15 and aid police in preventing future crimes.

16 (b) Definitions. As used in this Act:

17 (1) "Rape crisis organization" means any organization
18 or association a ~~the~~ major purpose of which is providing
19 information, counseling, and psychological support to
20 victims of any or all of the crimes of aggravated criminal
21 sexual assault, predatory criminal sexual assault of a
22 child, criminal sexual assault, sexual relations between
23 siblings, criminal sexual abuse and aggravated criminal
24 sexual abuse. "Rape crisis organization" includes, but is
25 not limited to, any rape crisis center certified by a
26 statewide sexual assault coalition.

1 (2) "Rape crisis counselor" means a person who is a
2 psychologist, social worker, employee, or volunteer in any
3 organization or association defined as a rape crisis
4 organization under this Section, who has undergone 40
5 hours of training and is under the control of a direct
6 services supervisor of a rape crisis organization.

7 (3) "Victim" means a person who is the subject of, or
8 who seeks information, counseling, or advocacy services as
9 a result of an aggravated criminal sexual assault,
10 predatory criminal sexual assault of a child, criminal
11 sexual assault, sexual relations within families, criminal
12 sexual abuse, aggravated criminal sexual abuse, sexual
13 exploitation of a child, indecent solicitation of a child,
14 public indecency, exploitation of a child, promoting
15 juvenile prostitution as described in subdivision (a)(4)
16 of Section 11-14.4, or an attempt to commit any of these
17 offenses.

18 (4) "Confidential communication" means any
19 communication between a victim and a rape crisis counselor
20 in the course of providing information, counseling, and
21 advocacy. The term includes all records kept by the
22 counselor or by the organization in the course of
23 providing services to an alleged victim concerning the
24 alleged victim and the services provided.

25 (c) Waiver of privilege.

26 (1) The confidential nature of the communication is

1 not waived by: the presence of a third person who further
2 expresses the interests of the victim at the time of the
3 communication; group counseling; or disclosure to a third
4 person with the consent of the victim when reasonably
5 necessary to accomplish the purpose for which the
6 counselor is consulted.

7 (2) The confidential nature of counseling records is
8 not waived when: the victim inspects the records; or in
9 the case of a minor child less than 12 years of age, a
10 parent or guardian whose interests are not adverse to the
11 minor inspects the records; or in the case of a minor
12 victim 12 years or older, a parent or guardian whose
13 interests are not adverse to the minor inspects the
14 records with the victim's consent, or in the case of an
15 adult who has a guardian of his or her person, the guardian
16 inspects the records with the victim's consent.

17 (3) When a victim is deceased, the executor or
18 administrator of the victim's estate may waive the
19 privilege established by this Section, unless the executor
20 or administrator has an interest adverse to the victim.

21 (4) A minor victim 12 years of age or older may
22 knowingly waive the privilege established in this Section.
23 When a minor is, in the opinion of the Court, incapable of
24 knowingly waiving the privilege, the parent or guardian of
25 the minor may waive the privilege on behalf of the minor,
26 unless the parent or guardian has been charged with a

1 violent crime against the victim or otherwise has any
2 interest adverse to that of the minor with respect to the
3 waiver of the privilege.

4 (5) An adult victim who has a guardian of his or her
5 person may knowingly waive the privilege established in
6 this Section. When the victim is, in the opinion of the
7 court, incapable of knowingly waiving the privilege, the
8 guardian of the adult victim may waive the privilege on
9 behalf of the victim, unless the guardian has been charged
10 with a violent crime against the victim or otherwise has
11 any interest adverse to the victim with respect to the
12 privilege.

13 (d) Confidentiality. Except as provided in this Act, no
14 rape crisis counselor shall disclose any confidential
15 communication or be examined as a witness in any civil or
16 criminal proceeding as to any confidential communication
17 without the written consent of the victim or a representative
18 of the victim as provided in subparagraph (c).

19 (e) A rape crisis counselor may disclose a confidential
20 communication without the consent of the victim if failure to
21 disclose is likely to result in a clear, imminent risk of
22 serious physical injury or death of the victim or another
23 person. Any rape crisis counselor or rape crisis organization
24 participating in good faith in the disclosing of records and
25 communications under this Act shall have immunity from any
26 liability, civil, criminal, or otherwise that might result

1 from the action. In any proceeding, civil or criminal, arising
2 out of a disclosure under this Section, the good faith of any
3 rape crisis counselor or rape crisis organization who
4 disclosed the confidential communication shall be presumed.

5 (f) Any rape crisis counselor who knowingly discloses any
6 confidential communication in violation of this Act commits a
7 Class C misdemeanor.

8 (Source: P.A. 96-1010, eff. 1-1-11; 96-1551, eff. 7-1-11;
9 97-1150, eff. 1-25-13.)