

# HB3367



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3367

Introduced 2/17/2023, by Rep. Daniel Didech

### SYNOPSIS AS INTRODUCED:

725 ILCS 120/3  
725 ILCS 120/4

from Ch. 38, par. 1403  
from Ch. 38, par. 1404

Amends the Rights of Crime Victims and Witnesses Act. Provides that, except in certain medical examiner or coroner investigations, whenever a person's DNA profile is collected due to the person being a victim of a crime, that specific profile collected in conjunction with that criminal investigation shall not be entered into any DNA database. Defines "DNA database".

LRB103 29296 RLC 55683 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Rights of Crime Victims and Witnesses Act  
5 is amended by changing Sections 3 and 4 as follows:

6 (725 ILCS 120/3) (from Ch. 38, par. 1403)

7 (Text of Section before amendment by P.A. 102-982)

8 Sec. 3. The terms used in this Act shall have the following  
9 meanings:

10 (a) "Crime victim" or "victim" means: (1) any natural  
11 person determined by the prosecutor or the court to have  
12 suffered direct physical or psychological harm as a result of  
13 a violent crime perpetrated or attempted against that person  
14 or direct physical or psychological harm as a result of (i) a  
15 violation of Section 11-501 of the Illinois Vehicle Code or  
16 similar provision of a local ordinance or (ii) a violation of  
17 Section 9-3 of the Criminal Code of 1961 or the Criminal Code  
18 of 2012; (2) in the case of a crime victim who is under 18  
19 years of age or an adult victim who is incompetent or  
20 incapacitated, both parents, legal guardians, foster parents,  
21 or a single adult representative; (3) in the case of an adult  
22 deceased victim, 2 representatives who may be the spouse,  
23 parent, child or sibling of the victim, or the representative

1 of the victim's estate; and (4) an immediate family member of a  
2 victim under clause (1) of this paragraph (a) chosen by the  
3 victim. If the victim is 18 years of age or over, the victim  
4 may choose any person to be the victim's representative. In no  
5 event shall the defendant or any person who aided and abetted  
6 in the commission of the crime be considered a victim, a crime  
7 victim, or a representative of the victim.

8 A board, agency, or other governmental entity making  
9 decisions regarding an offender's release, sentence reduction,  
10 or clemency can determine additional persons are victims for  
11 the purpose of its proceedings.

12 (a-3) "Advocate" means a person whose communications with  
13 the victim are privileged under Section 8-802.1 or 8-802.2 of  
14 the Code of Civil Procedure, or Section 227 of the Illinois  
15 Domestic Violence Act of 1986.

16 (a-5) "Confer" means to consult together, share  
17 information, compare opinions and carry on a discussion or  
18 deliberation.

19 (a-7) "Sentence" includes, but is not limited to, the  
20 imposition of sentence, a request for a reduction in sentence,  
21 parole, mandatory supervised release, aftercare release, early  
22 release, inpatient treatment, outpatient treatment,  
23 conditional release after a finding that the defendant is not  
24 guilty by reason of insanity, clemency, or a proposal that  
25 would reduce the defendant's sentence or result in the  
26 defendant's release. "Early release" refers to a discretionary

1 release.

2 (a-9) "Sentencing" includes, but is not limited to, the  
3 imposition of sentence and a request for a reduction in  
4 sentence, parole, mandatory supervised release, aftercare  
5 release, early release, consideration of inpatient treatment  
6 or outpatient treatment, or conditional release after a  
7 finding that the defendant is not guilty by reason of  
8 insanity.

9 (a-10) "Status hearing" means a hearing designed to  
10 provide information to the court, at which no motion of a  
11 substantive nature and no constitutional or statutory right of  
12 a crime victim is implicated or at issue.

13 (b) "Witness" means: any person who personally observed  
14 the commission of a crime and who will testify on behalf of the  
15 State of Illinois; or a person who will be called by the  
16 prosecution to give testimony establishing a necessary nexus  
17 between the offender and the violent crime.

18 (c) "Violent crime" means: (1) any felony in which force  
19 or threat of force was used against the victim; (2) any offense  
20 involving sexual exploitation, sexual conduct, or sexual  
21 penetration; (3) a violation of Section 11-20.1, 11-20.1B,  
22 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the  
23 Criminal Code of 2012; (4) domestic battery or stalking; (5)  
24 violation of an order of protection, a civil no contact order,  
25 or a stalking no contact order; (6) any misdemeanor which  
26 results in death or great bodily harm to the victim; or (7) any

1 violation of Section 9-3 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012, or Section 11-501 of the Illinois  
3 Vehicle Code, or a similar provision of a local ordinance, if  
4 the violation resulted in personal injury or death. "Violent  
5 crime" includes any action committed by a juvenile that would  
6 be a violent crime if committed by an adult. For the purposes  
7 of this paragraph, "personal injury" shall include any Type A  
8 injury as indicated on the traffic accident report completed  
9 by a law enforcement officer that requires immediate  
10 professional attention in either a doctor's office or medical  
11 facility. A type A injury shall include severely bleeding  
12 wounds, distorted extremities, and injuries that require the  
13 injured party to be carried from the scene.

14 (d) (Blank).

15 (e) "Court proceedings" includes, but is not limited to,  
16 the preliminary hearing, any post-arraignment hearing the  
17 effect of which may be the release of the defendant from  
18 custody or to alter the conditions of bond, change of plea  
19 hearing, the trial, any pretrial or post-trial hearing,  
20 sentencing, any oral argument or hearing before an Illinois  
21 appellate court, any hearing under the Mental Health and  
22 Developmental Disabilities Code or Section 5-2-4 of the  
23 Unified Code of Corrections after a finding that the defendant  
24 is not guilty by reason of insanity, including a hearing for  
25 conditional release, any hearing related to a modification of  
26 sentence, probation revocation hearing, aftercare release or

1 parole hearings, post-conviction relief proceedings, habeas  
2 corpus proceedings and clemency proceedings related to the  
3 defendant's conviction or sentence. For purposes of the  
4 victim's right to be present, "court proceedings" does not  
5 include (1) hearings under Section 109-1 of the Code of  
6 Criminal Procedure of 1963, (2) grand jury proceedings, (3)  
7 status hearings, or (4) the issuance of an order or decision of  
8 an Illinois court that dismisses a charge, reverses a  
9 conviction, reduces a sentence, or releases an offender under  
10 a court rule.

11 (f) "Concerned citizen" includes relatives of the victim,  
12 friends of the victim, witnesses to the crime, or any other  
13 person associated with the victim or prisoner.

14 (g) "Victim's attorney" means an attorney retained by the  
15 victim for the purposes of asserting the victim's  
16 constitutional and statutory rights. An attorney retained by  
17 the victim means an attorney who is hired to represent the  
18 victim at the victim's expense or an attorney who has agreed to  
19 provide pro bono representation. Nothing in this statute  
20 creates a right to counsel at public expense for a victim.

21 (h) "Support person" means a person chosen by a victim to  
22 be present at court proceedings.

23 (Source: P.A. 102-1104, eff. 1-1-23.)

24 (Text of Section after amendment by P.A. 102-982)

25 Sec. 3. The terms used in this Act shall have the following

1 meanings:

2 (a) "Crime victim" or "victim" means: (1) any natural  
3 person determined by the prosecutor or the court to have  
4 suffered direct physical or psychological harm as a result of  
5 a violent crime perpetrated or attempted against that person  
6 or direct physical or psychological harm as a result of (i) a  
7 violation of Section 11-501 of the Illinois Vehicle Code or  
8 similar provision of a local ordinance or (ii) a violation of  
9 Section 9-3 of the Criminal Code of 1961 or the Criminal Code  
10 of 2012; (2) in the case of a crime victim who is under 18  
11 years of age or an adult victim who is incompetent or  
12 incapacitated, both parents, legal guardians, foster parents,  
13 or a single adult representative; (3) in the case of an adult  
14 deceased victim, 2 representatives who may be the spouse,  
15 parent, child or sibling of the victim, or the representative  
16 of the victim's estate; and (4) an immediate family member of a  
17 victim under clause (1) of this paragraph (a) chosen by the  
18 victim. If the victim is 18 years of age or over, the victim  
19 may choose any person to be the victim's representative. In no  
20 event shall the defendant or any person who aided and abetted  
21 in the commission of the crime be considered a victim, a crime  
22 victim, or a representative of the victim.

23 A board, agency, or other governmental entity making  
24 decisions regarding an offender's release, sentence reduction,  
25 or clemency can determine additional persons are victims for  
26 the purpose of its proceedings.

1 (a-3) "Advocate" means a person whose communications with  
2 the victim are privileged under Section 8-802.1 or 8-802.2 of  
3 the Code of Civil Procedure, or Section 227 of the Illinois  
4 Domestic Violence Act of 1986.

5 (a-5) "Confer" means to consult together, share  
6 information, compare opinions and carry on a discussion or  
7 deliberation.

8 "DNA database" means a collection of DNA profiles from  
9 forensic casework or specimens from anonymous, identified, and  
10 unidentified sources that are created to search DNA records  
11 against each other to develop investigative leads among  
12 forensic cases.

13 (a-7) "Sentence" includes, but is not limited to, the  
14 imposition of sentence, a request for a reduction in sentence,  
15 parole, mandatory supervised release, aftercare release, early  
16 release, inpatient treatment, outpatient treatment,  
17 conditional release after a finding that the defendant is not  
18 guilty by reason of insanity, clemency, or a proposal that  
19 would reduce the defendant's sentence or result in the  
20 defendant's release. "Early release" refers to a discretionary  
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23 imposition of sentence and a request for a reduction in  
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1 finding that the defendant is not guilty by reason of  
2 insanity.

3 (a-10) "Status hearing" means a hearing designed to  
4 provide information to the court, at which no motion of a  
5 substantive nature and no constitutional or statutory right of  
6 a crime victim is implicated or at issue.

7 (b) "Witness" means: any person who personally observed  
8 the commission of a crime and who will testify on behalf of the  
9 State of Illinois; or a person who will be called by the  
10 prosecution to give testimony establishing a necessary nexus  
11 between the offender and the violent crime.

12 (c) "Violent crime" means: (1) any felony in which force  
13 or threat of force was used against the victim; (2) any offense  
14 involving sexual exploitation, sexual conduct, or sexual  
15 penetration; (3) a violation of Section 11-20.1, 11-20.1B,  
16 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the  
17 Criminal Code of 2012; (4) domestic battery or stalking; (5)  
18 violation of an order of protection, a civil no contact order,  
19 or a stalking no contact order; (6) any misdemeanor which  
20 results in death or great bodily harm to the victim; or (7) any  
21 violation of Section 9-3 of the Criminal Code of 1961 or the  
22 Criminal Code of 2012, or Section 11-501 of the Illinois  
23 Vehicle Code, or a similar provision of a local ordinance, if  
24 the violation resulted in personal injury or death. "Violent  
25 crime" includes any action committed by a juvenile that would  
26 be a violent crime if committed by an adult. For the purposes

1 of this paragraph, "personal injury" shall include any Type A  
2 injury as indicated on the traffic crash report completed by a  
3 law enforcement officer that requires immediate professional  
4 attention in either a doctor's office or medical facility. A  
5 type A injury shall include severely bleeding wounds,  
6 distorted extremities, and injuries that require the injured  
7 party to be carried from the scene.

8 (d) (Blank).

9 (e) "Court proceedings" includes, but is not limited to,  
10 the preliminary hearing, any post-arraignment hearing the  
11 effect of which may be the release of the defendant from  
12 custody or to alter the conditions of bond, change of plea  
13 hearing, the trial, any pretrial or post-trial hearing,  
14 sentencing, any oral argument or hearing before an Illinois  
15 appellate court, any hearing under the Mental Health and  
16 Developmental Disabilities Code or Section 5-2-4 of the  
17 Unified Code of Corrections after a finding that the defendant  
18 is not guilty by reason of insanity, including a hearing for  
19 conditional release, any hearing related to a modification of  
20 sentence, probation revocation hearing, aftercare release or  
21 parole hearings, post-conviction relief proceedings, habeas  
22 corpus proceedings and clemency proceedings related to the  
23 defendant's conviction or sentence. For purposes of the  
24 victim's right to be present, "court proceedings" does not  
25 include (1) grand jury proceedings, (2) status hearings, or  
26 (3) the issuance of an order or decision of an Illinois court

1 that dismisses a charge, reverses a conviction, reduces a  
2 sentence, or releases an offender under a court rule.

3 (f) "Concerned citizen" includes relatives of the victim,  
4 friends of the victim, witnesses to the crime, or any other  
5 person associated with the victim or prisoner.

6 (g) "Victim's attorney" means an attorney retained by the  
7 victim for the purposes of asserting the victim's  
8 constitutional and statutory rights. An attorney retained by  
9 the victim means an attorney who is hired to represent the  
10 victim at the victim's expense or an attorney who has agreed to  
11 provide pro bono representation. Nothing in this statute  
12 creates a right to counsel at public expense for a victim.

13 (h) "Support person" means a person chosen by a victim to  
14 be present at court proceedings.

15 (Source: P.A. 102-982, eff. 7-1-23; 102-1104, eff. 1-1-23.)

16 (725 ILCS 120/4) (from Ch. 38, par. 1404)

17 Sec. 4. Rights of crime victims.

18 (a) Crime victims shall have the following rights:

19 (1) The right to be treated with fairness and respect  
20 for their dignity and privacy and to be free from  
21 harassment, intimidation, and abuse throughout the  
22 criminal justice process.

23 (1.5) The right to notice and to a hearing before a  
24 court ruling on a request for access to any of the victim's  
25 records, information, or communications which are

1 privileged or confidential by law.

2 (1.6) Except as otherwise provided in Section 9.5 of  
3 the Criminal Identification Act or Section 3-3013 of the  
4 Counties Code, whenever a person's DNA profile is  
5 collected due to the person being a victim of a crime, that  
6 specific profile collected in conjunction with that  
7 criminal investigation shall not be entered into any DNA  
8 database.

9 (2) The right to timely notification of all court  
10 proceedings.

11 (3) The right to communicate with the prosecution.

12 (4) The right to be heard at any post-arraignment  
13 court proceeding in which a right of the victim is at issue  
14 and any court proceeding involving a post-arraignment  
15 release decision, plea, or sentencing.

16 (5) The right to be notified of the conviction, the  
17 sentence, the imprisonment and the release of the accused.

18 (6) The right to the timely disposition of the case  
19 following the arrest of the accused.

20 (7) The right to be reasonably protected from the  
21 accused through the criminal justice process.

22 (7.5) The right to have the safety of the victim and  
23 the victim's family considered in determining whether to  
24 release the defendant and setting conditions of release  
25 after arrest and conviction.

26 (8) The right to be present at the trial and all other

1 court proceedings on the same basis as the accused, unless  
2 the victim is to testify and the court determines that the  
3 victim's testimony would be materially affected if the  
4 victim hears other testimony at the trial.

5 (9) The right to have present at all court  
6 proceedings, including proceedings under the Juvenile  
7 Court Act of 1987, subject to the rules of evidence, an  
8 advocate and other support person of the victim's choice.

9 (10) The right to restitution.

10 (b) Any law enforcement agency that investigates an  
11 offense committed in this State shall provide a crime victim  
12 with a written statement and explanation of the rights of  
13 crime victims under this amendatory Act of the 99th General  
14 Assembly within 48 hours of law enforcement's initial contact  
15 with a victim. The statement shall include information about  
16 crime victim compensation, including how to contact the Office  
17 of the Illinois Attorney General to file a claim, and  
18 appropriate referrals to local and State programs that provide  
19 victim services. The content of the statement shall be  
20 provided to law enforcement by the Attorney General. Law  
21 enforcement shall also provide a crime victim with a sign-off  
22 sheet that the victim shall sign and date as an  
23 acknowledgement that he or she has been furnished with  
24 information and an explanation of the rights of crime victims  
25 and compensation set forth in this Act.

26 (b-5) Upon the request of the victim, the law enforcement

1 agency having jurisdiction shall provide a free copy of the  
2 police report concerning the victim's incident, as soon as  
3 practicable, but in no event later than 5 business days from  
4 the request.

5 (c) The Clerk of the Circuit Court shall post the rights of  
6 crime victims set forth in Article I, Section 8.1(a) of the  
7 Illinois Constitution and subsection (a) of this Section  
8 within 3 feet of the door to any courtroom where criminal  
9 proceedings are conducted. The clerk may also post the rights  
10 in other locations in the courthouse.

11 (d) At any point, the victim has the right to retain a  
12 victim's attorney who may be present during all stages of any  
13 interview, investigation, or other interaction with  
14 representatives of the criminal justice system. Treatment of  
15 the victim should not be affected or altered in any way as a  
16 result of the victim's decision to exercise this right.

17 (Source: P.A. 100-1087, eff. 1-1-19; 101-652, eff. 1-1-23.)

18 Section 95. No acceleration or delay. Where this Act makes  
19 changes in a statute that is represented in this Act by text  
20 that is not yet or no longer in effect (for example, a Section  
21 represented by multiple versions), the use of that text does  
22 not accelerate or delay the taking effect of (i) the changes  
23 made by this Act or (ii) provisions derived from any other  
24 Public Act.