



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0046

Introduced 1/19/2007, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

725 ILCS 145/2.3	from Ch. 70, par. 402.3
725 ILCS 145/2.4 new	
725 ILCS 145/3	from Ch. 70, par. 403
735 ILCS 5/2-2001	
735 ILCS 5/4-101	from Ch. 110, par. 4-101

Amends the Criminal Victims' Asset Discovery Act. Provides that the Act applies to persons convicted of violent crimes (rather than first degree murder, a Class X felony, or aggravated kidnapping). Amends the Code of Civil Procedure to make conforming changes. Provides that a victim of a violent crime (rather than first degree murder, a Class X felony, or aggravated kidnapping) shall have a cause of action against a defendant who has been convicted of a violent crime, or found not guilty by reason of insanity or guilty but mentally ill of a violent crime, to recover damages suffered by the victim of the violent crime.

LRB095 03664 RLC 23690 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 Criminal Victims' Asset Discovery Act is
5 amended by changing Sections 2.3 and 3 and by adding Section
6 2.4 as follows:

7 (725 ILCS 145/2.3) (from Ch. 70, par. 402.3)

8 Sec. 2.3. "Victim" means a person killed or physically
9 injured in this State as a result of a violent crime
10 perpetrated or attempted against that person.

11 (Source: P.A. 81-906.)

12 (725 ILCS 145/2.4 new)

13 Sec. 2.4. Violent crime. "Violent crime" has the meaning
14 ascribed to it in Section 3 of the Rights of Crime Victims and
15 Witnesses Act.

16 (725 ILCS 145/3) (from Ch. 70, par. 403)

17 Sec. 3. Deposition; assets of criminal.

18 (a) Any person who has been convicted of a violent crime
19 ~~first degree murder, a Class X felony, or aggravated kidnapping~~
20 ~~in this State,~~ or who has been found not guilty by reason of
21 insanity or guilty but mentally ill of a violent crime ~~first~~

1 ~~degree murder, a Class X felony, or aggravated kidnapping,~~
2 involving a victim as described in Section 2.3, or any other
3 person who has reasonable grounds to know of any assets of the
4 person convicted of a violent crime ~~first degree murder, a~~
5 ~~Class X felony, or aggravated kidnapping,~~ or who has been found
6 not guilty by reason of insanity or guilty but mentally ill of
7 a violent crime ~~first degree murder, a Class X felony, or~~
8 ~~aggravated kidnapping,~~ may be deposed by the victim or the
9 victim's legal representative concerning those assets.

10 (b) Upon written request of the victim, the Department of
11 Corrections shall notify the victim of any assets of the person
12 convicted of a violent crime ~~first degree murder, a Class X~~
13 ~~felony, or aggravated kidnapping,~~ or found not guilty by reason
14 of insanity or guilty but mentally ill of a violent crime ~~first~~
15 ~~degree murder, a Class X felony, or aggravated kidnapping,~~
16 known by the Department.

17 (c) The victim may seek attachment against the property of
18 the person convicted of first degree murder, a violent crime
19 ~~Class X felony, or aggravated kidnapping,~~ or found not guilty
20 by reason of insanity or guilty but mentally ill of a violent
21 crime ~~first degree murder, a Class X felony, or aggravated~~
22 ~~kidnapping,~~ against him or her.

23 (Source: P.A. 87-1157; 88-378.)

24 Section 10. The Code of Civil Procedure is amended by
25 changing Sections 2-2001 and 4-101 as follows:

1 (735 ILCS 5/2-2001)

2 Sec. 2-2001. Crime victims. A victim of a violent crime as
3 defined in Section 2.3 of the Criminal Victims' Asset Discovery
4 Act shall have a cause of action against a defendant who has
5 been convicted of a violent crime, or found not guilty by
6 reason of insanity or guilty but mentally ill of a violent
7 crime, to recover damages suffered by the victim of the violent
8 crime.

9 The Civil Practice Law shall apply in the proceedings, and
10 the case shall be tried as in other civil cases. If the victim
11 is deceased, the next of kin may maintain the action.

12 (Source: P.A. 88-378.)

13 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

14 Sec. 4-101. Cause. In any court having competent
15 jurisdiction, a creditor having a money claim, whether
16 liquidated or unliquidated, and whether sounding in contract or
17 tort, or based upon a statutory cause of action created by law
18 in favor of the People of the State of Illinois, or any agency
19 of the State, may have an attachment against the property of
20 his or her debtor, or that of any one or more of several
21 debtors, either at the time of commencement of the action or
22 thereafter, when the claim exceeds \$20, in any one of the
23 following cases:

24 1. Where the debtor is not a resident of this State.

1 2. When the debtor conceals himself or herself or
2 stands in defiance of an officer, so that process cannot be
3 served upon him or her.

4 3. Where the debtor has departed from this State with
5 the intention of having his or her effects removed from
6 this State.

7 4. Where the debtor is about to depart from this State
8 with the intention of having his or her effects removed
9 from this State.

10 5. Where the debtor is about to remove his or her
11 property from this State to the injury of such creditor.

12 6. Where the debtor has within 2 years preceding the
13 filing of the affidavit required, fraudulently conveyed or
14 assigned his or her effects, or a part thereof, so as to
15 hinder or delay his or her creditors.

16 7. Where the debtor has, within 2 years prior to the
17 filing of such affidavit, fraudulently concealed or
18 disposed of his or her property so as to hinder or delay
19 his or her creditors.

20 8. Where the debtor is about fraudulently to conceal,
21 assign, or otherwise dispose of his or her property or
22 effects, so as to hinder or delay his or her creditors.

23 9. Where the debt sued for was fraudulently contracted
24 on the part of the debtor. The statements of the debtor,
25 his or her agent or attorney, which constitute the fraud,
26 shall have been reduced to writing, and his or her

1 signature attached thereto, by himself or herself, agent or
2 attorney.

3 10. When the debtor is a person convicted of a violent
4 crime ~~first degree murder, a Class X felony, or aggravated~~
5 ~~kidnapping~~, or found not guilty by reason of insanity or
6 guilty but mentally ill of a violent crime ~~first degree~~
7 ~~murder, a Class X felony, or aggravated kidnapping~~, against
8 the creditor and that crime makes the creditor a "victim"
9 under the Criminal Victims' Asset Discovery Act.

10 11. When the debtor is referred by the Department of
11 Corrections to the Attorney General under Section 3-7-6 of
12 the Unified Code of Corrections to recover the expenses
13 incurred as a result of that debtor's cost of
14 incarceration.

15 (Source: P.A. 93-508, eff. 1-1-04.)