



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5947

Introduced 2/10/2010, by Rep. Robert F. Flider

#### SYNOPSIS AS INTRODUCED:

725 ILCS 120/3	from Ch. 38, par. 1403
725 ILCS 120/4.5	
730 ILCS 5/3-3-13	from Ch. 38, par. 1003-3-13

Amends the Rights of Crime Victims and Witnesses Act. Defines "crime victim" to include the spouse, parent, child, or sibling, or any combination of such persons, of a person killed as a result of a violent crime perpetrated against the person killed. Provides that the office of the State's Attorney shall, at the request of the spouse, parent, child, or sibling of a person killed as the result of a homicide, file a complaint and apply to the circuit court for a temporary restraining order, and such circuit court shall upon hearing grant a temporary restraining order or a preliminary or permanent injunction, without bond, restraining the perpetrator of the homicide from contacting, regardless of the purpose of the contact, the spouse, parent, child, or sibling of the person killed as the result of a homicide. Amends the Unified Code of Corrections. Provides that any written or electronically transmitted recommendation by the Board to the Governor or his or her agent or employee concerning a petition for a pardon, commutation, or reprieve shall be made available to the public within 24 hours after transmission.

LRB096 19640 RLC 36410 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 is  
5 amended by changing Sections 3 and 4.5 as follows:

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

7 Sec. 3. The terms used in this Act, unless the context  
8 clearly requires otherwise, shall have the following meanings:

9 (a) "Crime victim" and "victim" mean (1) a person  
10 physically injured in this State as a result of a violent crime  
11 perpetrated or attempted against that person or (2) a person  
12 who suffers injury to or loss of property as a result of a  
13 violent crime perpetrated or attempted against that person or  
14 (3) ~~a single representative who may be~~ the spouse, parent,  
15 child or sibling, or any combination of such persons, of a  
16 person killed as a result of a violent crime perpetrated  
17 against the person killed or the spouse, parent, child or  
18 sibling of any person granted rights under this Act who is  
19 physically or mentally incapable of exercising such rights,  
20 except where the spouse, parent, child or sibling is also the  
21 defendant or prisoner or (4) any person against whom a violent  
22 crime has been committed or (5) any person who has suffered  
23 personal injury as a result of a violation of Section 11-501 of

1 the Illinois Vehicle Code, or of a similar provision of a local  
2 ordinance, or of Section 9-3 of the Criminal Code of 1961, as  
3 amended or (6) in proceedings under the Juvenile Court Act of  
4 1987, both parents, legal guardians, foster parents, or a  
5 single adult representative of a minor or disabled person who  
6 is a crime victim.

7 (b) "Witness" means any person who personally observed the  
8 commission of a violent crime and who will testify on behalf of  
9 the State of Illinois in the criminal prosecution of the  
10 violent crime.

11 (c) "Violent Crime" means any felony in which force or  
12 threat of force was used against the victim, or any offense  
13 involving sexual exploitation, sexual conduct or sexual  
14 penetration, or a violation of Section 11-20.1 or 11-20.3 of  
15 the Criminal Code of 1961, domestic battery, violation of an  
16 order of protection, stalking, or any misdemeanor which results  
17 in death or great bodily harm to the victim or any violation of  
18 Section 9-3 of the Criminal Code of 1961, or Section 11-501 of  
19 the Illinois Vehicle Code, or a similar provision of a local  
20 ordinance, if the violation resulted in personal injury or  
21 death, and includes any action committed by a juvenile that  
22 would be a violent crime if committed by an adult. For the  
23 purposes of this paragraph, "personal injury" shall include any  
24 Type A injury as indicated on the traffic accident report  
25 completed by a law enforcement officer that requires immediate  
26 professional attention in either a doctor's office or medical

1 facility. A type A injury shall include severely bleeding  
2 wounds, distorted extremities, and injuries that require the  
3 injured party to be carried from the scene.

4 (d) "Sentencing Hearing" means any hearing where a sentence  
5 is imposed by the court on a convicted defendant and includes  
6 hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2  
7 and 5-7-7 of the Unified Code of Corrections except those cases  
8 in which both parties have agreed to the imposition of a  
9 specific sentence.

10 (e) "Court proceedings" includes the preliminary hearing,  
11 any hearing the effect of which may be the release of the  
12 defendant from custody or to alter the conditions of bond, the  
13 trial, sentencing hearing, notice of appeal, any modification  
14 of sentence, probation revocation hearings or parole hearings.

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

18 (Source: P.A. 95-591, eff. 6-1-08; 95-876, eff. 8-21-08;  
19 96-292, eff. 1-1-10; 96-875, eff. 1-22-10.)

20 (725 ILCS 120/4.5)

21 Sec. 4.5. Procedures to implement the rights of crime  
22 victims. To afford crime victims their rights, law enforcement,  
23 prosecutors, judges and corrections will provide information,  
24 as appropriate of the following procedures:

25 (a) At the request of the crime victim, law enforcement

1 authorities investigating the case shall provide notice of the  
2 status of the investigation, except where the State's Attorney  
3 determines that disclosure of such information would  
4 unreasonably interfere with the investigation, until such time  
5 as the alleged assailant is apprehended or the investigation is  
6 closed.

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

8 (1) shall provide notice of the filing of information,  
9 the return of an indictment by which a prosecution for any  
10 violent crime is commenced, or the filing of a petition to  
11 adjudicate a minor as a delinquent for a violent crime;

12 (2) shall provide notice of the date, time, and place  
13 of trial;

14 (3) or victim advocate personnel shall provide  
15 information of social services and financial assistance  
16 available for victims of crime, including information of  
17 how to apply for these services and assistance;

18 (4) shall assist in having any stolen or other personal  
19 property held by law enforcement authorities for  
20 evidentiary or other purposes returned as expeditiously as  
21 possible, pursuant to the procedures set out in Section  
22 115-9 of the Code of Criminal Procedure of 1963;

23 (5) or victim advocate personnel shall provide  
24 appropriate employer intercession services to ensure that  
25 employers of victims will cooperate with the criminal  
26 justice system in order to minimize an employee's loss of

1 pay and other benefits resulting from court appearances;

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

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

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

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

1 victim were a named party in the case;

2 (10) at the sentencing hearing shall make a good faith  
3 attempt to explain the minimum amount of time during which  
4 the defendant may actually be physically imprisoned. The  
5 Office of the State's Attorney shall further notify the  
6 crime victim of the right to request from the Prisoner  
7 Review Board information concerning the release of the  
8 defendant under subparagraph (d) (1) of this Section;

9 (11) shall request restitution at sentencing and shall  
10 consider restitution in any plea negotiation, as provided  
11 by law; ~~and~~

12 (12) shall, upon the court entering a verdict of not  
13 guilty by reason of insanity, inform the victim of the  
14 notification services available from the Department of  
15 Human Services, including the statewide telephone number,  
16 under subparagraph (d) (2) of this Section; and -

17 (13) shall, at the request of the spouse, parent,  
18 child, or sibling of a person killed as the result of a  
19 homicide, file a complaint and apply to the circuit court  
20 for a temporary restraining order, and such circuit court  
21 shall upon hearing grant a temporary restraining order or a  
22 preliminary or permanent injunction, without bond,  
23 restraining the perpetrator of the homicide from  
24 contacting, regardless of the purpose of the contact, the  
25 spouse, parent, child, or sibling of the person killed as  
26 the result of a homicide.

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

3 (1) provide notice a reasonable time in advance of the  
4 following court proceedings: preliminary hearing, any  
5 hearing the effect of which may be the release of defendant  
6 from custody, or to alter the conditions of bond and the  
7 sentencing hearing. The crime victim shall also be notified  
8 of the cancellation of the court proceeding in sufficient  
9 time, wherever possible, to prevent an unnecessary  
10 appearance in court;

11 (2) provide notice within a reasonable time after  
12 receipt of notice from the custodian, of the release of the  
13 defendant on bail or personal recognizance or the release  
14 from detention of a minor who has been detained for a  
15 violent crime;

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

19 (4) where practical, consult with the crime victim  
20 before the Office of the State's Attorney makes an offer of  
21 a plea bargain to the defendant or enters into negotiations  
22 with the defendant concerning a possible plea agreement,  
23 and shall consider the written victim impact statement, if  
24 prepared prior to entering into a plea agreement;

25 (5) provide notice of the ultimate disposition of the  
26 cases arising from an indictment or an information, or a



1 petition to have a juvenile adjudicated as a delinquent for  
2 a violent crime;

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

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

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

15 (d) (1) The Prisoner Review Board shall inform a victim or  
16 any other concerned citizen, upon written request, of the  
17 prisoner's release on parole, mandatory supervised release,  
18 electronic detention, work release, transfer from a facility of  
19 the Department of Correction, international transfer or  
20 exchange, or by the custodian of the discharge of any  
21 individual who was adjudicated a delinquent for a violent crime  
22 from State custody and by the sheriff of the appropriate county  
23 of any such person's final discharge from county custody. The  
24 Department of Corrections shall inform the Prisoner Review  
25 Board of the transfer of a prisoner from a facility of the  
26 Department. The Prisoner Review Board, upon written request,

1 shall provide to a victim or any other concerned citizen a  
2 recent photograph of any person convicted of a felony, upon his  
3 or her release from custody. The Prisoner Review Board, upon  
4 written request, shall inform a victim or any other concerned  
5 citizen when feasible at least 7 days prior to the prisoner's  
6 release on furlough of the times and dates of such furlough.  
7 Upon written request by the victim or any other concerned  
8 citizen, the State's Attorney shall notify the person once of  
9 the times and dates of release of a prisoner sentenced to  
10 periodic imprisonment. Notification shall be based on the most  
11 recent information as to victim's or other concerned citizen's  
12 residence or other location available to the notifying  
13 authority.

14 (2) When the defendant has been committed to the Department  
15 of Human Services pursuant to Section 5-2-4 or any other  
16 provision of the Unified Code of Corrections, the victim may  
17 request to be notified by the releasing authority of the  
18 defendant's furloughs, temporary release, or final discharge  
19 from State custody. The Department of Human Services shall  
20 establish and maintain a statewide telephone number to be used  
21 by victims to make notification requests under these provisions  
22 and shall publicize this telephone number on its website and to  
23 the State's Attorney of each county.

24 (3) In the event of an escape from State custody, the  
25 Department of Corrections or the Department of Juvenile Justice  
26 immediately shall notify the Prisoner Review Board of the

1 escape and the Prisoner Review Board shall notify the victim.  
2 The notification shall be based upon the most recent  
3 information as to the victim's residence or other location  
4 available to the Board. When no such information is available,  
5 the Board shall make all reasonable efforts to obtain the  
6 information and make the notification. When the escapee is  
7 apprehended, the Department of Corrections or the Department of  
8 Juvenile Justice immediately shall notify the Prisoner Review  
9 Board and the Board shall notify the victim.

10 (4) The victim of the crime for which the prisoner has been  
11 sentenced shall receive reasonable written notice not less than  
12 30 days prior to the parole interview and may submit, in  
13 writing, on film, videotape or other electronic means or in the  
14 form of a recording or in person at the parole interview or if  
15 a victim of a violent crime, by calling the toll-free number  
16 established in subsection (f) of this Section, information for  
17 consideration by the Prisoner Review Board. The victim shall be  
18 notified within 7 days after the prisoner has been granted  
19 parole and shall be informed of the right to inspect the  
20 registry of parole decisions, established under subsection (g)  
21 of Section 3-3-5 of the Unified Code of Corrections. The  
22 provisions of this paragraph (4) are subject to the Open Parole  
23 Hearings Act.

24 (5) If a statement is presented under Section 6, the  
25 Prisoner Review Board shall inform the victim of any order of  
26 discharge entered by the Board pursuant to Section 3-3-8 of the

1 Unified Code of Corrections.

2 (6) At the written request of the victim of the crime for  
3 which the prisoner was sentenced or the State's Attorney of the  
4 county where the person seeking parole was prosecuted, the  
5 Prisoner Review Board shall notify the victim and the State's  
6 Attorney of the county where the person seeking parole was  
7 prosecuted of the death of the prisoner if the prisoner died  
8 while on parole or mandatory supervised release.

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

19 (8) When a defendant has been convicted of a sex offense as  
20 defined in Section 2 of the Sex Offender Registration Act and  
21 has been sentenced to the Department of Corrections or the  
22 Department of Juvenile Justice, the Prisoner Review Board shall  
23 notify the victim of the sex offense of the prisoner's  
24 eligibility for release on parole, mandatory supervised  
25 release, electronic detention, work release, international  
26 transfer or exchange, or by the custodian of the discharge of

1 any individual who was adjudicated a delinquent for a sex  
2 offense from State custody and by the sheriff of the  
3 appropriate county of any such person's final discharge from  
4 county custody. The notification shall be made to the victim at  
5 least 30 days, whenever possible, before release of the sex  
6 offender.

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

12 (f) To permit a victim of a violent crime to provide  
13 information to the Prisoner Review Board for consideration by  
14 the Board at a parole hearing of a person who committed the  
15 crime against the victim in accordance with clause (d)(4) of  
16 this Section or at a proceeding to determine the conditions of  
17 mandatory supervised release of a person sentenced to a  
18 determinate sentence or at a hearing on revocation of mandatory  
19 supervised release of a person sentenced to a determinate  
20 sentence, the Board shall establish a toll-free number that may  
21 be accessed by the victim of a violent crime to present that  
22 information to the Board.

23 (Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09;  
24 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff. 8-11-09;  
25 96-875, eff. 1-22-10.)

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

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

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

5 (a) Petitions seeking pardon, commutation, or reprieve  
6 shall be addressed to the Governor and filed with the Prisoner  
7 Review Board. The petition shall be in writing and signed by  
8 the person under conviction or by a person on his behalf. It  
9 shall contain a brief history of the case, the reasons for  
10 seeking executive clemency, and other relevant information the  
11 Board may require.

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

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

1 (c) The Board shall, if requested and upon due notice, give  
2 a hearing to each application, allowing representation by  
3 counsel, if desired, after which it shall confidentially advise  
4 the Governor by a written report of its recommendations which  
5 shall be determined by majority vote. The Board shall meet to  
6 consider such petitions no less than 4 times each year.

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

12 (c-5) Any written or electronically transmitted  
13 recommendation by the Board to the Governor or his or her agent  
14 or employee concerning a petition for a pardon, commutation, or  
15 reprieve shall be made available to the public within 24 hours  
16 after transmission.

17 (d) The Governor shall decide each application and  
18 communicate his decision to the Board which shall notify the  
19 petitioner.

20 In the event a petitioner who has been convicted of a Class  
21 X felony is granted a release, after the Governor has  
22 communicated such decision to the Board, the Board shall give  
23 written notice to the Sheriff of the county from which the  
24 offender was sentenced if such sheriff has requested that such  
25 notice be given on a continuing basis. In cases where arrest of  
26 the offender or the commission of the offense took place in any

1 municipality with a population of more than 10,000 persons, the  
2 Board shall also give written notice to the proper law  
3 enforcement agency for said municipality which has requested  
4 notice on a continuing basis.

5 (e) Nothing in this Section shall be construed to limit the  
6 power of the Governor under the constitution to grant a  
7 reprieve, commutation of sentence, or pardon.

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