

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 Mental Health and Developmental
5 Disabilities Code is amended by changing Section 3-800 as
6 follows:

7 (405 ILCS 5/3-800) (from Ch. 91 1/2, par. 3-800)

8 Sec. 3-800. (a) Unless otherwise indicated, court hearings
9 under this Chapter shall be held pursuant to this Article.
10 Hearings shall be held in such quarters as the court directs.
11 To the extent practical, hearings shall be held in the mental
12 health facility where the respondent is hospitalized. Any party
13 may request a change of venue or transfer to any other county
14 because of the convenience of parties or witnesses or the
15 condition of the respondent. The respondent may request to have
16 the proceedings transferred to the county of his residence.

17 (b) If the court grants a continuance on its own motion or
18 upon the motion of one of the parties, the respondent may
19 continue to be detained pending further order of the court.
20 Such continuance shall not extend beyond 15 days except to the
21 extent that continuances are requested by the respondent.

22 (c) Court hearings under this Chapter, including hearings
23 under Section 2-107.1, shall be open to the press and public

1 unless the respondent or some other party requests that they be
2 closed. The court may also indicate its intention to close a
3 hearing, including when it determines that the respondent may
4 be unable to make a reasoned decision to request that the
5 hearing be closed. A request that a hearing be closed shall be
6 granted unless there is an objection to closing the hearing by
7 a party or any other person. If an objection is made, the court
8 shall not close the hearing unless, following a hearing, it
9 determines that the patient's interest in having the hearing
10 closed is compelling. The court shall support its determination
11 with written findings of fact and conclusions of law. The court
12 shall not close the hearing if the respondent objects to its
13 closure. Whenever a court determines that a hearing shall be
14 closed, access to the records of the hearing, including but not
15 limited to transcripts and pleadings, shall be limited to the
16 parties involved in the hearing, court personnel, and any
17 person or agency providing mental health services that are the
18 subject of the hearing. Access may also be granted, however,
19 pursuant to the provisions of the Mental Health and
20 Developmental Disabilities Confidentiality Act.

21 (d) The provisions of subsection (a-5) of Section 6 of the
22 Rights of Crime Victims and Witnesses Act shall apply to the
23 initial commitment hearing, as provided under Section 5-2-4 of
24 the Unified Code of Corrections, for a respondent found not
25 guilty by reason of insanity of a violent crime in a criminal
26 proceeding and the hearing has been ordered by the court under

1 this Code to determine if the defendant is:

2 (1) in need of mental health services on an inpatient
3 basis;

4 (2) in need of mental health services on an outpatient
5 basis; or

6 (3) not in need of mental health services.

7 While the impact statement to the court allowed under this
8 subsection (d) may include the impact that the respondent's
9 criminal conduct has had upon the victim, victim's
10 representative, or victim's family or household member, the
11 court may only consider the impact statement along with all
12 other appropriate factors in determining the:

13 (i) threat of serious physical harm posed by the
14 respondent to himself or herself, or to another person;

15 (ii) location of inpatient or outpatient mental health
16 services ordered by the court, but only after complying
17 with all other applicable administrative requirements,
18 rules, and statutory requirements;

19 (iii) maximum period of commitment for inpatient
20 mental health services; and

21 (iv) conditions of release for outpatient mental
22 health services ordered by the court.

23 (Source: P.A. 90-538, eff. 12-1-97.)

24 Section 10. The Rights of Crime Victims and Witnesses Act
25 is amended by changing Section 6 as follows:

1 (725 ILCS 120/6) (from Ch. 38, par. 1406)

2 Sec. 6. Rights to present victim impact statement.

3 (a) In any case where a defendant has been convicted of a
4 violent crime or a juvenile has been adjudicated a delinquent
5 for a violent crime and a victim of the violent crime or the
6 victim's spouse, guardian, parent, grandparent, or other
7 immediate family or household member is present in the
8 courtroom at the time of the sentencing or the disposition
9 hearing, the victim or his or her representative shall have the
10 right and the victim's spouse, guardian, parent, grandparent,
11 and other immediate family or household member upon his, her,
12 or their request may be permitted by the court to address the
13 court regarding the impact that the defendant's criminal
14 conduct or the juvenile's delinquent conduct has had upon them
15 and the victim. The court has discretion to determine the
16 number of oral presentations of victim impact statements. Any
17 impact statement must have been prepared in writing in
18 conjunction with the Office of the State's Attorney prior to
19 the initial hearing or sentencing, before it can be presented
20 orally or in writing at the sentencing hearing. In conjunction
21 with the Office of the State's Attorney, a victim impact
22 statement that is presented orally may be done so by the victim
23 or the victim's spouse, guardian, parent, grandparent, or other
24 immediate family or household member or his, her, or their
25 representative. At the sentencing hearing, the prosecution may

1 introduce that evidence either in its case in chief or in
2 rebuttal. The court shall consider any impact statement
3 admitted along with all other appropriate factors in
4 determining the sentence of the defendant or disposition of
5 such juvenile.

6 (a-5) In any case where a defendant has been found not
7 guilty by reason of insanity of a violent crime and a hearing
8 has been ordered by the court under the Mental Health and
9 Developmental Disabilities Code to determine if the defendant
10 is: (1) in need of mental health services on an inpatient
11 basis; (2) in need of mental health services on an outpatient
12 basis; or (3) not in need of mental health services and a
13 victim of the violent crime or the victim's spouse, guardian,
14 parent, grandparent, or other immediate family or household
15 member is present in the courtroom at the time of the initial
16 commitment hearing, the victim or his or her representative
17 shall have the right and the victim's spouse, guardian, parent,
18 grandparent, and other immediate family or household members
19 upon their request may be permitted by the court to address the
20 court regarding the impact that the defendant's criminal
21 conduct has had upon them and the victim. The court has
22 discretion to determine the number of oral presentations of
23 victim impact statements. Any impact statement must have been
24 prepared in writing in conjunction with the Office of the
25 State's Attorney prior to the initial commitment hearing,
26 before it may be presented orally or in writing at the

1 commitment hearing. In conjunction with the Office of the
2 State's Attorney, a victim impact statement that is presented
3 orally may be presented so by the victim or the victim's
4 spouse, guardian, parent, grandparent, or other immediate
5 family or household member or his or her representative. At the
6 initial commitment hearing, the State's Attorney may introduce
7 the statement either in its case in chief or in rebuttal. The
8 court may only consider the impact statement along with all
9 other appropriate factors in determining the: (1) threat of
10 serious physical harm poised by the respondent to himself or
11 herself, or to another person; (2) location of inpatient or
12 outpatient mental health services ordered by the court, but
13 only after complying with all other applicable administrative,
14 rule, and statutory requirements; (3) maximum period of
15 commitment for inpatient mental health services; and (4)
16 conditions of release for outpatient mental health services
17 ordered by the court.

18 (b) The crime victim has the right to prepare a victim
19 impact statement and present it to the Office of the State's
20 Attorney at any time during the proceedings. Any written victim
21 impact statement submitted to the Office of the State's
22 Attorney shall be considered by the court during its
23 consideration of aggravation and mitigation in plea
24 proceedings under Supreme Court Rule 402.

25 (c) This Section shall apply to any victims of a violent
26 crime during any dispositional hearing under Section 5-705 of

1 the Juvenile Court Act of 1987 which takes place pursuant to an
2 adjudication or trial or plea of delinquency for any such
3 offense.

4 (Source: P.A. 95-591, eff. 6-1-08.)