



Rep. Jim Durkin

Filed: 3/10/2011

09700HB2582ham001

LRB097 07362 RLC 52596 a

1 AMENDMENT TO HOUSE BILL 2582

2 AMENDMENT NO. _____. Amend House Bill 2582 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Rights of Crime Victims and Witnesses Act
5 is amended by changing Sections 4.5 and 5 as follows:

6 (725 ILCS 120/4.5)

7 Sec. 4.5. Procedures to implement the rights of crime
8 victims. To afford crime victims their rights, law enforcement,
9 prosecutors, judges and corrections will provide information,
10 as appropriate of the following procedures:

11 (a) At the request of the crime victim, law enforcement
12 authorities investigating the case shall provide notice of the
13 status of the investigation, except where the State's Attorney
14 determines that disclosure of such information would
15 unreasonably interfere with the investigation, until such time
16 as the alleged assailant is apprehended or the investigation is

1 closed.

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

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

7 (2) shall provide notice of the date, time, and place
8 of trial;

9 (3) or victim advocate personnel shall provide
10 information of social services and financial assistance
11 available for victims of crime, including information of
12 how to apply for these services and assistance;

13 (4) shall assist in having any stolen or other personal
14 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 information whenever possible, of a
24 secure waiting area during court proceedings that does not
25 require victims to be in close proximity to defendant 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 proceedings
4 and, in compliance with the federal Americans with
5 Disabilities Act of 1990, the right to communications
6 access through a sign language interpreter or by other
7 means;

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

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

23 (10) at the sentencing hearing shall make a good faith
24 attempt to explain the minimum amount of time during which
25 the defendant may actually be physically imprisoned. The
26 Office of the State's Attorney shall further notify the

1 crime victim of the right to request from the Prisoner
2 Review Board information concerning the release of the
3 defendant under subparagraph (d)(1) of this Section;

4 (11) shall request restitution at sentencing and shall
5 consider restitution in any plea negotiation, as provided
6 by law; and

7 (12) shall, upon the court entering a verdict of not
8 guilty by reason of insanity, inform the victim of the
9 notification services available from the Department of
10 Human Services, including the statewide telephone number,
11 under subparagraph (d)(2) of this Section.

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

14 (1) provide notice a reasonable time in advance of the
15 following court proceedings: preliminary hearing, any
16 hearing the effect of which may be the release of defendant
17 from custody, or to alter the conditions of bond and the
18 sentencing hearing. The crime victim shall also be notified
19 of the cancellation of the court proceeding in sufficient
20 time, wherever possible, to prevent an unnecessary
21 appearance in court;

22 (2) provide notice within a reasonable time after
23 receipt of notice from the custodian, of the release of the
24 defendant on bail or personal recognizance or the release
25 from detention of a minor who has been detained for a
26 violent crime;

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

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

10 (5) provide notice of the ultimate disposition of the
11 cases arising from an indictment or an information, or a
12 petition to have a juvenile adjudicated as a delinquent for
13 a violent crime;

14 (6) provide notice of any appeal taken by the defendant
15 and information on how to contact the appropriate agency
16 handling the appeal;

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

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

26 (d) (1) The Prisoner Review Board shall inform a victim or

1 any other concerned citizen, upon written request, of the
2 prisoner's release on parole, mandatory supervised release,
3 electronic detention, work release, international transfer or
4 exchange, or by the custodian of the discharge of any
5 individual who was adjudicated a delinquent for a violent crime
6 from State custody and by the sheriff of the appropriate county
7 of any such person's final discharge from county custody. The
8 Prisoner Review Board, upon written request, shall provide to a
9 victim or any other concerned citizen a recent photograph of
10 any person convicted of a felony, upon his or her release from
11 custody. The Prisoner Review Board, upon written request, shall
12 inform a victim or any other concerned citizen when feasible at
13 least 7 days prior to the prisoner's release on furlough of the
14 times and dates of such furlough. Upon written request by the
15 victim or any other concerned citizen, the State's Attorney
16 shall notify the person once of the times and dates of release
17 of a prisoner sentenced to periodic imprisonment. Notification
18 shall be based on the most recent information as to victim's or
19 other concerned citizen's residence or other location
20 available to the notifying authority.

21 (2) When the defendant has been committed to the Department
22 of Human Services pursuant to Section 5-2-4 or any other
23 provision of the Unified Code of Corrections, the victim may
24 request to be notified by the releasing authority of the
25 approval by the court of an unsupervised on-grounds pass,
26 approval by the court of a supervised or unsupervised

1 off-grounds pass, approval by the court of a transfer to a
2 nonsecure facility, approval by the court of a conditional
3 release, escape, death ~~defendant's furloughs, temporary~~
4 ~~release,~~ or final discharge from State custody. The Department
5 of Human Services shall establish and maintain a statewide
6 telephone number to be used by victims to make notification
7 requests under these provisions and shall publicize this
8 telephone number on its website and to the State's Attorney of
9 each county.

10 (3) In the event of an escape from State custody, the
11 Department of Corrections or the Department of Juvenile Justice
12 immediately shall notify the Prisoner Review Board of the
13 escape and the Prisoner Review Board shall notify the victim.
14 The notification shall be based upon the most recent
15 information as to the victim's residence or other location
16 available to the Board. When no such information is available,
17 the Board shall make all reasonable efforts to obtain the
18 information and make the notification. When the escapee is
19 apprehended, the Department of Corrections or the Department of
20 Juvenile Justice immediately shall notify the Prisoner Review
21 Board and the Board shall notify the victim.

22 (4) The victim of the crime for which the prisoner has been
23 sentenced shall receive reasonable written notice not less than
24 30 days prior to the parole interview and may submit, in
25 writing, on film, videotape or other electronic means or in the
26 form of a recording or in person at the parole interview or if

1 a victim of a violent crime, by calling the toll-free number
2 established in subsection (f) of this Section, information for
3 consideration by the Prisoner Review Board. The victim shall be
4 notified within 7 days after the prisoner has been granted
5 parole and shall be informed of the right to inspect the
6 registry of parole decisions, established under subsection (g)
7 of Section 3-3-5 of the Unified Code of Corrections. The
8 provisions of this paragraph (4) are subject to the Open Parole
9 Hearings Act.

10 (5) If a statement is presented under Section 6, the
11 Prisoner Review Board shall inform the victim of any order of
12 discharge entered by the Board pursuant to Section 3-3-8 of the
13 Unified Code of Corrections.

14 (6) At the written request of the victim of the crime for
15 which the prisoner was sentenced or the State's Attorney of the
16 county where the person seeking parole was prosecuted, the
17 Prisoner Review Board shall notify the victim and the State's
18 Attorney of the county where the person seeking parole was
19 prosecuted of the death of the prisoner if the prisoner died
20 while on parole or mandatory supervised release.

21 (7) When a defendant who has been committed to the
22 Department of Corrections, the Department of Juvenile Justice,
23 or the Department of Human Services is released or discharged
24 and subsequently committed to the Department of Human Services
25 as a sexually violent person and the victim had requested to be
26 notified by the releasing authority of the defendant's

1 discharge, conditional release, death, or escape from State
2 custody, the releasing authority shall provide to the
3 Department of Human Services such information that would allow
4 the Department of Human Services to contact the victim.

5 (8) When a defendant has been convicted of a sex offense as
6 defined in Section 2 of the Sex Offender Registration Act and
7 has been sentenced to the Department of Corrections or the
8 Department of Juvenile Justice, the Prisoner Review Board shall
9 notify the victim of the sex offense of the prisoner's
10 eligibility for release on parole, mandatory supervised
11 release, electronic detention, work release, international
12 transfer or exchange, or by the custodian of the discharge of
13 any individual who was adjudicated a delinquent for a sex
14 offense from State custody and by the sheriff of the
15 appropriate county of any such person's final discharge from
16 county custody. The notification shall be made to the victim at
17 least 30 days, whenever possible, before release of the sex
18 offender.

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

24 (f) To permit a victim of a violent crime to provide
25 information to the Prisoner Review Board for consideration by
26 the Board at a parole hearing of a person who committed the

1 crime against the victim in accordance with clause (d)(4) of
2 this Section or at a proceeding to determine the conditions of
3 mandatory supervised release of a person sentenced to a
4 determinate sentence or at a hearing on revocation of mandatory
5 supervised release of a person sentenced to a determinate
6 sentence, the Board shall establish a toll-free number that may
7 be accessed by the victim of a violent crime to present that
8 information to the Board.

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

12 (725 ILCS 120/5) (from Ch. 38, par. 1405)

13 Sec. 5. Rights of Witnesses.

14 (a) Witnesses as defined in subsection (b) of Section 3 of
15 this Act shall have the following rights:

16 (1) to be notified by the Office of the State's
17 Attorney of all court proceedings at which the witness'
18 presence is required in a reasonable amount of time prior
19 to the proceeding, and to be notified of the cancellation
20 of any scheduled court proceeding in sufficient time to
21 prevent an unnecessary appearance in court, where
22 possible;

23 (2) to be provided with appropriate employer
24 intercession services by the Office of the State's Attorney
25 or the victim advocate personnel to ensure that employers

1 of witnesses will cooperate with the criminal justice
2 system in order to minimize an employee's loss of pay and
3 other benefits resulting from court appearances;

4 (3) to be provided, whenever possible, a secure waiting
5 area during court proceedings that does not require
6 witnesses to be in close proximity to defendants and their
7 families and friends;

8 (4) to be provided with notice by the Office of the
9 State's Attorney, where necessary, of the right to have a
10 translator present whenever the witness' presence is
11 required and, in compliance with the federal Americans with
12 Disabilities Act of 1990, to be provided with notice of the
13 right to communications access through a sign language
14 interpreter or by other means.

15 (b) At the written request of the witness, the witness
16 shall:

17 (1) receive notice from the office of the State's
18 Attorney of any request for post-conviction review filed by
19 the defendant under Article 122 of the Code of Criminal
20 Procedure of 1963, and of the date, time, and place of any
21 hearing concerning the petition for post-conviction
22 review; whenever possible, notice of the hearing on the
23 petition shall be given in advance;

24 (2) receive notice by the releasing authority of the
25 approval by the court of an unsupervised on-grounds pass,
26 approval by the court of a supervised or unsupervised

1 off-grounds pass, approval by the court of a transfer to a
2 nonsecure facility, approval by the court of a conditional
3 release, escape, death, or final discharge from State
4 custody. The Department of Human Services shall establish
5 and maintain a statewide telephone number to be used by
6 victims to make notification requests under these
7 provisions and shall publicize this telephone number on its
8 website and to the State's Attorney of each county
9 ~~defendant's discharge from State custody if the defendant~~
10 ~~was committed to the Department of Human Services under~~
11 ~~Section 5-2-4 or any other provision of the Unified Code of~~
12 ~~Corrections;~~

13 (3) receive notice from the Prisoner Review Board of
14 the prisoner's escape from State custody, after the Board
15 has been notified of the escape by the Department of
16 Corrections or the Department of Juvenile Justice; when the
17 escapee is apprehended, the Department of Corrections or
18 the Department of Juvenile Justice shall immediately
19 notify the Prisoner Review Board and the Board shall notify
20 the witness;

21 (4) receive notice from the Prisoner Review Board of
22 the prisoner's release on parole, electronic detention,
23 work release or mandatory supervised release and of the
24 prisoner's final discharge from parole, electronic
25 detention, work release, or mandatory supervised release.

26 (Source: P.A. 94-696, eff. 6-1-06; 95-897, eff. 1-1-09.)".