

HB3300



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3300

Introduced 2/24/2011, by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

725 ILCS 120/4.5

Amends the Rights of Crime Victims and Witnesses Act. Provides that the Office of the State's Attorney or victim advocate personnel shall provide information about available victim services, including referrals to programs, counselors, and agencies that assist a victim to deal with trauma, loss, and grief.

LRB097 08665 RLC 51393 b

FISCAL NOTE ACT
MAY APPLY

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 Section 4.5 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
17 closed.

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

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

23 (2) shall provide notice of the date, time, and place

1 of trial;

2 (3) or victim advocate personnel shall provide
3 information of social services and financial assistance
4 available for victims of crime, including information of
5 how to apply for these services and assistance;

6 (3.5) or victim advocate personnel shall provide
7 information about available victim services, including
8 referrals to programs, counselors, and agencies that
9 assist a victim to deal with trauma, loss, and grief;

10 (4) shall assist in having any stolen or other personal
11 property held by law enforcement authorities for
12 evidentiary or other purposes returned as expeditiously as
13 possible, pursuant to the procedures set out in Section
14 115-9 of the Code of Criminal Procedure of 1963;

15 (5) or victim advocate personnel shall provide
16 appropriate employer intercession services to ensure that
17 employers of victims will cooperate with the criminal
18 justice system in order to minimize an employee's loss of
19 pay and other benefits resulting from court appearances;

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

25 (7) shall provide notice to the crime victim of the
26 right to have a translator present at all court proceedings

1 and, in compliance with the federal Americans with
2 Disabilities Act of 1990, the right to communications
3 access through a sign language interpreter or by other
4 means;

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

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

20 (10) at the sentencing hearing shall make a good faith
21 attempt to explain the minimum amount of time during which
22 the defendant may actually be physically imprisoned. The
23 Office of the State's Attorney shall further notify the
24 crime victim of the right to request from the Prisoner
25 Review Board information concerning the release of the
26 defendant under subparagraph (d) (1) of this Section;

1 (11) shall request restitution at sentencing and shall
2 consider restitution in any plea negotiation, as provided
3 by law; and

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

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

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

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

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

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

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

11 (6) provide notice of any appeal taken by the defendant
12 and information on how to contact the appropriate agency
13 handling the appeal;

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

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

23 (d) (1) The Prisoner Review Board shall inform a victim or
24 any other concerned citizen, upon written request, of the
25 prisoner's release on parole, mandatory supervised release,
26 electronic detention, work release, international transfer or

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

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

1 the State's Attorney of each county.

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

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

1 Hearings Act.

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

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

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

23 (8) When a defendant has been convicted of a sex offense as
24 defined in Section 2 of the Sex Offender Registration Act and
25 has been sentenced to the Department of Corrections or the
26 Department of Juvenile Justice, the Prisoner Review Board shall

1 notify the victim of the sex offense of the prisoner's
2 eligibility for release on parole, mandatory supervised
3 release, electronic detention, work release, international
4 transfer or exchange, or by the custodian of the discharge of
5 any individual who was adjudicated a delinquent for a sex
6 offense from State custody and by the sheriff of the
7 appropriate county of any such person's final discharge from
8 county custody. The notification shall be made to the victim at
9 least 30 days, whenever possible, before release of the sex
10 offender.

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

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

1 (Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09;
2 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff. 8-11-09;
3 96-875, eff. 1-22-10.)