



Sen. A. J. Wilhelmi

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09700HB3300sam001

LRB097 08665 RLC 55941 a

1 AMENDMENT TO HOUSE BILL 3300

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3300 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 3, 4.5, and 6 as follows:

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

7 (Text of Section after amendment by P.A. 96-1551)

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

10 (a) "Crime victim" and "victim" mean (1) a person  
11 physically injured in this State as a result of a violent crime  
12 perpetrated or attempted against that person or (2) a person  
13 who suffers injury to or loss of property as a result of a  
14 violent crime perpetrated or attempted against that person or  
15 (3) a single representative who may be the spouse, parent,  
16 child or sibling of a person killed as a result of a violent

1 crime perpetrated against the person killed or the spouse,  
2 parent, child or sibling of any person granted rights under  
3 this Act who is physically or mentally incapable of exercising  
4 such rights, except where the spouse, parent, child or sibling  
5 is also the defendant or prisoner or (4) any person against  
6 whom a violent crime has been committed or (5) any person who  
7 has suffered personal injury as a result of a violation of  
8 Section 11-501 of the Illinois Vehicle Code, or of a similar  
9 provision of a local ordinance, or of Section 9-3 of the  
10 Criminal Code of 1961, as amended or (6) in proceedings under  
11 the Juvenile Court Act of 1987, both parents, legal guardians,  
12 foster parents, or a single adult representative of a minor or  
13 disabled person who is a crime victim.

14 (b) "Witness" means any person who personally observed the  
15 commission of a violent crime and who will testify on behalf of  
16 the State of Illinois in the criminal prosecution of the  
17 violent crime.

18 (c) "Violent Crime" means any felony in which force or  
19 threat of force was used against the victim, or any offense  
20 involving sexual exploitation, sexual conduct or sexual  
21 penetration, or a violation of Section 11-20.1, 11-20.1B, or  
22 11-20.3 of the Criminal Code of 1961, domestic battery,  
23 violation of an order of protection, stalking, or any  
24 misdemeanor which results in death or great bodily harm to the  
25 victim or any violation of Section 9-3 of the Criminal Code of  
26 1961, or Section 11-501 of the Illinois Vehicle Code, or a

1 similar provision of a local ordinance, if the violation  
2 resulted in personal injury or death, and includes any action  
3 committed by a juvenile that would be a violent crime if  
4 committed by an adult. For the purposes of this paragraph,  
5 "personal injury" shall include any Type A injury as indicated  
6 on the traffic accident report completed by a law enforcement  
7 officer that requires immediate professional attention in  
8 either a doctor's office or medical facility. A type A injury  
9 shall include severely bleeding wounds, distorted extremities,  
10 and injuries that require the injured party to be carried from  
11 the scene.

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

18 (e) "Court proceedings" includes the preliminary hearing,  
19 any hearing the effect of which may be the release of the  
20 defendant from custody or to alter the conditions of bond, the  
21 trial, sentencing hearing, notice of appeal, any modification  
22 of sentence, probation revocation hearings or parole hearings.

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

26 (Source: P.A. 95-591, eff. 6-1-08; 95-876, eff. 8-21-08;

1 96-292, eff. 1-1-10; 96-875, eff. 1-22-10; 96-1551, eff.  
2 7-1-11.)

3 (725 ILCS 120/4.5)

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

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

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

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

20 (2) shall provide notice of the date, time, and place  
21 of trial;

22 (3) or victim advocate personnel shall provide  
23 information of social services and financial assistance  
24 available for victims of crime, including information of  
25 how to apply for these services and assistance;

1           (3.5) or victim advocate personnel shall provide  
2           information about available victim services, including  
3           referrals to programs, counselors, and agencies that  
4           assist a victim to deal with trauma, loss, and grief;

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

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

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

20          (7) shall provide notice to the crime victim of the  
21          right to have a translator present at all court proceedings  
22          and, in compliance with the federal Americans with  
23          Disabilities Act of 1990, the right to communications  
24          access through a sign language interpreter or by other  
25          means;

26          (8) in the case of the death of a person, which death

1 occurred in the same transaction or occurrence in which  
2 acts occurred for which a defendant is charged with an  
3 offense, shall notify the spouse, parent, child or sibling  
4 of the decedent of the date of the trial of the person or  
5 persons allegedly responsible for the death;

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

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

22 (11) shall request restitution at sentencing and shall  
23 consider restitution in any plea negotiation, as provided  
24 by law; and

25 (12) shall, upon the court entering a verdict of not  
26 guilty by reason of insanity, inform the victim of the

1 notification services available from the Department of  
2 Human Services, including the statewide telephone number,  
3 under subparagraph (d) (2) of this Section.

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

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

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

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

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

1 prepared prior to entering into a plea agreement;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 admitted along with all other appropriate factors in  
2 determining the sentence of the defendant or disposition of  
3 such juvenile.

4 (a-1) In any case where a defendant has been convicted of a  
5 violation of any statute, ordinance, or regulation relating to  
6 the operation or use of motor vehicles, the use of streets and  
7 highways by pedestrians or the operation of any other wheeled  
8 or tracked vehicle, except parking violations, if the violation  
9 resulted in great bodily harm or death, the person who suffered  
10 great bodily harm, the injured person's representative, or the  
11 representative of a deceased person shall be entitled to notice  
12 of the sentencing hearing. "Representative" includes the  
13 spouse, guardian, grandparent, or other immediate family or  
14 household member of an injured or deceased person. If the  
15 injured person, the injured person's representative, or a  
16 representative of a deceased person is present in the courtroom  
17 at the time of sentencing, the injured person or his or her  
18 representative and a representative of the deceased person  
19 shall have the right to address the court regarding the impact  
20 that the defendant's criminal conduct has had upon them. If  
21 more than one representative of an injured or deceased person  
22 is present in the courtroom at the time of sentencing, the  
23 court has discretion to permit one or more of the  
24 representatives to present an oral impact statement. Any impact  
25 statement must have been prepared in writing in conjunction  
26 with the Office of the State's Attorney prior to the initial

1 hearing or sentencing, before it can be presented orally or in  
2 writing at the sentencing hearing. In conjunction with the  
3 Office of the State's Attorney, an impact statement that is  
4 presented orally may be done so by the injured person or the  
5 representative of an injured or deceased person. At the  
6 sentencing hearing, the prosecution may introduce that  
7 evidence either in its case in chief or in rebuttal. The court  
8 shall consider any impact statement admitted along with all  
9 other appropriate factors in determining the sentence of the  
10 defendant.

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

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

23 (b) The crime victim has the right to prepare a victim  
24 impact statement and present it to the Office of the State's  
25 Attorney at any time during the proceedings. Any written victim  
26 impact statement submitted to the Office of the State's



1 Attorney shall be considered by the court during its  
2 consideration of aggravation and mitigation in plea  
3 proceedings under Supreme Court Rule 402.

4 (c) This Section shall apply to any victims of a violent  
5 crime during any dispositional hearing under Section 5-705 of  
6 the Juvenile Court Act of 1987 which takes place pursuant to an  
7 adjudication or trial or plea of delinquency for any such  
8 offense.

9 (Source: P.A. 95-591, eff. 6-1-08; 96-117, eff. 1-1-10.)".