



Sen. Chapin Rose

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LRB098 07632 RLC 44709 a

1 AMENDMENT TO SENATE BILL 1528

2 AMENDMENT NO. _____. Amend Senate Bill 1528 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 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

1 closed.

2 (a-5) When law enforcement authorities re-open a closed
3 case to resume investigating, they shall provide notice of the
4 re-opening of the case, except where the State's Attorney
5 determines that disclosure of such information would
6 unreasonably interfere with the investigation.

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

22 (4) shall assist in having any stolen or other personal
23 property held by law enforcement authorities for
24 evidentiary or other purposes returned as expeditiously as
25 possible, pursuant to the procedures set out in Section
26 115-9 of the Code of Criminal Procedure of 1963;

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

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

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

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

23 (9) shall inform the victim of the right to have
24 present at all court proceedings, subject to the rules of
25 evidence, an advocate or other support person of the
26 victim's choice, and the right to retain an attorney, at

1 the victim's own expense, who, upon written notice filed
2 with the clerk of the court and State's Attorney, is to
3 receive copies of all notices, motions and court orders
4 filed thereafter in the case, in the same manner as if the
5 victim were a named party in the case;

6 (9.5) shall inform the victim of (A) the victim's right
7 under Section 6 of this Act to make a victim impact
8 statement at the sentencing hearing; and (B) if a
9 presentence report is to be prepared, the right of the
10 victim's spouse, guardian, parent, grandparent and other
11 immediate family and household to submit information to the
12 preparer of the presentence report about the effect the
13 offense has had on the victim and the person;

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

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

24 (12) shall, upon the court entering a verdict of not
25 guilty by reason of insanity, inform the victim of the
26 notification services available from the Department of

1 Human Services, including the statewide telephone number,
2 under subparagraph (d) (2) of this Section.

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

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

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

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

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

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

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

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

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

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

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

12 (2) When the defendant has been committed to the Department
13 of Human Services pursuant to Section 5-2-4 or any other
14 provision of the Unified Code of Corrections, the victim may
15 request to be notified by the releasing authority of the
16 approval by the court of an on-grounds pass, a supervised
17 off-grounds pass, an unsupervised off-grounds pass, or
18 conditional release; the release on an off-grounds pass; the
19 return from an off-grounds pass; transfer to another facility;
20 conditional release; escape; death; or final discharge from
21 State custody. The Department of Human Services shall establish
22 and maintain a statewide telephone number to be used by victims
23 to make notification requests under these provisions and shall
24 publicize this telephone number on its website and to the
25 State's Attorney of each county.

26 (3) In the event of an escape from State custody, the

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

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

26 (5) If a statement is presented under Section 6, the

1 Prisoner Review Board shall inform the victim of any order of
2 discharge entered by the Board pursuant to Section 3-3-8 of the
3 Unified Code of Corrections.

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

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

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

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

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

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

25 (Source: P.A. 96-328, eff. 8-11-09; 96-875, eff. 1-22-10;
26 97-457, eff. 1-1-12; 97-572, eff. 1-1-12; 97-813, eff. 7-13-12;

1 97-815, eff. 1-1-13.)

2 Section 10. The Unified Code of Corrections is amended by
3 changing Section 5-3-2 as follows:

4 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)

5 Sec. 5-3-2. Presentence Report.

6 (a) In felony cases, the presentence report shall set
7 forth:

8 (1) the defendant's history of delinquency or
9 criminality, physical and mental history and condition,
10 family situation and background, economic status,
11 education, occupation and personal habits;

12 (2) information about special resources within the
13 community which might be available to assist the
14 defendant's rehabilitation, including treatment centers,
15 residential facilities, vocational training services,
16 correctional manpower programs, employment opportunities,
17 special educational programs, alcohol and drug abuse
18 programming, psychiatric and marriage counseling, and
19 other programs and facilities which could aid the
20 defendant's successful reintegration into society;

21 (3) the effect the offense committed has had upon the
22 victim or victims thereof, and any compensatory benefit
23 that various sentencing alternatives would confer on such
24 victim or victims;

1 (3.5) information provided by the victim's spouse,
2 guardian, parent, grandparent, and other immediate family
3 and household members about the effect the offense
4 committed has had on the victim and on the person providing
5 the information; if the victim's spouse, guardian, parent,
6 grandparent, or other immediate family or household member
7 has provided a written statement, the statement shall be
8 attached to the report;

9 (4) information concerning the defendant's status
10 since arrest, including his record if released on his own
11 recognizance, or the defendant's achievement record if
12 released on a conditional pre-trial supervision program;

13 (5) when appropriate, a plan, based upon the personal,
14 economic and social adjustment needs of the defendant,
15 utilizing public and private community resources as an
16 alternative to institutional sentencing;

17 (6) any other matters that the investigatory officer
18 deems relevant or the court directs to be included; and

19 (7) information concerning defendant's eligibility for
20 a sentence to a county impact incarceration program under
21 Section 5-8-1.2 of this Code.

22 (b) The investigation shall include a physical and mental
23 examination of the defendant when so ordered by the court. If
24 the court determines that such an examination should be made,
25 it shall issue an order that the defendant submit to
26 examination at such time and place as designated by the court

1 and that such examination be conducted by a physician,
2 psychologist or psychiatrist designated by the court. Such an
3 examination may be conducted in a court clinic if so ordered by
4 the court. The cost of such examination shall be paid by the
5 county in which the trial is held.

6 (b-5) In cases involving felony sex offenses in which the
7 offender is being considered for probation only or any felony
8 offense that is sexually motivated as defined in the Sex
9 Offender Management Board Act in which the offender is being
10 considered for probation only, the investigation shall include
11 a sex offender evaluation by an evaluator approved by the Board
12 and conducted in conformance with the standards developed under
13 the Sex Offender Management Board Act. In cases in which the
14 offender is being considered for any mandatory prison sentence,
15 the investigation shall not include a sex offender evaluation.

16 (c) In misdemeanor, business offense or petty offense
17 cases, except as specified in subsection (d) of this Section,
18 when a presentence report has been ordered by the court, such
19 presentence report shall contain information on the
20 defendant's history of delinquency or criminality and shall
21 further contain only those matters listed in any of paragraphs
22 (1) through (6) of subsection (a) or in subsection (b) of this
23 Section as are specified by the court in its order for the
24 report.

25 (d) In cases under Sections 11-1.50, 12-15, and 12-3.4 or
26 12-30 of the Criminal Code of 1961 or the Criminal Code of

1 2012, the presentence report shall set forth information about
2 alcohol, drug abuse, psychiatric, and marriage counseling or
3 other treatment programs and facilities, information on the
4 defendant's history of delinquency or criminality, and shall
5 contain those additional matters listed in any of paragraphs
6 (1) through (6) of subsection (a) or in subsection (b) of this
7 Section as are specified by the court.

8 (e) Nothing in this Section shall cause the defendant to be
9 held without bail or to have his bail revoked for the purpose
10 of preparing the presentence report or making an examination.

11 (Source: P.A. 96-322, eff. 1-1-10; 96-1551, Article 1, Section
12 970, eff. 7-1-11; 96-1551, Article 2, Section 1065, eff.
13 7-1-11; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)".