

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

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

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

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

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

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

this Code to determine if the defendant is:

- (1) in need of mental health services on an inpatient basis;
- (2) in need of mental health services on an outpatient basis; or
- (3) not in need of mental health services.

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

- (i) threat of serious physical harm posed by the respondent to himself or herself, or to another person;
- (ii) location of inpatient or outpatient mental health services ordered by the court, but only after complying with all other applicable administrative requirements, rules, and statutory requirements;
- (iii) maximum period of commitment for inpatient mental health services; and
- (iv) conditions of release for outpatient mental health services ordered by the court.

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

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

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

Sec. 6. Rights to present victim impact statement.

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

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

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

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

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

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

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

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