

1 AMENDMENT TO HOUSE BILL 191

2 AMENDMENT NO. _____. Amend House Bill 191 as follows:

3 by replacing everything after the enacting clause with the
4 following:

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

7 (725 ILCS 120/4.5)

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

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

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

20 (1) shall provide notice of the filing of
21 information, the return of an indictment by which a

1 prosecution for any violent crime is commenced, or the
2 filing of a petition to adjudicate a minor as a
3 delinquent for a violent crime;

4 (2) shall provide notice of the date, time, and
5 place of trial;

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

10 (4) shall assist in having any stolen or other
11 personal property held by law enforcement authorities for
12 evidentiary or other purposes returned as expeditiously
13 as possible, pursuant to the procedures set out in
14 Section 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
21 a secure waiting area during court proceedings that does
22 not require victims to be in close proximity to defendant
23 or juveniles accused of a violent crime, and their
24 families and friends;

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

28 (8) in the case of the death of a person, which
29 death occurred in the same transaction or occurrence in
30 which acts occurred for which a defendant is charged with
31 an offense, shall notify the spouse, parent, child or
32 sibling of the decedent of the date of the trial of the
33 person or persons allegedly responsible for the death;

34 (9) shall inform the victim of the right to have

1 present at all court proceedings, subject to the rules of
2 evidence, an advocate or other support person of the
3 victim's choice, and the right to retain an attorney, at
4 the victim's own expense, who, upon written notice filed
5 with the clerk of the court and State's Attorney, is to
6 receive copies of all notices, motions and court orders
7 filed thereafter in the case, in the same manner as if
8 the victim were a named party in the case; and

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

17 (11) shall request restitution at sentencing and
18 shall consider restitution in any plea negotiation, as
19 provided by law.

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

22 (1) provide notice a reasonable time in advance of
23 the following court proceedings: preliminary hearing, any
24 hearing the effect of which may be the release of
25 defendant from custody, or to alter the conditions of
26 bond and the sentencing hearing. The crime victim shall
27 also be notified of the cancellation of the court
28 proceeding in sufficient time, wherever possible, to
29 prevent an unnecessary appearance in court;

30 (2) provide notice within a reasonable time after
31 receipt of notice from the custodian, of the release of
32 the defendant on bail or personal recognizance or the
33 release from detention of a minor who has been detained
34 for a violent crime;

1 (3) explain in nontechnical language the details of
2 any plea or verdict of a defendant, or any adjudication
3 of a 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
6 of a plea bargain to the defendant or enters into
7 negotiations with the defendant concerning a possible
8 plea agreement, and shall consider the written victim
9 impact statement, if prepared prior to entering into a
10 plea agreement;

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

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

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

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

28 (d) (1) The Prisoner Review Board shall inform a victim
29 or any other concerned citizen, upon written request, of
30 the prisoner's release on parole, mandatory supervised
31 release, electronic detention, work release or by the
32 custodian of the discharge of any individual who was
33 adjudicated a delinquent for a violent crime from State
34 custody and by the sheriff of the appropriate county of

1 any such person's final discharge from county custody.
2 The Prisoner Review Board, upon written request, shall
3 provide to a victim or any other concerned citizen a
4 recent photograph of any person convicted of a felony,
5 upon his or her release from custody. The Prisoner Review
6 Board, upon written request, shall inform a victim or any
7 other concerned citizen when feasible at least 7 days
8 prior to the prisoner's release on furlough of the times
9 and dates of such furlough. Upon written request by the
10 victim or any other concerned citizen, the State's
11 Attorney shall notify the person once of the times and
12 dates of release of a prisoner sentenced to periodic
13 imprisonment. Notification shall be based on the most
14 recent information as to victim's or other concerned
15 citizen's residence or other location available to the
16 notifying authority. For purposes of this paragraph (1)
17 of subsection (d), "concerned citizen" includes relatives
18 of the victim, friends of the victim, witnesses to the
19 crime, or any other person associated with the victim or
20 prisoner.

21 (2) When the defendant has been committed to the
22 Department of Human Services pursuant to Section 5-2-4 or
23 any other provision of the Unified Code of Corrections,
24 the victim may request to be notified by the releasing
25 authority of the defendant's discharge from State
26 custody.

27 (3) In the event of an escape from State custody,
28 the Department of Corrections immediately shall notify
29 the Prisoner Review Board of the escape and the Prisoner
30 Review Board shall notify the victim. The notification
31 shall be based upon the most recent information as to the
32 victim's residence or other location available to the
33 Board. When no such information is available, the Board
34 shall make all reasonable efforts to obtain the

1 information and make the notification. When the escapee
2 is apprehended, the Department of Corrections immediately
3 shall notify the Prisoner Review Board and the Board
4 shall notify the victim.

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

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

22 (6) At the written request of the victim of the
23 crime for which the prisoner was sentenced, the Prisoner
24 Review Board shall notify the victim of the death of the
25 prisoner if the prisoner died while on parole or
26 mandatory supervised release.

27 (7) When a defendant who has been committed to the
28 Department of Corrections or the Department of Human
29 Services is released or discharged and subsequently
30 committed to the Department of Human Services as a
31 sexually violent person and the victim had requested to
32 be notified by the releasing authority of the defendant's
33 discharge from State custody, the releasing authority
34 shall provide to the Department of Human Services such

1 information that would allow the Department of Human
2 Services to contact the victim.

3 (d-5) If the prisoner has filed a petition for executive
4 clemency under Section 3-3-13 of the Unified Code of
5 Corrections, the Prisoner Review Board shall give written
6 notice and forward a copy of the petition to the victim of
7 the crime for which the prisoner has been sentenced and upon
8 written request notify any other concerned citizen as defined
9 in paragraph (1) of this Section at least 15 days before the
10 executive clemency hearing of the date of the hearing. The
11 victim and any other concerned citizen may submit, in
12 writing, on film, videotape, or other electronic means or in
13 the form of a recording or in person at the parole hearing
14 relevant information for consideration by the Prisoner Review
15 Board.

16 The victim may waive the 15-day written notice
17 requirement. In the case of an emergency where 15 days
18 written notice is not practicable, the 15-day written notice
19 requirement may be waived by the Board or the Governor.

20 If the Board of Governor waives the 15-day written notice
21 requirement, the reason for such waiver must be clearly
22 stated on the record at the hearing and must be included in
23 the Board's Report to the Governor. The fact that the
24 Governor's term in office or the term of any member of the
25 Board is expiring shall not be, in and of itself, cause to
26 wave the 15-day written notice requirement.

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

32 (Source: P.A. 90-14, eff. 7-1-97; 90-793, eff. 8-14-98;
33 91-237, eff. 1-1-00; 91-693, eff. 4-13-00.)

1 Section 10. The Unified Code of Corrections is amended
2 by changing Section 3-3-13 as follows:

3 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

4 Sec. 3-3-13. Procedure for Executive Clemency.

5 (a) Petitions seeking pardon, commutation, or reprieve
6 shall be addressed to the Governor and filed with the
7 Prisoner Review Board. The petition shall be in writing and
8 signed by the person under conviction or by a person on his
9 behalf. It shall contain a brief history of the case, the
10 reasons for seeking executive clemency, and other relevant
11 information the Board may require.

12 (a-5) After a petition has been denied by the Governor,
13 the Board may not accept a repeat petition for executive
14 clemency for the same person until one full year has elapsed
15 from the date of the denial. The Chairman of the Board may
16 waive the one-year requirement if the petitioner offers in
17 writing new information that was unavailable to the
18 petitioner at the time of the filing of the prior petition
19 and which the Chairman determines to be significant. The
20 Chairman also may waive the one-year waiting period if the
21 petitioner can show that a change in circumstances of a
22 compelling humanitarian nature has arisen since the denial of
23 the prior petition.

24 (b) Notice of the proposed application shall be given by
25 the Board to the committing court and the state's attorney of
26 the county where the conviction was had.

27 (c) The Board shall, if requested and upon due notice,
28 give a hearing to each application, allowing representation
29 by counsel, if desired, after which it shall ~~confidentially~~
30 advise the Governor by a written report of its
31 recommendations which shall be determined by majority vote.
32 The Board shall also advise the Governor by a written report
33 of its recommendations determined by majority vote in any

1 case in which no hearing is requested. The written report of
2 the Board shall contain a statement outlining the sentence
3 that would be in effect if a commutation is granted for a
4 person sentenced to death. The Board shall meet to consider
5 such petitions no less than 4 times each year. The hearing
6 shall be sufficiently comprehensive to ensure that the
7 interests of the victim, the defendant, and the People of the
8 State of Illinois are protected. Regardless of whether a
9 hearing is requested, the Board must issue its written report
10 advising the Governor of its recommendations no later than
11 120 days after the filing of a petition seeking a pardon,
12 commutation, or reprieve.

13 (c-5) In making its recommendations on a petition
14 seeking a pardon, commutation, or reprieve, the Board shall
15 consider, but not be limited to:

16 (1) any material transmitted to the Department by
17 the clerk of the committing court under Section 5-4-1 or
18 Section 5-10 of the Juvenile Court Act or Section 5-750
19 of the Juvenile Court Act of 1987;

20 (2) a report, if submitted, under Section 3-8-2 or
21 3-10-2;

22 (3) any report by the Department and any report by
23 the chief administrative officer of the institution or
24 facility;

25 (4) any parole progress report;

26 (5) any medical and psychological report, if
27 requested by the Board;

28 (6) in addition to any live testimony submitted,
29 any material in writing or on film, video tape, or other
30 electronic means in the form of a recording submitted by
31 the person whose petition for executive clemency is being
32 considered; and

33 (7) in addition to any live testimony submitted,
34 any material in writing or on film, video tape, or other

1 electronic means in the form of a recording or testimony
2 submitted by the State's Attorney, the victim, or a
3 concerned citizen pursuant to the Rights of Crime Victims
4 and Witnesses Act.

5 (c-6) The prosecuting State's Attorney's office shall
6 receive reasonable written notice not less than 15 days prior
7 to the executive clemency hearing and may submit relevant
8 information in writing, or on film, video tape or other
9 electronic means or in the form of a recording to the Board
10 for its consideration. The State's Attorney may waive the
11 15-day written notice requirement. In the case of an
12 emergency where 15 days' written notice is not practicable,
13 the 15-day written notice requirement may also be waived by
14 either the Board or the Governor.

15 (c-7) The victim of the crime for which the prisoner has
16 been sentenced shall receive notice of an executive clemency
17 hearing as provided in subsection (d-5) of Section 4.5 of the
18 Rights of Crime Victims and Witnesses Act.

19 Any recording considered under the provisions of clause
20 (c-5)(6), (c-5)(7), or (c-6) of this Section shall be in the
21 form designated by the Board. The recording shall be either
22 visual or aural. Every voice on the recording and person
23 present shall be identified and the recording shall contain
24 either a visual or aural statement of the person submitting
25 the recording, the date of the recording and the name of the
26 person whose petition for executive clemency is being
27 considered. The recordings, if retained by the Board shall
28 be deemed to be submitted at any subsequent hearing on
29 executive clemency or if the State's Attorney submits in
30 writing a declaration clearly identifying the recording as
31 representing the present position of the victim or State's
32 Attorney regarding the issues to be considered at the
33 executive clemency hearing.

34 Application for executive clemency under this Section may

1 not be commenced on behalf of a person who has been sentenced
2 to death without the written consent of the defendant, unless
3 the defendant, because of a mental or physical condition, is
4 incapable of asserting his or her own claim.

5 (d) The Governor shall decide each application and
6 communicate his decision to the Board which shall notify the
7 petitioner.

8 In the event a petitioner who has been convicted of a
9 Class X felony is granted a release, after the Governor has
10 communicated such decision to the Board, the Board shall give
11 written notice to the Sheriff of the county from which the
12 offender was sentenced if such sheriff has requested that
13 such notice be given on a continuing basis. In cases where
14 arrest of the offender or the commission of the offense took
15 place in any municipality with a population of more than
16 10,000 persons, the Board shall also give written notice to
17 the proper law enforcement agency for said municipality which
18 has requested notice on a continuing basis.

19 (e) No action may be taken by the Governor in the
20 absence of a report by the Board, unless (1) the Governor
21 finds that action is required in the absence of a report due
22 to the existence of exigent circumstances, or (2) the Board
23 has failed to issue a report within 120 days of the filing of
24 the petition, as required by subsection (c) of this Section.
25 Any exigent circumstances relied upon by the Governor shall
26 be identified in the Governor's order granting clemency. The
27 fact that the Governor's term in office is ending shall not,
28 in and of itself, qualify as an exigent circumstance for
29 purposes of this Section. Nothing in this Section shall be
30 construed to limit the power of the Governor under the
31 constitution to grant a reprieve, commutation of sentence, or
32 pardon.

33 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".