



Sen. Chapin Rose

**Filed: 4/15/2013**

09800SB1528sam001

LRB098 07632 RLC 44443 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; (B) the right of the  
9 victim's spouse, guardian, parent, grandparent and other  
10 immediate family and household members under Section 6 of  
11 this Act to present an impact statement at sentencing; and  
12 (C) if a presentence report is to be prepared, the right of  
13 the victim's spouse, guardian, parent, grandparent and  
14 other immediate family and household to submit information  
15 to the preparer of the presentence report about the effect  
16 the offense has had on the victim and the person;

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

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

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

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

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

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

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

24           (4) where practical, consult with the crime victim  
25 before the Office of the State's Attorney makes an offer of  
26 a plea bargain to the defendant or enters into negotiations

1 with the defendant concerning a possible plea agreement,  
2 and shall consider the written victim impact statement, if  
3 prepared prior to entering into a plea agreement;

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

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

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

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

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

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

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

1 publicize this telephone number on its website and to the  
2 State's Attorney of each county.

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

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

1 provisions of this paragraph (4) are subject to the Open Parole  
2 Hearings Act.

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

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

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

24 (8) When a defendant has been convicted of a sex offense as  
25 defined in Section 2 of the Sex Offender Registration Act and  
26 has been sentenced to the Department of Corrections or the

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

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

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

1 information to the Board.

2 (Source: P.A. 96-328, eff. 8-11-09; 96-875, eff. 1-22-10;  
3 97-457, eff. 1-1-12; 97-572, eff. 1-1-12; 97-813, eff. 7-13-12;  
4 97-815, eff. 1-1-13.)

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

7 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)

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

9 (a) In felony cases, the presentence report shall set  
10 forth:

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

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

24 (3) the effect the offense committed has had upon the

1 victim or victims thereof, and any compensatory benefit  
2 that various sentencing alternatives would confer on such  
3 victim or victims;

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

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

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

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

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

25 (b) The investigation shall include a physical and mental  
26 examination of the defendant when so ordered by the court. If

1 the court determines that such an examination should be made,  
2 it shall issue an order that the defendant submit to  
3 examination at such time and place as designated by the court  
4 and that such examination be conducted by a physician,  
5 psychologist or psychiatrist designated by the court. Such an  
6 examination may be conducted in a court clinic if so ordered by  
7 the court. The cost of such examination shall be paid by the  
8 county in which the trial is held.

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

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

1 report.

2 (d) In cases under Sections 11-1.50, 12-15, and 12-3.4 or  
3 12-30 of the Criminal Code of 1961 or the Criminal Code of  
4 2012, the presentence report shall set forth information about  
5 alcohol, drug abuse, psychiatric, and marriage counseling or  
6 other treatment programs and facilities, information on the  
7 defendant's history of delinquency or criminality, and shall  
8 contain those additional matters listed in any of paragraphs  
9 (1) through (6) of subsection (a) or in subsection (b) of this  
10 Section as are specified by the court.

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

14 (Source: P.A. 96-322, eff. 1-1-10; 96-1551, Article 1, Section  
15 970, eff. 7-1-11; 96-1551, Article 2, Section 1065, eff.  
16 7-1-11; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)".