

# HB1164



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1164

by Rep. Michael J. Madigan

### SYNOPSIS AS INTRODUCED:

725 ILCS 120/6

from Ch. 38, par. 1406

Amends the Rights of Crime Victims and Witnesses Act. Makes a technical change in a Section concerning victim impact statements.

LRB099 05012 MRW 25041 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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

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

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

8 (a) In any case where a defendant has been convicted of a  
9 violent crime or a juvenile has been adjudicated a delinquent  
10 for a violent crime and ~~and~~ a victim of the violent crime or  
11 the victim's spouse, guardian, parent, grandparent, or other  
12 immediate family or household member is present in the  
13 courtroom at the time of the sentencing or the disposition  
14 hearing, the victim or his or her representative shall have the  
15 right and the victim's spouse, guardian, parent, grandparent,  
16 and other immediate family or household member upon his, her,  
17 or their request may be permitted by the court to address the  
18 court regarding the impact that the defendant's criminal  
19 conduct or the juvenile's delinquent conduct has had upon them  
20 and the victim. The court has discretion to determine the  
21 number of oral presentations of victim impact statements. Any  
22 impact statement must have been prepared in writing in  
23 conjunction with the Office of the State's Attorney prior to

1 the initial hearing or sentencing, before it can be presented  
2 orally or in writing at the sentencing hearing. In conjunction  
3 with the Office of the State's Attorney, a victim impact  
4 statement that is presented orally may be done so by the victim  
5 or the victim's spouse, guardian, parent, grandparent, or other  
6 immediate family or household member or his, her, or their  
7 representative. At the sentencing hearing, the prosecution may  
8 introduce that evidence either in its case in chief or in  
9 rebuttal. The court shall consider any impact statement  
10 admitted along with all other appropriate factors in  
11 determining the sentence of the defendant or disposition of  
12 such juvenile.

13 (a-1) In any case where a defendant has been convicted of a  
14 violation of any statute, ordinance, or regulation relating to  
15 the operation or use of motor vehicles, the use of streets and  
16 highways by pedestrians or the operation of any other wheeled  
17 or tracked vehicle, except parking violations, if the violation  
18 resulted in great bodily harm or death, the person who suffered  
19 great bodily harm, the injured person's representative, or the  
20 representative of a deceased person shall be entitled to notice  
21 of the sentencing hearing. "Representative" includes the  
22 spouse, guardian, grandparent, or other immediate family or  
23 household member of an injured or deceased person. If the  
24 injured person, the injured person's representative, or a  
25 representative of a deceased person is present in the courtroom  
26 at the time of sentencing, the injured person or his or her

1 representative and a representative of the deceased person  
2 shall have the right to address the court regarding the impact  
3 that the defendant's criminal conduct has had upon them. If  
4 more than one representative of an injured or deceased person  
5 is present in the courtroom at the time of sentencing, the  
6 court has discretion to permit one or more of the  
7 representatives to present an oral impact statement. Any impact  
8 statement must have been prepared in writing in conjunction  
9 with the Office of the State's Attorney prior to the initial  
10 hearing or sentencing, before it can be presented orally or in  
11 writing at the sentencing hearing. In conjunction with the  
12 Office of the State's Attorney, an impact statement that is  
13 presented orally may be done so by the injured person or the  
14 representative of an injured or deceased person. At the  
15 sentencing hearing, the prosecution may introduce that  
16 evidence either in its case in chief or in rebuttal. The court  
17 shall consider any impact statement admitted along with all  
18 other appropriate factors in determining the sentence of the  
19 defendant.

20 (a-5) In any case where a defendant has been found not  
21 guilty by reason of insanity of a violent crime and a hearing  
22 has been ordered by the court under the Mental Health and  
23 Developmental Disabilities Code to determine if the defendant  
24 is: (1) in need of mental health services on an inpatient  
25 basis; (2) in need of mental health services on an outpatient  
26 basis; or (3) not in need of mental health services and a

1 victim of the violent crime or the victim's spouse, guardian,  
2 parent, grandparent, or other immediate family or household  
3 member is present in the courtroom at the time of the initial  
4 commitment hearing, the victim or his or her representative  
5 shall have the right and the victim's spouse, guardian, parent,  
6 grandparent, and other immediate family or household members  
7 upon their request may be permitted by the court to address the  
8 court regarding the impact that the defendant's criminal  
9 conduct has had upon them and the victim. The court has  
10 discretion to determine the number of oral presentations of  
11 victim impact statements. Any impact statement must have been  
12 prepared in writing in conjunction with the Office of the  
13 State's Attorney prior to the initial commitment hearing,  
14 before it may be presented orally or in writing at the  
15 commitment hearing. In conjunction with the Office of the  
16 State's Attorney, a victim impact statement that is presented  
17 orally may be presented so by the victim or the victim's  
18 spouse, guardian, parent, grandparent, or other immediate  
19 family or household member or his or her representative. At the  
20 initial commitment hearing, the State's Attorney may introduce  
21 the statement either in its case in chief or in rebuttal. The  
22 court may only consider the impact statement along with all  
23 other appropriate factors in determining the: (1) threat of  
24 serious physical harm poised by the respondent to himself or  
25 herself, or to another person; (2) location of inpatient or  
26 outpatient mental health services ordered by the court, but

1 only after complying with all other applicable administrative,  
2 rule, and statutory requirements; (3) maximum period of  
3 commitment for inpatient mental health services; and (4)  
4 conditions of release for outpatient mental health services  
5 ordered by the court.

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

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

18 (Source: P.A. 96-117, eff. 1-1-10; 97-572, eff. 1-1-12.)