

1 AN ACT concerning crime victims.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-705 as follows:

6 (705 ILCS 405/5-705)

7 Sec. 5-705. Sentencing hearing; evidence; continuance.

8 (1) In this subsection (1), "violent crime" has the same
9 meaning ascribed to the term in subsection (c) of Section 3 of
10 the Rights of Crime Victims and Witnesses Act. At the
11 sentencing hearing, the court shall determine whether it is in
12 the best interests of the minor or the public that he or she be
13 made a ward of the court, and, if he or she is to be made a ward
14 of the court, the court shall determine the proper disposition
15 best serving the interests of the minor and the public. All
16 evidence helpful in determining these questions, including
17 oral and written reports, may be admitted and may be relied
18 upon to the extent of its probative value, even though not
19 competent for the purposes of the trial. A crime victim shall
20 be allowed to present an oral or written statement, as
21 guaranteed by Article I, Section 8.1 of the Illinois
22 Constitution and as provided in Section 6 of the Rights of
23 Crime Victims and Witnesses Act, in any case in which: (a) a

1 juvenile has been adjudicated delinquent for a violent crime
2 after a bench or jury trial; or (b) the petition alleged the
3 commission of a violent crime and the juvenile has been
4 adjudicated delinquent under a plea agreement of a crime that
5 is not a violent crime. The court shall allow a victim to make
6 an oral statement if the victim is present in the courtroom and
7 requests to make an oral statement. An oral statement includes
8 the victim or a representative of the victim reading the
9 written statement. The court may allow persons impacted by the
10 crime who are not victims under subsection (a) of Section 3 of
11 the Rights of Crime Victims and Witnesses Act to present an
12 oral or written statement. A victim and any person making an
13 oral statement shall not be put under oath or subject to
14 cross-examination. A record of a prior continuance under
15 supervision under Section 5-615, whether successfully
16 completed or not, is admissible at the sentencing hearing. No
17 order of commitment to the Department of Juvenile Justice shall
18 be entered against a minor before a written report of social
19 investigation, which has been completed within the previous 60
20 days, is presented to and considered by the court.

21 (2) Once a party has been served in compliance with Section
22 5-525, no further service or notice must be given to that party
23 prior to proceeding to a sentencing hearing. Before imposing
24 sentence the court shall advise the State's Attorney and the
25 parties who are present or their counsel of the factual
26 contents and the conclusions of the reports prepared for the

1 use of the court and considered by it, and afford fair
2 opportunity, if requested, to controvert them. Factual
3 contents, conclusions, documents and sources disclosed by the
4 court under this paragraph shall not be further disclosed
5 without the express approval of the court.

6 (3) On its own motion or that of the State's Attorney, a
7 parent, guardian, legal custodian, or counsel, the court may
8 adjourn the hearing for a reasonable period to receive reports
9 or other evidence and, in such event, shall make an appropriate
10 order for detention of the minor or his or her release from
11 detention subject to supervision by the court during the period
12 of the continuance. In the event the court shall order
13 detention hereunder, the period of the continuance shall not
14 exceed 30 court days. At the end of such time, the court shall
15 release the minor from detention unless notice is served at
16 least 3 days prior to the hearing on the continued date that
17 the State will be seeking an extension of the period of
18 detention, which notice shall state the reason for the request
19 for the extension. The extension of detention may be for a
20 maximum period of an additional 15 court days or a lesser
21 number of days at the discretion of the court. However, at the
22 expiration of the period of extension, the court shall release
23 the minor from detention if a further continuance is granted.
24 In scheduling investigations and hearings, the court shall give
25 priority to proceedings in which a minor is in detention or has
26 otherwise been removed from his or her home before a sentencing

1 order has been made.

2 (4) When commitment to the Department of Juvenile Justice
3 is ordered, the court shall state the basis for selecting the
4 particular disposition, and the court shall prepare such a
5 statement for inclusion in the record.

6 (Source: P.A. 94-696, eff. 6-1-06.)

7 Section 10. The Rights of Crime Victims and Witnesses Act
8 is amended by changing Sections 3, 4.5, and 6 as follows:

9 (725 ILCS 120/3) (from Ch. 38, par. 1403)

10 Sec. 3. The terms used in this Act shall have the following
11 meanings:

12 (a) "Crime victim" or "victim" means: (1) any natural
13 person determined by the prosecutor or the court to have
14 suffered direct physical or psychological harm as a result of a
15 violent crime perpetrated or attempted against that person or
16 direct physical or psychological harm as a result of (i) a
17 violation of Section 11-501 of the Illinois Vehicle Code or
18 similar provision of a local ordinance or (ii) a violation of
19 Section 9-3 of the Criminal Code of 1961 or the Criminal Code
20 of 2012; (2) in the case of a crime victim who is under 18 years
21 of age or an adult victim who is incompetent or incapacitated,
22 both parents, legal guardians, foster parents, or a single
23 adult representative; (3) in the case of an adult deceased
24 victim, 2 representatives who may be the spouse, parent, child

1 or sibling of the victim, or the representative of the victim's
2 estate; and (4) an immediate family member of a victim under
3 clause (1) of this paragraph (a) chosen by the victim. If the
4 victim is 18 years of age or over, the victim may choose any
5 person to be the victim's representative. In no event shall the
6 defendant or any person who aided and abetted in the commission
7 of the crime be considered a victim, a crime victim, or a
8 representative of the victim.

9 A board, agency, or other governmental entity making
10 decisions regarding an offender's release, sentence reduction,
11 or clemency can determine additional persons are victims for
12 the purpose of its proceedings.

13 (a-3) "Advocate" means a person whose communications with
14 the victim are privileged under Section 8-802.1 or 8-802.2 of
15 the Code of Civil Procedure, or Section 227 of the Illinois
16 Domestic Violence Act of 1986.

17 (a-5) "Confer" means to consult together, share
18 information, compare opinions and carry on a discussion or
19 deliberation.

20 (a-7) "Sentence" includes, but is not limited to, the
21 imposition of sentence, a request for a reduction in sentence,
22 parole, mandatory supervised release, aftercare release, early
23 release, inpatient treatment, outpatient treatment,
24 conditional release after a finding that the defendant is not
25 guilty by reason of insanity, clemency, or a proposal that
26 would reduce the defendant's sentence or result in the

1 defendant's release. "Early release" refers to a discretionary
2 release.

3 (a-9) "Sentencing" includes, but is not limited to, the
4 imposition of sentence and a request for a reduction in
5 sentence, parole, mandatory supervised release, aftercare
6 release, ~~or~~ early release, consideration of inpatient
7 treatment or outpatient treatment, or conditional release
8 after a finding that the defendant is not guilty by reason of
9 insanity.

10 (a-10) "Status hearing" means a hearing designed to provide
11 information to the court, at which no motion of a substantive
12 nature and no constitutional or statutory right of a crime
13 victim is implicated or at issue.

14 (b) "Witness" means: any person who personally observed the
15 commission of a crime and who will testify on behalf of the
16 State of Illinois; or a person who will be called by the
17 prosecution to give testimony establishing a necessary nexus
18 between the offender and the violent crime.

19 (c) "Violent crime" means: (1) any felony in which force or
20 threat of force was used against the victim; (2) any offense
21 involving sexual exploitation, sexual conduct, or sexual
22 penetration; (3) a violation of Section 11-20.1, 11-20.1B,
23 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the
24 Criminal Code of 2012; (4) domestic battery or stalking; (5)
25 violation of an order of protection, a civil no contact order,
26 or a stalking no contact order; (6) any misdemeanor which

1 results in death or great bodily harm to the victim; or (7) any
2 violation of Section 9-3 of the Criminal Code of 1961 or the
3 Criminal Code of 2012, or Section 11-501 of the Illinois
4 Vehicle Code, or a similar provision of a local ordinance, if
5 the violation resulted in personal injury or death. "Violent
6 crime" includes any action committed by a juvenile that would
7 be a violent crime if committed by an adult. For the purposes
8 of this paragraph, "personal injury" shall include any Type A
9 injury as indicated on the traffic accident report completed by
10 a law enforcement officer that requires immediate professional
11 attention in either a doctor's office or medical facility. A
12 type A injury shall include severely bleeding wounds, distorted
13 extremities, and injuries that require the injured party to be
14 carried from the scene.

15 (d) (Blank).

16 (e) "Court proceedings" includes, but is not limited to,
17 the preliminary hearing, any post-arraignment hearing the
18 effect of which may be the release of the defendant from
19 custody or to alter the conditions of bond, change of plea
20 hearing, the trial, any pretrial or post-trial hearing,
21 sentencing, any oral argument or hearing before an Illinois
22 appellate court, any hearing under the Mental Health and
23 Developmental Disabilities Code or Section 5-2-4 of the Unified
24 Code of Corrections after a finding that the defendant is not
25 guilty by reason of insanity, including a hearing for
26 conditional release, any hearing related to a modification of

1 sentence, probation revocation hearing, aftercare release or
2 parole hearings, post-conviction relief proceedings, habeas
3 corpus proceedings and clemency proceedings related to the
4 defendant's conviction or sentence. For purposes of the
5 victim's right to be present, "court proceedings" does not
6 include (1) hearings under Section 109-1 of the Code of
7 Criminal Procedure of 1963, (2) grand jury proceedings, (3)
8 status hearings, or (4) the issuance of an order or decision of
9 an Illinois court that dismisses a charge, reverses a
10 conviction, reduces a sentence, or releases an offender under a
11 court rule.

12 (f) "Concerned citizen" includes relatives of the victim,
13 friends of the victim, witnesses to the crime, or any other
14 person associated with the victim or prisoner.

15 (g) "Victim's attorney" means an attorney retained by the
16 victim for the purposes of asserting the victim's
17 constitutional and statutory rights. An attorney retained by
18 the victim means an attorney who is hired to represent the
19 victim at the victim's expense or an attorney who has agreed to
20 provide pro bono representation. Nothing in this statute
21 creates a right to counsel at public expense for a victim.

22 (h) "Support person" means a person chosen by a victim to
23 be present at court proceedings.

24 (Source: P.A. 98-558, eff. 1-1-14; 99-143, eff. 7-27-15;
25 99-413, eff. 8-20-15; 99-642, eff. 7-28-16; 99-671, eff.
26 1-1-17.)

1 (725 ILCS 120/4.5)

2 Sec. 4.5. Procedures to implement the rights of crime
3 victims. To afford crime victims their rights, law enforcement,
4 prosecutors, judges and corrections will provide information,
5 as appropriate of the following procedures:

6 (a) At the request of the crime victim, law enforcement
7 authorities investigating the case shall provide notice of the
8 status of the investigation, except where the State's Attorney
9 determines that disclosure of such information would
10 unreasonably interfere with the investigation, until such time
11 as the alleged assailant is apprehended or the investigation is
12 closed.

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

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

19 (1) shall provide notice of the filing of an
20 information, the return of an indictment, or the filing of
21 a petition to adjudicate a minor as a delinquent for a
22 violent crime;

23 (2) shall provide timely notice of the date, time, and
24 place of court proceedings; of any change in the date,
25 time, and place of court proceedings; and of any

1 cancellation of court proceedings. Notice shall be
2 provided in sufficient time, wherever possible, for the
3 victim to make arrangements to attend or to prevent an
4 unnecessary appearance at court proceedings;

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

9 (3.5) or victim advocate personnel shall provide
10 information about available victim services, including
11 referrals to programs, counselors, and agencies that
12 assist a victim to deal with trauma, loss, and grief;

13 (4) shall assist in having any stolen or other personal
14 property held by law enforcement authorities for
15 evidentiary or other purposes returned as expeditiously as
16 possible, pursuant to the procedures set out in Section
17 115-9 of the Code of Criminal Procedure of 1963;

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

23 (6) shall provide, whenever possible, a secure waiting
24 area during court proceedings that does not require victims
25 to be in close proximity to defendants or juveniles accused
26 of a violent crime, and their families and friends;

1 (7) shall provide notice to the crime victim of the
2 right to have a translator present at all court proceedings
3 and, in compliance with the federal Americans with
4 Disabilities Act of 1990, the right to communications
5 access through a sign language interpreter or by other
6 means;

7 (8) (blank);

8 (8.5) shall inform the victim of the right to be
9 present at all court proceedings, unless the victim is to
10 testify and the court determines that the victim's
11 testimony would be materially affected if the victim hears
12 other testimony at trial;

13 (9) shall inform the victim of the right to have
14 present at all court proceedings, subject to the rules of
15 evidence and confidentiality, an advocate and other
16 support person of the victim's choice;

17 (9.3) shall inform the victim of the right to retain an
18 attorney, at the victim's own expense, who, upon written
19 notice filed with the clerk of the court and State's
20 Attorney, is to receive copies of all notices, motions and
21 court orders filed thereafter in the case, in the same
22 manner as if the victim were a named party in the case;

23 (9.5) shall inform the victim of (A) the victim's right
24 under Section 6 of this Act to make a ~~victim-impact~~
25 statement at the sentencing hearing; (B) the right of the
26 victim's spouse, guardian, parent, grandparent and other

1 immediate family and household members under Section 6 of
2 this Act to present a a ~~an-impact~~ statement at sentencing;
3 and (C) if a presentence report is to be prepared, the
4 right of the victim's spouse, guardian, parent,
5 grandparent and other immediate family and household
6 members to submit information to the preparer of the
7 presentence report about the effect the offense has had on
8 the victim and the person;

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

16 (11) shall request restitution at sentencing and as
17 part of a plea agreement if the victim requests
18 restitution;

19 (12) shall, upon the court entering a verdict of not
20 guilty by reason of insanity, inform the victim of the
21 notification services available from the Department of
22 Human Services, including the statewide telephone number,
23 under subparagraph (d) (2) of this Section;

24 (13) shall provide notice within a reasonable time
25 after receipt of notice from the custodian, of the release
26 of the defendant on bail or personal recognizance or the

1 release from detention of a minor who has been detained;

2 (14) shall explain in nontechnical language the
3 details of any plea or verdict of a defendant, or any
4 adjudication of a juvenile as a delinquent;

5 (15) shall make all reasonable efforts to consult with
6 the crime victim before the Office of the State's Attorney
7 makes an offer of a plea bargain to the defendant or enters
8 into negotiations with the defendant concerning a possible
9 plea agreement, and shall consider the written ~~victim~~
10 ~~impact~~ statement, if prepared prior to entering into a plea
11 agreement. The right to consult with the prosecutor does
12 not include the right to veto a plea agreement or to insist
13 the case go to trial. If the State's Attorney has not
14 consulted with the victim prior to making an offer or
15 entering into plea negotiations with the defendant, the
16 Office of the State's Attorney shall notify the victim of
17 the offer or the negotiations within 2 business days and
18 confer with the victim;

19 (16) shall provide notice of the ultimate disposition
20 of the cases arising from an indictment or an information,
21 or a petition to have a juvenile adjudicated as a
22 delinquent for a violent crime;

23 (17) shall provide notice of any appeal taken by the
24 defendant and information on how to contact the appropriate
25 agency handling the appeal, and how to request notice of
26 any hearing, oral argument, or decision of an appellate

1 court;

2 (18) shall provide timely notice of any request for
3 post-conviction review filed by the defendant under
4 Article 122 of the Code of Criminal Procedure of 1963, and
5 of the date, time and place of any hearing concerning the
6 petition. Whenever possible, notice of the hearing shall be
7 given within 48 hours of the court's scheduling of the
8 hearing; and

9 (19) shall forward a copy of any statement presented
10 under Section 6 to the Prisoner Review Board or Department
11 of Juvenile Justice to be considered in making a
12 determination under Section 3-2.5-85 or subsection (b) of
13 Section 3-3-8 of the Unified Code of Corrections.

14 (c) The court shall ensure that the rights of the victim
15 are afforded.

16 (c-5) The following procedures shall be followed to afford
17 victims the rights guaranteed by Article I, Section 8.1 of the
18 Illinois Constitution:

19 (1) Written notice. A victim may complete a written
20 notice of intent to assert rights on a form prepared by the
21 Office of the Attorney General and provided to the victim
22 by the State's Attorney. The victim may at any time provide
23 a revised written notice to the State's Attorney. The
24 State's Attorney shall file the written notice with the
25 court. At the beginning of any court proceeding in which
26 the right of a victim may be at issue, the court and

1 prosecutor shall review the written notice to determine
2 whether the victim has asserted the right that may be at
3 issue.

4 (2) Victim's retained attorney. A victim's attorney
5 shall file an entry of appearance limited to assertion of
6 the victim's rights. Upon the filing of the entry of
7 appearance and service on the State's Attorney and the
8 defendant, the attorney is to receive copies of all
9 notices, motions and court orders filed thereafter in the
10 case.

11 (3) Standing. The victim has standing to assert the
12 rights enumerated in subsection (a) of Article I, Section
13 8.1 of the Illinois Constitution and the statutory rights
14 under Section 4 of this Act in any court exercising
15 jurisdiction over the criminal case. The prosecuting
16 attorney, a victim, or the victim's retained attorney may
17 assert the victim's rights. The defendant in the criminal
18 case has no standing to assert a right of the victim in any
19 court proceeding, including on appeal.

20 (4) Assertion of and enforcement of rights.

21 (A) The prosecuting attorney shall assert a
22 victim's right or request enforcement of a right by
23 filing a motion or by orally asserting the right or
24 requesting enforcement in open court in the criminal
25 case outside the presence of the jury. The prosecuting
26 attorney shall consult with the victim and the victim's

1 attorney regarding the assertion or enforcement of a
2 right. If the prosecuting attorney decides not to
3 assert or enforce a victim's right, the prosecuting
4 attorney shall notify the victim or the victim's
5 attorney in sufficient time to allow the victim or the
6 victim's attorney to assert the right or to seek
7 enforcement of a right.

8 (B) If the prosecuting attorney elects not to
9 assert a victim's right or to seek enforcement of a
10 right, the victim or the victim's attorney may assert
11 the victim's right or request enforcement of a right by
12 filing a motion or by orally asserting the right or
13 requesting enforcement in open court in the criminal
14 case outside the presence of the jury.

15 (C) If the prosecuting attorney asserts a victim's
16 right or seeks enforcement of a right, and the court
17 denies the assertion of the right or denies the request
18 for enforcement of a right, the victim or victim's
19 attorney may file a motion to assert the victim's right
20 or to request enforcement of the right within 10 days
21 of the court's ruling. The motion need not demonstrate
22 the grounds for a motion for reconsideration. The court
23 shall rule on the merits of the motion.

24 (D) The court shall take up and decide any motion
25 or request asserting or seeking enforcement of a
26 victim's right without delay, unless a specific time

1 period is specified by law or court rule. The reasons
2 for any decision denying the motion or request shall be
3 clearly stated on the record.

4 (5) Violation of rights and remedies.

5 (A) If the court determines that a victim's right
6 has been violated, the court shall determine the
7 appropriate remedy for the violation of the victim's
8 right by hearing from the victim and the parties,
9 considering all factors relevant to the issue, and then
10 awarding appropriate relief to the victim.

11 (A-5) Consideration of an issue of a substantive
12 nature or an issue that implicates the constitutional
13 or statutory right of a victim at a court proceeding
14 labeled as a status hearing shall constitute a per se
15 violation of a victim's right.

16 (B) The appropriate remedy shall include only
17 actions necessary to provide the victim the right to
18 which the victim was entitled and may include reopening
19 previously held proceedings; however, in no event
20 shall the court vacate a conviction. Any remedy shall
21 be tailored to provide the victim an appropriate remedy
22 without violating any constitutional right of the
23 defendant. In no event shall the appropriate remedy be
24 a new trial, damages, or costs.

25 (6) Right to be heard. Whenever a victim has the right
26 to be heard, the court shall allow the victim to exercise

1 the right in any reasonable manner the victim chooses.

2 (7) Right to attend trial. A party must file a written
3 motion to exclude a victim from trial at least 60 days
4 prior to the date set for trial. The motion must state with
5 specificity the reason exclusion is necessary to protect a
6 constitutional right of the party, and must contain an
7 offer of proof. The court shall rule on the motion within
8 30 days. If the motion is granted, the court shall set
9 forth on the record the facts that support its finding that
10 the victim's testimony will be materially affected if the
11 victim hears other testimony at trial.

12 (8) Right to have advocate and support person present
13 at court proceedings.

14 (A) A party who intends to call an advocate as a
15 witness at trial must seek permission of the court
16 before the subpoena is issued. The party must file a
17 written motion at least 90 days before trial that sets
18 forth specifically the issues on which the advocate's
19 testimony is sought and an offer of proof regarding (i)
20 the content of the anticipated testimony of the
21 advocate; and (ii) the relevance, admissibility, and
22 materiality of the anticipated testimony ~~in sufficient~~
23 ~~time to allow the court to rule and the victim to seek~~
24 ~~appellate review~~. The court shall consider the motion
25 and make findings within 30 days of the filing of the
26 motion ~~rule on the motion without delay~~. If the court

1 finds by a preponderance of the evidence that: (i) the
2 anticipated testimony is not protected by an absolute
3 privilege; and (ii) the anticipated testimony contains
4 relevant, admissible, and material evidence that is
5 not available through other witnesses or evidence, the
6 court shall issue a subpoena requiring the advocate to
7 appear to testify at an in camera hearing. The
8 prosecuting attorney and the victim shall have 15 days
9 to seek appellate review before the advocate is
10 required to testify at an ex parte in camera
11 proceeding.

12 The prosecuting attorney, the victim, and the
13 advocate's attorney shall be allowed to be present at
14 the ex parte in camera proceeding. If, after conducting
15 the ex parte in camera hearing, the court determines
16 that due process requires any testimony regarding
17 confidential or privileged information or
18 communications, the court shall provide to the
19 prosecuting attorney, the victim, and the advocate's
20 attorney a written memorandum on the substance of the
21 advocate's testimony. The prosecuting attorney, the
22 victim, and the advocate's attorney shall have 15 days
23 to seek appellate review before a subpoena may be
24 issued for the advocate to testify at trial. The
25 presence of the prosecuting attorney at the ex parte in
26 camera proceeding does not make the substance of the

1 advocate's testimony that the court has ruled
2 inadmissible subject to discovery.

3 (B) If a victim has asserted the right to have a
4 support person present at the court proceedings, the
5 victim shall provide the name of the person the victim
6 has chosen to be the victim's support person to the
7 prosecuting attorney, within 60 days of trial. The
8 prosecuting attorney shall provide the name to the
9 defendant. If the defendant intends to call the support
10 person as a witness at trial, the defendant must seek
11 permission of the court before a subpoena is issued.
12 The defendant must file a written motion at least 45
13 days prior to trial that sets forth specifically the
14 issues on which the support person will testify and an
15 offer of proof regarding: (i) the content of the
16 anticipated testimony of the support person; and (ii)
17 the relevance, admissibility, and materiality of the
18 anticipated testimony.

19 If the prosecuting attorney intends to call the
20 support person as a witness during the State's
21 case-in-chief, the prosecuting attorney shall inform
22 the court of this intent in the response to the
23 defendant's written motion. The victim may choose a
24 different person to be the victim's support person. The
25 court may allow the defendant to inquire about matters
26 outside the scope of the direct examination during

1 cross examination. If the court allows the defendant to
2 do so, the support person shall be allowed to remain in
3 the courtroom after the support person has testified. A
4 defendant who fails to question the support person
5 about matters outside the scope of direct examination
6 during the State's case-in-chief waives the right to
7 challenge the presence of the support person on appeal.
8 The court shall allow the support person to testify if
9 called as a witness in the defendant's case-in-chief or
10 the State's rebuttal.

11 If the court does not allow the defendant to
12 inquire about matters outside the scope of the direct
13 examination, the support person shall be allowed to
14 remain in the courtroom after the support person has
15 been called by the defendant or the defendant has
16 rested. The court shall allow the support person to
17 testify in the State's rebuttal.

18 If the prosecuting attorney does not intend to call
19 the support person in the State's case-in-chief, the
20 court shall verify with the support person whether the
21 support person, if called as a witness, would testify
22 as set forth in the offer of proof. If the court finds
23 that the support person would testify as set forth in
24 the offer of proof, the court shall rule on the
25 relevance, materiality, and admissibility of the
26 anticipated testimony. If the court rules the

1 anticipated testimony is admissible, the court shall
2 issue the subpoena. The support person may remain in
3 the courtroom after the support person testifies and
4 shall be allowed to testify in rebuttal.

5 If the court excludes the victim's support person
6 during the State's case-in-chief, the victim shall be
7 allowed to choose another support person to be present
8 in court.

9 If the victim fails to designate a support person
10 within 60 days of trial and the defendant has
11 subpoenaed the support person to testify at trial, the
12 court may exclude the support person from the trial
13 until the support person testifies. If the court
14 excludes the support person the victim may choose
15 another person as a support person.

16 (9) Right to notice and hearing before disclosure of
17 confidential or privileged information or records. A
18 defendant who seeks to subpoena records of or concerning
19 the victim that are confidential or privileged by law must
20 seek permission of the court before the subpoena is issued.
21 The defendant must file a written motion and an offer of
22 proof regarding the relevance, admissibility and
23 materiality of the records. If the court finds by a
24 preponderance of the evidence that: (A) the records are not
25 protected by an absolute privilege and (B) the records
26 contain relevant, admissible, and material evidence that

1 is not available through other witnesses or evidence, the
2 court shall issue a subpoena requiring a sealed copy of the
3 records be delivered to the court to be reviewed in camera.
4 If, after conducting an in camera review of the records,
5 the court determines that due process requires disclosure
6 of any portion of the records, the court shall provide
7 copies of what it intends to disclose to the prosecuting
8 attorney and the victim. The prosecuting attorney and the
9 victim shall have 30 days to seek appellate review before
10 the records are disclosed to the defendant. The disclosure
11 of copies of any portion of the records to the prosecuting
12 attorney does not make the records subject to discovery.

13 (10) Right to notice of court proceedings. If the
14 victim is not present at a court proceeding in which a
15 right of the victim is at issue, the court shall ask the
16 prosecuting attorney whether the victim was notified of the
17 time, place, and purpose of the court proceeding and that
18 the victim had a right to be heard at the court proceeding.
19 If the court determines that timely notice was not given or
20 that the victim was not adequately informed of the nature
21 of the court proceeding, the court shall not rule on any
22 substantive issues, accept a plea, or impose a sentence and
23 shall continue the hearing for the time necessary to notify
24 the victim of the time, place and nature of the court
25 proceeding. The time between court proceedings shall not be
26 attributable to the State under Section 103-5 of the Code

1 of Criminal Procedure of 1963.

2 (11) Right to timely disposition of the case. A victim
3 has the right to timely disposition of the case so as to
4 minimize the stress, cost, and inconvenience resulting
5 from the victim's involvement in the case. Before ruling on
6 a motion to continue trial or other court proceeding, the
7 court shall inquire into the circumstances for the request
8 for the delay and, if the victim has provided written
9 notice of the assertion of the right to a timely
10 disposition, and whether the victim objects to the delay.
11 If the victim objects, the prosecutor shall inform the
12 court of the victim's objections. If the prosecutor has not
13 conferred with the victim about the continuance, the
14 prosecutor shall inform the court of the attempts to
15 confer. If the court finds the attempts of the prosecutor
16 to confer with the victim were inadequate to protect the
17 victim's right to be heard, the court shall give the
18 prosecutor at least 3 but not more than 5 business days to
19 confer with the victim. In ruling on a motion to continue,
20 the court shall consider the reasons for the requested
21 continuance, the number and length of continuances that
22 have been granted, the victim's objections and procedures
23 to avoid further delays. If a continuance is granted over
24 the victim's objection, the court shall specify on the
25 record the reasons for the continuance and the procedures
26 that have been or will be taken to avoid further delays.

1 (12) Right to Restitution.

2 (A) If the victim has asserted the right to
3 restitution and the amount of restitution is known at
4 the time of sentencing, the court shall enter the
5 judgment of restitution at the time of sentencing.

6 (B) If the victim has asserted the right to
7 restitution and the amount of restitution is not known
8 at the time of sentencing, the prosecutor shall, within
9 5 days after sentencing, notify the victim what
10 information and documentation related to restitution
11 is needed and that the information and documentation
12 must be provided to the prosecutor within 45 days after
13 sentencing. Failure to timely provide information and
14 documentation related to restitution shall be deemed a
15 waiver of the right to restitution. The prosecutor
16 shall file and serve within 60 days after sentencing a
17 proposed judgment for restitution and a notice that
18 includes information concerning the identity of any
19 victims or other persons seeking restitution, whether
20 any victim or other person expressly declines
21 restitution, the nature and amount of any damages
22 together with any supporting documentation, a
23 restitution amount recommendation, and the names of
24 any co-defendants and their case numbers. Within 30
25 days after receipt of the proposed judgment for
26 restitution, the defendant shall file any objection to

1 the proposed judgment, a statement of grounds for the
2 objection, and a financial statement. If the defendant
3 does not file an objection, the court may enter the
4 judgment for restitution without further proceedings.
5 If the defendant files an objection and either party
6 requests a hearing, the court shall schedule a hearing.

7 (13) Access to presentence reports.

8 (A) The victim may request a copy of the
9 presentence report prepared under the Unified Code of
10 Corrections from the State's Attorney. The State's
11 Attorney shall redact the following information before
12 providing a copy of the report:

13 (i) the defendant's mental history and
14 condition;

15 (ii) any evaluation prepared under subsection
16 (b) or (b-5) of Section 5-3-2; and

17 (iii) the name, address, phone number, and
18 other personal information about any other victim.

19 (B) The State's Attorney or the defendant may
20 request the court redact other information in the
21 report that may endanger the safety of any person.

22 (C) The State's Attorney may orally disclose to the
23 victim any of the information that has been redacted if
24 there is a reasonable likelihood that the information
25 will be stated in court at the sentencing.

26 (D) The State's Attorney must advise the victim

1 that the victim must maintain the confidentiality of
2 the report and other information. Any dissemination of
3 the report or information that was not stated at a
4 court proceeding constitutes indirect criminal
5 contempt of court.

6 (14) Appellate relief. If the trial court denies the
7 relief requested, the victim, the victim's attorney or the
8 prosecuting attorney may file an appeal within 30 days of
9 the trial court's ruling. The trial or appellate court may
10 stay the court proceedings if the court finds that a stay
11 would not violate a constitutional right of the defendant.
12 If the appellate court denies the relief sought, the
13 reasons for the denial shall be clearly stated in a written
14 opinion. In any appeal in a criminal case, the State may
15 assert as error the court's denial of any crime victim's
16 right in the proceeding to which the appeal relates.

17 (15) Limitation on appellate relief. In no case shall
18 an appellate court provide a new trial to remedy the
19 violation of a victim's right.

20 (16) The right to be reasonably protected from the
21 accused throughout the criminal justice process and the
22 right to have the safety of the victim and the victim's
23 family considered in denying or fixing the amount of bail,
24 determining whether to release the defendant, and setting
25 conditions of release after arrest and conviction. A victim
26 of domestic violence, a sexual offense, or stalking may

1 request the entry of a protective order under Article 112A
2 of the Code of Criminal Procedure of 1963.

3 (d) (1) The Prisoner Review Board shall inform a victim or
4 any other concerned citizen, upon written request, of the
5 prisoner's release on parole, mandatory supervised release,
6 electronic detention, work release, international transfer or
7 exchange, or by the custodian, other than the Department of
8 Juvenile Justice, of the discharge of any individual who was
9 adjudicated a delinquent for a crime from State custody and by
10 the sheriff of the appropriate county of any such person's
11 final discharge from county custody. The Prisoner Review Board,
12 upon written request, shall provide to a victim or any other
13 concerned citizen a recent photograph of any person convicted
14 of a felony, upon his or her release from custody. The Prisoner
15 Review Board, upon written request, shall inform a victim or
16 any other concerned citizen when feasible at least 7 days prior
17 to the prisoner's release on furlough of the times and dates of
18 such furlough. Upon written request by the victim or any other
19 concerned citizen, the State's Attorney shall notify the person
20 once of the times and dates of release of a prisoner sentenced
21 to periodic imprisonment. Notification shall be based on the
22 most recent information as to victim's or other concerned
23 citizen's residence or other location available to the
24 notifying authority.

25 (2) When the defendant has been committed to the Department
26 of Human Services pursuant to Section 5-2-4 or any other

1 provision of the Unified Code of Corrections, the victim may
2 request to be notified by the releasing authority of the
3 approval by the court of an on-grounds pass, a supervised
4 off-grounds pass, an unsupervised off-grounds pass, or
5 conditional release; the release on an off-grounds pass; the
6 return from an off-grounds pass; transfer to another facility;
7 conditional release; escape; death; or final discharge from
8 State custody. The Department of Human Services shall establish
9 and maintain a statewide telephone number to be used by victims
10 to make notification requests under these provisions and shall
11 publicize this telephone number on its website and to the
12 State's Attorney of each county.

13 (3) In the event of an escape from State custody, the
14 Department of Corrections or the Department of Juvenile Justice
15 immediately shall notify the Prisoner Review Board of the
16 escape and the Prisoner Review Board shall notify the victim.
17 The notification shall be based upon the most recent
18 information as to the victim's residence or other location
19 available to the Board. When no such information is available,
20 the Board shall make all reasonable efforts to obtain the
21 information and make the notification. When the escapee is
22 apprehended, the Department of Corrections or the Department of
23 Juvenile Justice immediately shall notify the Prisoner Review
24 Board and the Board shall notify the victim.

25 (4) The victim of the crime for which the prisoner has been
26 sentenced shall receive reasonable written notice not less than

1 30 days prior to the parole hearing or target aftercare release
2 date and may submit, in writing, on film, videotape or other
3 electronic means or in the form of a recording prior to the
4 parole hearing or target aftercare release date or in person at
5 the parole hearing or aftercare release protest hearing or if a
6 victim of a violent crime, by calling the toll-free number
7 established in subsection (f) of this Section, information for
8 consideration by the Prisoner Review Board or Department of
9 Juvenile Justice. The victim shall be notified within 7 days
10 after the prisoner has been granted parole or aftercare release
11 and shall be informed of the right to inspect the registry of
12 parole decisions, established under subsection (g) of Section
13 3-3-5 of the Unified Code of Corrections. The provisions of
14 this paragraph (4) are subject to the Open Parole Hearings Act.

15 (5) If a statement is presented under Section 6, the
16 Prisoner Review Board or Department of Juvenile Justice shall
17 inform the victim of any order of discharge pursuant to Section
18 3-2.5-85 or 3-3-8 of the Unified Code of Corrections.

19 (6) At the written or oral request of the victim of the
20 crime for which the prisoner was sentenced or the State's
21 Attorney of the county where the person seeking parole or
22 aftercare release was prosecuted, the Prisoner Review Board or
23 Department of Juvenile Justice shall notify the victim and the
24 State's Attorney of the county where the person seeking parole
25 or aftercare release was prosecuted of the death of the
26 prisoner if the prisoner died while on parole or aftercare

1 release or mandatory supervised release.

2 (7) When a defendant who has been committed to the
3 Department of Corrections, the Department of Juvenile Justice,
4 or the Department of Human Services is released or discharged
5 and subsequently committed to the Department of Human Services
6 as a sexually violent person and the victim had requested to be
7 notified by the releasing authority of the defendant's
8 discharge, conditional release, death, or escape from State
9 custody, the releasing authority shall provide to the
10 Department of Human Services such information that would allow
11 the Department of Human Services to contact the victim.

12 (8) When a defendant has been convicted of a sex offense as
13 defined in Section 2 of the Sex Offender Registration Act and
14 has been sentenced to the Department of Corrections or the
15 Department of Juvenile Justice, the Prisoner Review Board or
16 the Department of Juvenile Justice shall notify the victim of
17 the sex offense of the prisoner's eligibility for release on
18 parole, aftercare release, mandatory supervised release,
19 electronic detention, work release, international transfer or
20 exchange, or by the custodian of the discharge of any
21 individual who was adjudicated a delinquent for a sex offense
22 from State custody and by the sheriff of the appropriate county
23 of any such person's final discharge from county custody. The
24 notification shall be made to the victim at least 30 days,
25 whenever possible, before release of the sex offender.

26 (e) The officials named in this Section may satisfy some or

1 all of their obligations to provide notices and other
2 information through participation in a statewide victim and
3 witness notification system established by the Attorney
4 General under Section 8.5 of this Act.

5 (f) To permit a crime victim of a violent crime to provide
6 information to the Prisoner Review Board or the Department of
7 Juvenile Justice for consideration by the Board or Department
8 at a parole hearing or before an aftercare release decision of
9 a person who committed the crime against the victim in
10 accordance with clause (d)(4) of this Section or at a
11 proceeding to determine the conditions of mandatory supervised
12 release of a person sentenced to a determinate sentence or at a
13 hearing on revocation of mandatory supervised release of a
14 person sentenced to a determinate sentence, the Board shall
15 establish a toll-free number that may be accessed by the victim
16 of a violent crime to present that information to the Board.

17 (Source: P.A. 99-413, eff. 8-20-15; 99-628, eff. 1-1-17;
18 100-199, eff. 1-1-18.)

19 (725 ILCS 120/6) (from Ch. 38, par. 1406)

20 Sec. 6. Right to be heard at sentencing.

21 (a) A crime victim shall be allowed to present an oral or
22 written ~~victim-impact~~ statement in any case in which a
23 defendant has been convicted of a violent crime or a juvenile
24 has been adjudicated delinquent for a violent crime after a
25 bench or jury trial, or a defendant who was charged with a

1 violent crime and has been convicted under a plea agreement of
2 a crime that is not a violent crime as defined in subsection
3 (c) of Section 3 of this Act. The court shall allow a victim to
4 make an oral ~~impact~~ statement if the victim is present in the
5 courtroom and requests to make an oral statement. An oral
6 statement includes the victim or a representative of the victim
7 reading the written ~~impact~~ statement. The court may allow
8 persons impacted by the crime who are not victims under
9 subsection (a) of Section 3 of this Act to present an oral or
10 written statement. A victim and any person making an oral
11 statement shall not be put under oath or subject to
12 cross-examination. The court shall consider any ~~impact~~
13 statement presented along with all other appropriate factors in
14 determining the sentence of the defendant or disposition of
15 such juvenile.

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

1 person or his or her representative and a representative of the
2 deceased person shall have the right to address the court
3 regarding the impact that the defendant's criminal conduct has
4 had upon them. If more than one representative of an injured or
5 deceased person is present in the courtroom at the time of
6 sentencing, the court has discretion to permit one or more of
7 the representatives to present an oral impact statement. A
8 victim and any person making an oral statement shall not be put
9 under oath or subject to cross-examination. The court shall
10 consider any impact statement presented along with all other
11 appropriate factors in determining the sentence of the
12 defendant.

13 (a-5) A crime victim shall be allowed to present an oral
14 and written victim impact statement at a hearing ordered by the
15 court under the Mental Health and Developmental Disabilities
16 Code to determine if the defendant is: (1) in need of mental
17 health services on an inpatient basis; (2) in need of mental
18 health services on an outpatient basis; or (3) not in need of
19 mental health services, unless the defendant was under 18 years
20 of age at the time the offense was committed. The court shall
21 allow a victim to make an oral impact statement if the victim
22 is present in the courtroom and requests to make an oral
23 statement. An oral statement includes the victim or a
24 representative of the victim reading the written impact
25 statement. The court may allow persons impacted by the crime
26 who are not victims under subsection (a) of Section 3 of this

1 Act, to present an oral or written statement. A victim and any
2 person making an oral statement shall not be put under oath or
3 subject to cross-examination. The court may only consider the
4 impact statement along with all other appropriate factors in
5 determining the: (1) threat of serious physical harm poised by
6 the respondent to himself or herself, or to another person; (2)
7 location of inpatient or outpatient mental health services
8 ordered by the court, but only after complying with all other
9 applicable administrative, rule, and statutory requirements;
10 (3) maximum period of commitment for inpatient mental health
11 services; and (4) conditions of release for outpatient mental
12 health services ordered by the court.

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

20 (c) This Section shall apply to any victims during any
21 dispositional hearing under Section 5-705 of the Juvenile Court
22 Act of 1987 which takes place pursuant to an adjudication or
23 trial or plea of delinquency for any such offense.

24 (d) If any provision of this Section or its application to
25 any person or circumstance is held invalid, the invalidity of
26 that provision does not affect any other provision or

1 application of this Section that can be given effect without
2 the invalid provision or application.

3 (Source: P.A. 99-413, eff. 8-20-15.)

4 Section 15. The Unified Code of Corrections is amended by
5 changing Sections 5-2-4 and 5-4-1 as follows:

6 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

7 Sec. 5-2-4. Proceedings after acquittal by reason of
8 insanity.

9 (a) After a finding or verdict of not guilty by reason of
10 insanity under Sections 104-25, 115-34, or 115-4 of the Code of
11 Criminal Procedure of 1963, the defendant shall be ordered to
12 the Department of Human Services for an evaluation as to
13 whether he is in need of mental health services. The order
14 shall specify whether the evaluation shall be conducted on an
15 inpatient or outpatient basis. If the evaluation is to be
16 conducted on an inpatient basis, the defendant shall be placed
17 in a secure setting. With the court order for evaluation shall
18 be sent a copy of the arrest report, criminal charges, arrest
19 record, jail record, any report prepared under Section 115-6 of
20 the Code of Criminal Procedure of 1963, and any ~~victim-impact~~
21 statement prepared under Section 6 of the Rights of Crime
22 Victims and Witnesses Act. The clerk of the circuit court shall
23 transmit this information to the Department within 5 days. If
24 the court orders that the evaluation be done on an inpatient

1 basis, the Department shall evaluate the defendant to determine
2 to which secure facility the defendant shall be transported
3 and, within 20 days of the transmittal by the clerk of the
4 circuit court of the placement court order, notify the sheriff
5 of the designated facility. Upon receipt of that notice, the
6 sheriff shall promptly transport the defendant to the
7 designated facility. During the period of time required to
8 determine the appropriate placement, the defendant shall
9 remain in jail. If, within 20 days of the transmittal by the
10 clerk of the circuit court of the placement court order, the
11 Department fails to notify the sheriff of the identity of the
12 facility to which the defendant shall be transported, the
13 sheriff shall contact a designated person within the Department
14 to inquire about when a placement will become available at the
15 designated facility and bed availability at other facilities.
16 If, within 20 days of the transmittal by the clerk of the
17 circuit court of the placement court order, the Department
18 fails to notify the sheriff of the identity of the facility to
19 which the defendant shall be transported, the sheriff shall
20 notify the Department of its intent to transfer the defendant
21 to the nearest secure mental health facility operated by the
22 Department and inquire as to the status of the placement
23 evaluation and availability for admission to the ~~such~~ facility
24 operated by the Department by contacting a designated person
25 within the Department. The Department shall respond to the
26 sheriff within 2 business days of the notice and inquiry by the

1 sheriff seeking the transfer and the Department shall provide
2 the sheriff with the status of the placement evaluation,
3 information on bed and placement availability, and an estimated
4 date of admission for the defendant and any changes to that
5 estimated date of admission. If the Department notifies the
6 sheriff during the 2 business day period of a facility operated
7 by the Department with placement availability, the sheriff
8 shall promptly transport the defendant to that facility.
9 Individualized placement evaluations by the Department of
10 Human Services determine the most appropriate setting for
11 forensic treatment based upon a number of factors including
12 mental health diagnosis, proximity to surviving victims,
13 security need, age, gender, and proximity to family.

14 The Department shall provide the Court with a report of its
15 evaluation within 30 days of the date of this order. The Court
16 shall hold a hearing as provided under the Mental Health and
17 Developmental Disabilities Code to determine if the individual
18 is: (a) in need of mental health services on an inpatient
19 basis; (b) in need of mental health services on an outpatient
20 basis; (c) a person not in need of mental health services. The
21 court shall afford the victim the opportunity to make a written
22 or oral statement as guaranteed by Article I, Section 8.1 of
23 the Illinois Constitution and Section 6 of the Rights of Crime
24 Victims and Witnesses Act. The court shall allow a victim to
25 make an oral statement if the victim is present in the
26 courtroom and requests to make an oral statement. An oral

1 statement includes the victim or a representative of the victim
2 reading the written statement. The court may allow persons
3 impacted by the crime who are not victims under subsection (a)
4 of Section 3 of this Rights of Crime Victims and Witnesses Act
5 to present an oral or written statement. A victim and any
6 person making an oral statement shall not be put under oath or
7 subject to cross-examination. The court shall consider any
8 statement presented along with all other appropriate factors in
9 determining the sentence of the defendant or disposition of the
10 juvenile. All statements shall become part of the record of the
11 court. ~~The Court shall enter its findings.~~

12 If the defendant is found to be in need of mental health
13 services on an inpatient care basis, the Court shall order the
14 defendant to the Department of Human Services. The defendant
15 shall be placed in a secure setting. Such defendants placed in
16 a secure setting shall not be permitted outside the facility's
17 housing unit unless escorted or accompanied by personnel of the
18 Department of Human Services or with the prior approval of the
19 Court for unsupervised on-grounds privileges as provided
20 herein. Any defendant placed in a secure setting pursuant to
21 this Section, transported to court hearings or other necessary
22 appointments off facility grounds by personnel of the
23 Department of Human Services, shall be placed in security
24 devices or otherwise secured during the period of
25 transportation to assure secure transport of the defendant and
26 the safety of Department of Human Services personnel and

1 others. These security measures shall not constitute restraint
2 as defined in the Mental Health and Developmental Disabilities
3 Code. If the defendant is found to be in need of mental health
4 services, but not on an inpatient care basis, the Court shall
5 conditionally release the defendant, under such conditions as
6 set forth in this Section as will reasonably assure the
7 defendant's satisfactory progress and participation in
8 treatment or rehabilitation and the safety of the defendant,
9 the victim, the victim's family members, and others. If the
10 Court finds the person not in need of mental health services,
11 then the Court shall order the defendant discharged from
12 custody.

13 (a-1) Definitions. For the purposes of this Section:

14 (A) (Blank).

15 (B) "In need of mental health services on an inpatient
16 basis" means: a defendant who has been found not guilty by
17 reason of insanity but who, due to mental illness, is
18 reasonably expected to inflict serious physical harm upon
19 himself or another and who would benefit from inpatient
20 care or is in need of inpatient care.

21 (C) "In need of mental health services on an outpatient
22 basis" means: a defendant who has been found not guilty by
23 reason of insanity who is not in need of mental health
24 services on an inpatient basis, but is in need of
25 outpatient care, drug and/or alcohol rehabilitation
26 programs, community adjustment programs, individual,

1 group, or family therapy, or chemotherapy.

2 (D) "Conditional Release" means: the release from
3 either the custody of the Department of Human Services or
4 the custody of the Court of a person who has been found not
5 guilty by reason of insanity under such conditions as the
6 Court may impose which reasonably assure the defendant's
7 satisfactory progress in treatment or habilitation and the
8 safety of the defendant, the victim, the victim's family,
9 and others. The Court shall consider such terms and
10 conditions which may include, but need not be limited to,
11 outpatient care, alcoholic and drug rehabilitation
12 programs, community adjustment programs, individual,
13 group, family, and chemotherapy, random testing to ensure
14 the defendant's timely and continuous taking of any
15 medicines prescribed to control or manage his or her
16 conduct or mental state, and periodic checks with the legal
17 authorities and/or the Department of Human Services. The
18 Court may order as a condition of conditional release that
19 the defendant not contact the victim of the offense that
20 resulted in the finding or verdict of not guilty by reason
21 of insanity or any other person. The Court may order the
22 Department of Human Services to provide care to any person
23 conditionally released under this Section. The Department
24 may contract with any public or private agency in order to
25 discharge any responsibilities imposed under this Section.
26 The Department shall monitor the provision of services to

1 persons conditionally released under this Section and
2 provide periodic reports to the Court concerning the
3 services and the condition of the defendant. Whenever a
4 person is conditionally released pursuant to this Section,
5 the State's Attorney for the county in which the hearing is
6 held shall designate in writing the name, telephone number,
7 and address of a person employed by him or her who shall be
8 notified in the event that either the reporting agency or
9 the Department decides that the conditional release of the
10 defendant should be revoked or modified pursuant to
11 subsection (i) of this Section. Such conditional release
12 shall be for a period of five years. However, the
13 defendant, the person or facility rendering the treatment,
14 therapy, program or outpatient care, the Department, or the
15 State's Attorney may petition the Court for an extension of
16 the conditional release period for an additional 5 years.
17 Upon receipt of such a petition, the Court shall hold a
18 hearing consistent with the provisions of paragraph (a),
19 this paragraph (a-1), and paragraph (f) of this Section,
20 shall determine whether the defendant should continue to be
21 subject to the terms of conditional release, and shall
22 enter an order either extending the defendant's period of
23 conditional release for an additional 5-year ~~5-year~~ period
24 or discharging the defendant. Additional 5-year periods of
25 conditional release may be ordered following a hearing as
26 provided in this Section. However, in no event shall the

1 defendant's period of conditional release continue beyond
2 the maximum period of commitment ordered by the Court
3 pursuant to paragraph (b) of this Section. These provisions
4 for extension of conditional release shall only apply to
5 defendants conditionally released on or after August 8,
6 2003. However, the extension provisions of Public Act
7 83-1449 apply only to defendants charged with a forcible
8 felony.

9 (E) "Facility director" means the chief officer of a
10 mental health or developmental disabilities facility or
11 his or her designee or the supervisor of a program of
12 treatment or habilitation or his or her designee.
13 "Designee" may include a physician, clinical psychologist,
14 social worker, nurse, or clinical professional counselor.

15 (b) If the Court finds the defendant in need of mental
16 health services on an inpatient basis, the admission,
17 detention, care, treatment or habilitation, treatment plans,
18 review proceedings, including review of treatment and
19 treatment plans, and discharge of the defendant after such
20 order shall be under the Mental Health and Developmental
21 Disabilities Code, except that the initial order for admission
22 of a defendant acquitted of a felony by reason of insanity
23 shall be for an indefinite period of time. Such period of
24 commitment shall not exceed the maximum length of time that the
25 defendant would have been required to serve, less credit for
26 good behavior as provided in Section 5-4-1 of the Unified Code

1 of Corrections, before becoming eligible for release had he
2 been convicted of and received the maximum sentence for the
3 most serious crime for which he has been acquitted by reason of
4 insanity. The Court shall determine the maximum period of
5 commitment by an appropriate order. During this period of time,
6 the defendant shall not be permitted to be in the community in
7 any manner, including, but not limited to, off-grounds
8 privileges, with or without escort by personnel of the
9 Department of Human Services, unsupervised on-grounds
10 privileges, discharge or conditional or temporary release,
11 except by a plan as provided in this Section. In no event shall
12 a defendant's continued unauthorized absence be a basis for
13 discharge. Not more than 30 days after admission and every 90
14 days thereafter so long as the initial order remains in effect,
15 the facility director shall file a treatment plan report in
16 writing with the court and forward a copy of the treatment plan
17 report to the clerk of the court, the State's Attorney, and the
18 defendant's attorney, if the defendant is represented by
19 counsel, or to a person authorized by the defendant under the
20 Mental Health and Developmental Disabilities Confidentiality
21 Act to be sent a copy of the report. The report shall include
22 an opinion as to whether the defendant is currently in need of
23 mental health services on an inpatient basis or in need of
24 mental health services on an outpatient basis. The report shall
25 also summarize the basis for those findings and provide a
26 current summary of the following items from the treatment plan:

1 (1) an assessment of the defendant's treatment needs, (2) a
2 description of the services recommended for treatment, (3) the
3 goals of each type of element of service, (4) an anticipated
4 timetable for the accomplishment of the goals, and (5) a
5 designation of the qualified professional responsible for the
6 implementation of the plan. The report may also include
7 unsupervised on-grounds privileges, off-grounds privileges
8 (with or without escort by personnel of the Department of Human
9 Services), home visits and participation in work programs, but
10 only where such privileges have been approved by specific court
11 order, which order may include such conditions on the defendant
12 as the Court may deem appropriate and necessary to reasonably
13 assure the defendant's satisfactory progress in treatment and
14 the safety of the defendant and others.

15 (c) Every defendant acquitted of a felony by reason of
16 insanity and subsequently found to be in need of mental health
17 services shall be represented by counsel in all proceedings
18 under this Section and under the Mental Health and
19 Developmental Disabilities Code.

20 (1) The Court shall appoint as counsel the public
21 defender or an attorney licensed by this State.

22 (2) Upon filing with the Court of a verified statement
23 of legal services rendered by the private attorney
24 appointed pursuant to paragraph (1) of this subsection, the
25 Court shall determine a reasonable fee for such services.

26 If the defendant is unable to pay the fee, the Court shall

1 enter an order upon the State to pay the entire fee or such
2 amount as the defendant is unable to pay from funds
3 appropriated by the General Assembly for that purpose.

4 (d) When the facility director determines that:

5 (1) the defendant is no longer in need of mental health
6 services on an inpatient basis; and

7 (2) the defendant may be conditionally released
8 because he or she is still in need of mental health
9 services or that the defendant may be discharged as not in
10 need of any mental health services; or

11 (3) (blank);

12 the facility director shall give written notice to the Court,
13 State's Attorney and defense attorney. Such notice shall set
14 forth in detail the basis for the recommendation of the
15 facility director, and specify clearly the recommendations, if
16 any, of the facility director, concerning conditional release.
17 Any recommendation for conditional release shall include an
18 evaluation of the defendant's need for psychotropic
19 medication, what provisions should be made, if any, to ensure
20 that the defendant will continue to receive psychotropic
21 medication following discharge, and what provisions should be
22 made to assure the safety of the defendant and others in the
23 event the defendant is no longer receiving psychotropic
24 medication. Within 30 days of the notification by the facility
25 director, the Court shall set a hearing and make a finding as
26 to whether the defendant is:

- 1 (i) (blank); or
2 (ii) in need of mental health services in the form of
3 inpatient care; or
4 (iii) in need of mental health services but not subject
5 to inpatient care; or
6 (iv) no longer in need of mental health services; or
7 (v) (blank).

8 A crime victim shall be allowed to present an oral and
9 written statement. The court shall allow a victim to make an
10 oral statement if the victim is present in the courtroom and
11 requests to make an oral statement. An oral statement includes
12 the victim or a representative of the victim reading the
13 written statement. A victim and any person making an oral
14 statement shall not be put under oath or subject to
15 cross-examination. All statements shall become part of the
16 record of the court.

17 Upon finding by the Court, the Court shall enter its
18 findings and such appropriate order as provided in subsections
19 (a) and (a-1) of this Section.

20 (e) A defendant admitted pursuant to this Section, or any
21 person on his behalf, may file a petition for treatment plan
22 review or discharge or conditional release under the standards
23 of this Section in the Court which rendered the verdict. Upon
24 receipt of a petition for treatment plan review or discharge or
25 conditional release, the Court shall set a hearing to be held
26 within 120 days. Thereafter, no new petition may be filed for

1 180 days without leave of the Court.

2 (f) The Court shall direct that notice of the time and
3 place of the hearing be served upon the defendant, the facility
4 director, the State's Attorney, and the defendant's attorney.
5 If requested by either the State or the defense or if the Court
6 feels it is appropriate, an impartial examination of the
7 defendant by a psychiatrist or clinical psychologist as defined
8 in Section 1-103 of the Mental Health and Developmental
9 Disabilities Code who is not in the employ of the Department of
10 Human Services shall be ordered, and the report considered at
11 the time of the hearing.

12 (g) The findings of the Court shall be established by clear
13 and convincing evidence. The burden of proof and the burden of
14 going forth with the evidence rest with the defendant or any
15 person on the defendant's behalf when a hearing is held to
16 review a petition filed by or on behalf of the defendant. The
17 evidence shall be presented in open Court with the right of
18 confrontation and cross-examination. Such evidence may
19 include, but is not limited to:

20 (1) whether the defendant appreciates the harm caused
21 by the defendant to others and the community by his or her
22 prior conduct that resulted in the finding of not guilty by
23 reason of insanity;

24 (2) Whether the person appreciates the criminality of
25 conduct similar to the conduct for which he or she was
26 originally charged in this matter;

- 1 (3) the current state of the defendant's illness;
- 2 (4) what, if any, medications the defendant is taking
3 to control his or her mental illness;
- 4 (5) what, if any, adverse physical side effects the
5 medication has on the defendant;
- 6 (6) the length of time it would take for the
7 defendant's mental health to deteriorate if the defendant
8 stopped taking prescribed medication;
- 9 (7) the defendant's history or potential for alcohol
10 and drug abuse;
- 11 (8) the defendant's past criminal history;
- 12 (9) any specialized physical or medical needs of the
13 defendant;
- 14 (10) any family participation or involvement expected
15 upon release and what is the willingness and ability of the
16 family to participate or be involved;
- 17 (11) the defendant's potential to be a danger to
18 himself, herself, or others; ~~and~~
- 19 (11.5) a written or oral statement made by the victim;
20 and
- 21 (12) any other factor or factors the Court deems
22 appropriate.
- 23 (h) Before the court orders that the defendant be
24 discharged or conditionally released, it shall order the
25 facility director to establish a discharge plan that includes a
26 plan for the defendant's shelter, support, and medication. If

1 appropriate, the court shall order that the facility director
2 establish a program to train the defendant in self-medication
3 under standards established by the Department of Human
4 Services. If the Court finds, consistent with the provisions of
5 this Section, that the defendant is no longer in need of mental
6 health services it shall order the facility director to
7 discharge the defendant. If the Court finds, consistent with
8 the provisions of this Section, that the defendant is in need
9 of mental health services, and no longer in need of inpatient
10 care, it shall order the facility director to release the
11 defendant under such conditions as the Court deems appropriate
12 and as provided by this Section. Such conditional release shall
13 be imposed for a period of 5 years as provided in paragraph (D)
14 of subsection (a-1) and shall be subject to later modification
15 by the Court as provided by this Section. If the Court finds
16 consistent with the provisions in this Section that the
17 defendant is in need of mental health services on an inpatient
18 basis, it shall order the facility director not to discharge or
19 release the defendant in accordance with paragraph (b) of this
20 Section.

21 (i) If within the period of the defendant's conditional
22 release the State's Attorney determines that the defendant has
23 not fulfilled the conditions of his or her release, the State's
24 Attorney may petition the Court to revoke or modify the
25 conditional release of the defendant. Upon the filing of such
26 petition the defendant may be remanded to the custody of the

1 Department, or to any other mental health facility designated
2 by the Department, pending the resolution of the petition.
3 Nothing in this Section shall prevent the emergency admission
4 of a defendant pursuant to Article VI of Chapter III of the
5 Mental Health and Developmental Disabilities Code or the
6 voluntary admission of the defendant pursuant to Article IV of
7 Chapter III of the Mental Health and Developmental Disabilities
8 Code. If the Court determines, after hearing evidence, that the
9 defendant has not fulfilled the conditions of release, the
10 Court shall order a hearing to be held consistent with the
11 provisions of paragraph (f) and (g) of this Section. At such
12 hearing, if the Court finds that the defendant is in need of
13 mental health services on an inpatient basis, it shall enter an
14 order remanding him or her to the Department of Human Services
15 or other facility. If the defendant is remanded to the
16 Department of Human Services, he or she shall be placed in a
17 secure setting unless the Court determines that there are
18 compelling reasons that such placement is not necessary. If the
19 Court finds that the defendant continues to be in need of
20 mental health services but not on an inpatient basis, it may
21 modify the conditions of the original release in order to
22 reasonably assure the defendant's satisfactory progress in
23 treatment and his or her safety and the safety of others in
24 accordance with the standards established in paragraph (D) of
25 subsection (a-1). Nothing in this Section shall limit a Court's
26 contempt powers or any other powers of a Court.

1 (j) An order of admission under this Section does not
2 affect the remedy of habeas corpus.

3 (k) In the event of a conflict between this Section and the
4 Mental Health and Developmental Disabilities Code or the Mental
5 Health and Developmental Disabilities Confidentiality Act, the
6 provisions of this Section shall govern.

7 (l) Public Act 90-593 ~~This amendatory Act~~ shall apply to
8 all persons who have been found not guilty by reason of
9 insanity and who are presently committed to the Department of
10 Mental Health and Developmental Disabilities (now the
11 Department of Human Services).

12 (m) The Clerk of the Court shall transmit a certified copy
13 of the order of discharge or conditional release to the
14 Department of Human Services, to the sheriff of the county from
15 which the defendant was admitted, to the Illinois Department of
16 State Police, to the proper law enforcement agency for the
17 municipality where the offense took place, and to the sheriff
18 of the county into which the defendant is conditionally
19 discharged. The Illinois Department of State Police shall
20 maintain a centralized record of discharged or conditionally
21 released defendants while they are under court supervision for
22 access and use of appropriate law enforcement agencies.

23 (n) The provisions in this Section which allows a crime
24 victim to make a written and oral statement do not apply if the
25 defendant was under 18 years of age at the time the offense was
26 committed.

1 (o) If any provision of this Section or its application to
2 any person or circumstance is held invalid, the invalidity of
3 that provision does not affect any other provision or
4 application of this Section that can be given effect without
5 the invalid provision or application.

6 (Source: P.A. 100-27, eff. 1-1-18; 100-424, eff. 1-1-18;
7 revised 10-10-17.)

8 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

9 Sec. 5-4-1. Sentencing hearing.

10 (a) Except when the death penalty is sought under hearing
11 procedures otherwise specified, after a determination of
12 guilt, a hearing shall be held to impose the sentence. However,
13 prior to the imposition of sentence on an individual being
14 sentenced for an offense based upon a charge for a violation of
15 Section 11-501 of the Illinois Vehicle Code or a similar
16 provision of a local ordinance, the individual must undergo a
17 professional evaluation to determine if an alcohol or other
18 drug abuse problem exists and the extent of such a problem.
19 Programs conducting these evaluations shall be licensed by the
20 Department of Human Services. However, if the individual is not
21 a resident of Illinois, the court may, in its discretion,
22 accept an evaluation from a program in the state of such
23 individual's residence. The court may in its sentencing order
24 approve an eligible defendant for placement in a Department of
25 Corrections impact incarceration program as provided in

1 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
2 order recommend a defendant for placement in a Department of
3 Corrections substance abuse treatment program as provided in
4 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
5 upon the defendant being accepted in a program by the
6 Department of Corrections. At the hearing the court shall:

7 (1) consider the evidence, if any, received upon the
8 trial;

9 (2) consider any presentence reports;

10 (3) consider the financial impact of incarceration
11 based on the financial impact statement filed with the
12 clerk of the court by the Department of Corrections;

13 (4) consider evidence and information offered by the
14 parties in aggravation and mitigation;

15 (4.5) consider substance abuse treatment, eligibility
16 screening, and an assessment, if any, of the defendant by
17 an agent designated by the State of Illinois to provide
18 assessment services for the Illinois courts;

19 (5) hear arguments as to sentencing alternatives;

20 (6) afford the defendant the opportunity to make a
21 statement in his own behalf;

22 (7) afford the victim of a violent crime or a violation
23 of Section 11-501 of the Illinois Vehicle Code, or a
24 similar provision of a local ordinance, the opportunity to
25 present an oral or written statement, as guaranteed by
26 Article I, Section 8.1 of the Illinois Constitution and

1 provided in Section 6 of the Rights of Crime Victims and
2 Witnesses Act. The court shall allow a victim to make an
3 oral statement if the victim is present in the courtroom
4 and requests to make an oral or written statement. An oral
5 or written statement includes the victim or a
6 representative of the victim reading the written
7 statement. The court may allow persons impacted by the
8 crime who are not victims under subsection (a) of Section 3
9 of the Rights of Crime Victims and Witnesses Act to present
10 an oral or written statement. A victim and any person
11 making an oral statement shall not be put under oath or
12 subject to cross-examination.~~7, or a qualified individual~~
13 ~~affected by: (i) a violation of Section 405, 405.1, 405.2,~~
14 ~~or 407 of the Illinois Controlled Substances Act or a~~
15 ~~violation of Section 55 or Section 65 of the~~
16 ~~Methamphetamine Control and Community Protection Act, or~~
17 ~~(ii) a Class 4 felony violation of Section 11 14, 11 14.3~~
18 ~~except as described in subdivisions (a)(2)(A) and~~
19 ~~(a)(2)(B), 11 15, 11 17, 11 18, 11 18.1, or 11 19 of the~~
20 ~~Criminal Code of 1961 or the Criminal Code of 2012,~~
21 ~~committed by the defendant the opportunity to make a~~
22 ~~statement concerning the impact on the victim and to offer~~
23 ~~evidence in aggravation or mitigation; provided that the~~
24 ~~statement and evidence offered in aggravation or~~
25 ~~mitigation must first be prepared in writing in conjunction~~
26 ~~with the State's Attorney before it may be presented orally~~

1 ~~at the hearing. Any sworn testimony offered by the victim~~
2 ~~is subject to the defendant's right to cross-examine. All~~
3 ~~statements and evidence offered under this paragraph (7)~~
4 ~~shall become part of the record of the court. In ~~For the~~~~
5 ~~purpose of this paragraph (7), "victim of a violent crime"~~
6 ~~means a person who is a victim of a violent crime for which~~
7 ~~the defendant has been convicted after a bench or jury~~
8 ~~trial or a person who is the victim of a violent crime with~~
9 ~~which the defendant was charged and the defendant has been~~
10 ~~convicted under a plea agreement of a crime that is not a~~
11 ~~violent crime as defined in subsection (c) of 3 of the~~
12 ~~Rights of Crime Victims and Witnesses Act; "qualified~~
13 ~~individual" means any person who (i) lived or worked within~~
14 ~~the territorial jurisdiction where the offense took place~~
15 ~~when the offense took place; and (ii) is familiar with~~
16 ~~various public places within the territorial jurisdiction~~
17 ~~where the offense took place when the offense took place.~~
18 ~~For the purposes of this paragraph (7), "qualified~~
19 ~~individual" includes any peace officer, or any member of~~
20 ~~any duly organized State, county, or municipal peace unit~~
21 ~~assigned to the territorial jurisdiction where the offense~~
22 ~~took place when the offense took place~~

23 (7.5) afford a qualified person affected by: (i) a
24 violation of Section 405, 405.1, 405.2, or 407 of the
25 Illinois Controlled Substances Act or a violation of
26 Section 55 or Section 65 of the Methamphetamine Control and

1 Community Protection Act; or (ii) a Class 4 felony
2 violation of Section 11-14, 11-14.3 except as described in
3 subdivisions (a) (2) (A) and (a) (2) (B), 11-15, 11-17, 11-18,
4 11-18.1, or 11-19 of the Criminal Code of 1961 or the
5 Criminal Code of 2012, committed by the defendant the
6 opportunity to make a statement concerning the impact on
7 the qualified person and to offer evidence in aggravation
8 or mitigation; provided that the statement and evidence
9 offered in aggravation or mitigation shall first be
10 prepared in writing in conjunction with the State's
11 Attorney before it may be presented orally at the hearing.
12 Sworn testimony offered by the qualified person is subject
13 to the defendant's right to cross-examine. All statements
14 and evidence offered under this paragraph (7.5) shall
15 become part of the record of the court. In this paragraph
16 (7.5), "qualified person" means any person who: (i) lived
17 or worked within the territorial jurisdiction where the
18 offense took place when the offense took place; or (ii) is
19 familiar with various public places within the territorial
20 jurisdiction where the offense took place when the offense
21 took place. "Qualified person includes any peace officer or
22 any member of any duly organized State, county, or
23 municipal peace officer unit assigned to the territorial
24 jurisdiction where the offense took place when the offense
25 took place;

26 (8) in cases of reckless homicide afford the victim's

1 spouse, guardians, parents or other immediate family
2 members an opportunity to make oral statements;

3 (9) in cases involving a felony sex offense as defined
4 under the Sex Offender Management Board Act, consider the
5 results of the sex offender evaluation conducted pursuant
6 to Section 5-3-2 of this Act; and

7 (10) make a finding of whether a motor vehicle was used
8 in the commission of the offense for which the defendant is
9 being sentenced.

10 (b) All sentences shall be imposed by the judge based upon
11 his independent assessment of the elements specified above and
12 any agreement as to sentence reached by the parties. The judge
13 who presided at the trial or the judge who accepted the plea of
14 guilty shall impose the sentence unless he is no longer sitting
15 as a judge in that court. Where the judge does not impose
16 sentence at the same time on all defendants who are convicted
17 as a result of being involved in the same offense, the
18 defendant or the State's Attorney may advise the sentencing
19 court of the disposition of any other defendants who have been
20 sentenced.

21 (b-1) In imposing a sentence of imprisonment or periodic
22 imprisonment for a Class 3 or Class 4 felony for which a
23 sentence of probation or conditional discharge is an available
24 sentence, if the defendant has no prior sentence of probation
25 or conditional discharge and no prior conviction for a violent
26 crime, the defendant shall not be sentenced to imprisonment

1 before review and consideration of a presentence report and
2 determination and explanation of why the particular evidence,
3 information, factor in aggravation, factual finding, or other
4 reasons support a sentencing determination that one or more of
5 the factors under subsection (a) of Section 5-6-1 of this Code
6 apply and that probation or conditional discharge is not an
7 appropriate sentence.

8 (c) In imposing a sentence for a violent crime or for an
9 offense of operating or being in physical control of a vehicle
10 while under the influence of alcohol, any other drug or any
11 combination thereof, or a similar provision of a local
12 ordinance, when such offense resulted in the personal injury to
13 someone other than the defendant, the trial judge shall specify
14 on the record the particular evidence, information, factors in
15 mitigation and aggravation or other reasons that led to his
16 sentencing determination. The full verbatim record of the
17 sentencing hearing shall be filed with the clerk of the court
18 and shall be a public record.

19 (c-1) In imposing a sentence for the offense of aggravated
20 kidnapping for ransom, home invasion, armed robbery,
21 aggravated vehicular hijacking, aggravated discharge of a
22 firearm, or armed violence with a category I weapon or category
23 II weapon, the trial judge shall make a finding as to whether
24 the conduct leading to conviction for the offense resulted in
25 great bodily harm to a victim, and shall enter that finding and
26 the basis for that finding in the record.

1 (c-2) If the defendant is sentenced to prison, other than
2 when a sentence of natural life imprisonment or a sentence of
3 death is imposed, at the time the sentence is imposed the judge
4 shall state on the record in open court the approximate period
5 of time the defendant will serve in custody according to the
6 then current statutory rules and regulations for sentence
7 credit found in Section 3-6-3 and other related provisions of
8 this Code. This statement is intended solely to inform the
9 public, has no legal effect on the defendant's actual release,
10 and may not be relied on by the defendant on appeal.

11 The judge's statement, to be given after pronouncing the
12 sentence, other than when the sentence is imposed for one of
13 the offenses enumerated in paragraph (a) (4) of Section 3-6-3,
14 shall include the following:

15 "The purpose of this statement is to inform the public of
16 the actual period of time this defendant is likely to spend in
17 prison as a result of this sentence. The actual period of
18 prison time served is determined by the statutes of Illinois as
19 applied to this sentence by the Illinois Department of
20 Corrections and the Illinois Prisoner Review Board. In this
21 case, assuming the defendant receives all of his or her
22 sentence credit, the period of estimated actual custody is ...
23 years and ... months, less up to 180 days additional earned
24 sentence credit. If the defendant, because of his or her own
25 misconduct or failure to comply with the institutional
26 regulations, does not receive those credits, the actual time

1 served in prison will be longer. The defendant may also receive
2 an additional one-half day sentence credit for each day of
3 participation in vocational, industry, substance abuse, and
4 educational programs as provided for by Illinois statute."

5 When the sentence is imposed for one of the offenses
6 enumerated in paragraph (a)(2) of Section 3-6-3, other than
7 first degree murder, and the offense was committed on or after
8 June 19, 1998, and when the sentence is imposed for reckless
9 homicide as defined in subsection (e) of Section 9-3 of the
10 Criminal Code of 1961 or the Criminal Code of 2012 if the
11 offense was committed on or after January 1, 1999, and when the
12 sentence is imposed for aggravated driving under the influence
13 of alcohol, other drug or drugs, or intoxicating compound or
14 compounds, or any combination thereof as defined in
15 subparagraph (F) of paragraph (1) of subsection (d) of Section
16 11-501 of the Illinois Vehicle Code, and when the sentence is
17 imposed for aggravated arson if the offense was committed on or
18 after July 27, 2001 (the effective date of Public Act 92-176),
19 and when the sentence is imposed for aggravated driving under
20 the influence of alcohol, other drug or drugs, or intoxicating
21 compound or compounds, or any combination thereof as defined in
22 subparagraph (C) of paragraph (1) of subsection (d) of Section
23 11-501 of the Illinois Vehicle Code committed on or after
24 January 1, 2011 (the effective date of Public Act 96-1230), the
25 judge's statement, to be given after pronouncing the sentence,
26 shall include the following:

1 "The purpose of this statement is to inform the public of
2 the actual period of time this defendant is likely to spend in
3 prison as a result of this sentence. The actual period of
4 prison time served is determined by the statutes of Illinois as
5 applied to this sentence by the Illinois Department of
6 Corrections and the Illinois Prisoner Review Board. In this
7 case, the defendant is entitled to no more than 4 1/2 days of
8 sentence credit for each month of his or her sentence of
9 imprisonment. Therefore, this defendant will serve at least 85%
10 of his or her sentence. Assuming the defendant receives 4 1/2
11 days credit for each month of his or her sentence, the period
12 of estimated actual custody is ... years and ... months. If the
13 defendant, because of his or her own misconduct or failure to
14 comply with the institutional regulations receives lesser
15 credit, the actual time served in prison will be longer."

16 When a sentence of imprisonment is imposed for first degree
17 murder and the offense was committed on or after June 19, 1998,
18 the judge's statement, to be given after pronouncing the
19 sentence, shall include the following:

20 "The purpose of this statement is to inform the public of
21 the actual period of time this defendant is likely to spend in
22 prison as a result of this sentence. The actual period of
23 prison time served is determined by the statutes of Illinois as
24 applied to this sentence by the Illinois Department of
25 Corrections and the Illinois Prisoner Review Board. In this
26 case, the defendant is not entitled to sentence credit.

1 Therefore, this defendant will serve 100% of his or her
2 sentence."

3 When the sentencing order recommends placement in a
4 substance abuse program for any offense that results in
5 incarceration in a Department of Corrections facility and the
6 crime was committed on or after September 1, 2003 (the
7 effective date of Public Act 93-354), the judge's statement, in
8 addition to any other judge's statement required under this
9 Section, to be given after pronouncing the sentence, shall
10 include the following:

11 "The purpose of this statement is to inform the public of
12 the actual period of time this defendant is likely to spend in
13 prison as a result of this sentence. The actual period of
14 prison time served is determined by the statutes of Illinois as
15 applied to this sentence by the Illinois Department of
16 Corrections and the Illinois Prisoner Review Board. In this
17 case, the defendant shall receive no earned sentence credit
18 under clause (3) of subsection (a) of Section 3-6-3 until he or
19 she participates in and completes a substance abuse treatment
20 program or receives a waiver from the Director of Corrections
21 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

22 (c-4) Before the sentencing hearing and as part of the
23 presentence investigation under Section 5-3-1, the court shall
24 inquire of the defendant whether the defendant is currently
25 serving in or is a veteran of the Armed Forces of the United
26 States. If the defendant is currently serving in the Armed

1 Forces of the United States or is a veteran of the Armed Forces
2 of the United States and has been diagnosed as having a mental
3 illness by a qualified psychiatrist or clinical psychologist or
4 physician, the court may:

5 (1) order that the officer preparing the presentence
6 report consult with the United States Department of
7 Veterans Affairs, Illinois Department of Veterans'
8 Affairs, or another agency or person with suitable
9 knowledge or experience for the purpose of providing the
10 court with information regarding treatment options
11 available to the defendant, including federal, State, and
12 local programming; and

13 (2) consider the treatment recommendations of any
14 diagnosing or treating mental health professionals
15 together with the treatment options available to the
16 defendant in imposing sentence.

17 For the purposes of this subsection (c-4), "qualified
18 psychiatrist" means a reputable physician licensed in Illinois
19 to practice medicine in all its branches, who has specialized
20 in the diagnosis and treatment of mental and nervous disorders
21 for a period of not less than 5 years.

22 (c-6) In imposing a sentence, the trial judge shall
23 specify, on the record, the particular evidence and other
24 reasons which led to his or her determination that a motor
25 vehicle was used in the commission of the offense.

26 (d) When the defendant is committed to the Department of

1 Corrections, the State's Attorney shall and counsel for the
2 defendant may file a statement with the clerk of the court to
3 be transmitted to the department, agency or institution to
4 which the defendant is committed to furnish such department,
5 agency or institution with the facts and circumstances of the
6 offense for which the person was committed together with all
7 other factual information accessible to them in regard to the
8 person prior to his commitment relative to his habits,
9 associates, disposition and reputation and any other facts and
10 circumstances which may aid such department, agency or
11 institution during its custody of such person. The clerk shall
12 within 10 days after receiving any such statements transmit a
13 copy to such department, agency or institution and a copy to
14 the other party, provided, however, that this shall not be
15 cause for delay in conveying the person to the department,
16 agency or institution to which he has been committed.

17 (e) The clerk of the court shall transmit to the
18 department, agency or institution, if any, to which the
19 defendant is committed, the following:

20 (1) the sentence imposed;

21 (2) any statement by the court of the basis for
22 imposing the sentence;

23 (3) any presentence reports;

24 (3.5) any sex offender evaluations;

25 (3.6) any substance abuse treatment eligibility
26 screening and assessment of the defendant by an agent

1 designated by the State of Illinois to provide assessment
2 services for the Illinois courts;

3 (4) the number of days, if any, which the defendant has
4 been in custody and for which he is entitled to credit
5 against the sentence, which information shall be provided
6 to the clerk by the sheriff;

7 (4.1) any finding of great bodily harm made by the
8 court with respect to an offense enumerated in subsection
9 (c-1);

10 (5) all statements filed under subsection (d) of this
11 Section;

12 (6) any medical or mental health records or summaries
13 of the defendant;

14 (7) the municipality where the arrest of the offender
15 or the commission of the offense has occurred, where such
16 municipality has a population of more than 25,000 persons;

17 (8) all statements made and evidence offered under
18 paragraph (7) of subsection (a) of this Section; and

19 (9) all additional matters which the court directs the
20 clerk to transmit.

21 (f) In cases in which the court finds that a motor vehicle
22 was used in the commission of the offense for which the
23 defendant is being sentenced, the clerk of the court shall,
24 within 5 days thereafter, forward a report of such conviction
25 to the Secretary of State.

26 (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18.)