



Sen. John Connor

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10200SB3095sam002

LRB102 23175 LNS 36429 a

1 AMENDMENT TO SENATE BILL 3095

2 AMENDMENT NO. _____. Amend Senate Bill 3095 by replacing
3 everything after the enacting clause with the following:

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

6 (725 ILCS 120/4.5)

7 (Text of Section before amendment by P.A. 101-652)

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

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

1 as the alleged assailant is apprehended or the investigation
2 is closed.

3 (a-5) When law enforcement authorities reopen a closed
4 case to resume investigating, they shall provide notice of the
5 reopening of the case, except where the State's Attorney
6 determines that disclosure of such information would
7 unreasonably interfere with the investigation.

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

9 (1) shall provide notice of the filing of an
10 information, the return of an indictment, or the filing of
11 a petition to adjudicate a minor as a delinquent for a
12 violent crime;

13 (2) shall provide timely notice of the date, time, and
14 place of court proceedings; of any change in the date,
15 time, and place of court proceedings; and of any
16 cancellation of court proceedings. Notice shall be
17 provided in sufficient time, wherever possible, for the
18 victim to make arrangements to attend or to prevent an
19 unnecessary appearance at court proceedings;

20 (3) or victim advocate personnel shall provide
21 information of social services and financial assistance
22 available for victims of crime, including information of
23 how to apply for these services and assistance;

24 (3.5) or victim advocate personnel shall provide
25 information about available victim services, including
26 referrals to programs, counselors, and agencies that

1 assist a victim to deal with trauma, loss, and grief;

2 (4) shall assist in having any stolen or other
3 personal property held by law enforcement authorities for
4 evidentiary or other purposes returned as expeditiously as
5 possible, pursuant to the procedures set out in Section
6 115-9 of the Code of Criminal Procedure of 1963;

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

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

17 (7) shall provide notice to the crime victim of the
18 right to have a translator present at all court
19 proceedings and, in compliance with the federal Americans
20 with Disabilities Act of 1990, the right to communications
21 access through a sign language interpreter or by other
22 means;

23 (8) (blank);

24 (8.5) shall inform the victim of the right to be
25 present at all court proceedings, unless the victim is to
26 testify and the court determines that the victim's

1 testimony would be materially affected if the victim hears
2 other testimony at trial;

3 (9) shall inform the victim of the right to have
4 present at all court proceedings, subject to the rules of
5 evidence and confidentiality, an advocate and other
6 support person of the victim's choice;

7 (9.3) shall inform the victim of the right to retain
8 an attorney, at the victim's own expense, who, upon
9 written notice filed with the clerk of the court and
10 State's Attorney, is to receive copies of all notices,
11 motions, and court orders filed thereafter in the case, in
12 the same manner as if the victim were a named party in the
13 case;

14 (9.5) shall inform the victim of (A) the victim's
15 right under Section 6 of this Act to make a statement at
16 the sentencing hearing; (B) the right of the victim's
17 spouse, guardian, parent, grandparent, and other immediate
18 family and household members under Section 6 of this Act
19 to present a statement at sentencing; and (C) if a
20 presentence report is to be prepared, the right of the
21 victim's spouse, guardian, parent, grandparent, and other
22 immediate family and household members to submit
23 information to the preparer of the presentence report
24 about the effect the offense has had on the victim and the
25 person;

26 (10) at the sentencing shall make a good faith attempt

1 to explain the minimum amount of time during which the
2 defendant may actually be physically imprisoned. The
3 Office of the State's Attorney shall further notify the
4 crime victim of the right to request from the Prisoner
5 Review Board or Department of Juvenile Justice information
6 concerning the release of the defendant;

7 (11) shall request restitution at sentencing and as
8 part of a plea agreement if the victim requests
9 restitution;

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

15 (13) shall provide notice within a reasonable time
16 after receipt of notice from the custodian, of the release
17 of the defendant on bail or personal recognizance or the
18 release from detention of a minor who has been detained;

19 (14) shall explain in nontechnical language the
20 details of any plea or verdict of a defendant, or any
21 adjudication of a juvenile as a delinquent;

22 (15) shall make all reasonable efforts to consult with
23 the crime victim before the Office of the State's Attorney
24 makes an offer of a plea bargain to the defendant or enters
25 into negotiations with the defendant concerning a possible
26 plea agreement, and shall consider the written statement,

1 if prepared prior to entering into a plea agreement. The
2 right to consult with the prosecutor does not include the
3 right to veto a plea agreement or to insist the case go to
4 trial. If the State's Attorney has not consulted with the
5 victim prior to making an offer or entering into plea
6 negotiations with the defendant, the Office of the State's
7 Attorney shall notify the victim of the offer or the
8 negotiations within 2 business days and confer with the
9 victim;

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

14 (17) shall provide notice of any appeal taken by the
15 defendant and information on how to contact the
16 appropriate agency handling the appeal, and how to request
17 notice of any hearing, oral argument, or decision of an
18 appellate court;

19 (18) shall provide timely notice of any request for
20 post-conviction review filed by the defendant under
21 Article 122 of the Code of Criminal Procedure of 1963, and
22 of the date, time and place of any hearing concerning the
23 petition. Whenever possible, notice of the hearing shall
24 be given within 48 hours of the court's scheduling of the
25 hearing; and

26 (19) shall forward a copy of any statement presented

1 under Section 6 to the Prisoner Review Board or Department
2 of Juvenile Justice to be considered in making a
3 determination under Section 3-2.5-85 or subsection (b) of
4 Section 3-3-8 of the Unified Code of Corrections.

5 (c) The court shall ensure that the rights of the victim
6 are afforded.

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

10 (1) Written notice. A victim may complete a written
11 notice of intent to assert rights on a form prepared by the
12 Office of the Attorney General and provided to the victim
13 by the State's Attorney. The victim may at any time
14 provide a revised written notice to the State's Attorney.
15 The State's Attorney shall file the written notice with
16 the court. At the beginning of any court proceeding in
17 which the right of a victim may be at issue, the court and
18 prosecutor shall review the written notice to determine
19 whether the victim has asserted the right that may be at
20 issue.

21 (2) Victim's retained attorney. A victim's attorney
22 shall file an entry of appearance limited to assertion of
23 the victim's rights. Upon the filing of the entry of
24 appearance and service on the State's Attorney and the
25 defendant, the attorney is to receive copies of all
26 notices, motions and court orders filed thereafter in the

1 case.

2 (3) Standing. The victim has standing to assert the
3 rights enumerated in subsection (a) of Article I, Section
4 8.1 of the Illinois Constitution and the statutory rights
5 under Section 4 of this Act in any court exercising
6 jurisdiction over the criminal case. The prosecuting
7 attorney, a victim, or the victim's retained attorney may
8 assert the victim's rights. The defendant in the criminal
9 case has no standing to assert a right of the victim in any
10 court proceeding, including on appeal.

11 (4) Assertion of and enforcement of rights.

12 (A) The prosecuting attorney shall assert a
13 victim's right or request enforcement of a right by
14 filing a motion or by orally asserting the right or
15 requesting enforcement in open court in the criminal
16 case outside the presence of the jury. The prosecuting
17 attorney shall consult with the victim and the
18 victim's attorney regarding the assertion or
19 enforcement of a right. If the prosecuting attorney
20 decides not to assert or enforce a victim's right, the
21 prosecuting attorney shall notify the victim or the
22 victim's attorney in sufficient time to allow the
23 victim or the victim's attorney to assert the right or
24 to seek enforcement of a right.

25 (B) If the prosecuting attorney elects not to
26 assert a victim's right or to seek enforcement of a

1 right, the victim or the victim's attorney may assert
2 the victim's right or request enforcement of a right
3 by filing a motion or by orally asserting the right or
4 requesting enforcement in open court in the criminal
5 case outside the presence of the jury.

6 (C) If the prosecuting attorney asserts a victim's
7 right or seeks enforcement of a right, and the court
8 denies the assertion of the right or denies the
9 request for enforcement of a right, the victim or
10 victim's attorney may file a motion to assert the
11 victim's right or to request enforcement of the right
12 within 10 days of the court's ruling. The motion need
13 not demonstrate the grounds for a motion for
14 reconsideration. The court shall rule on the merits of
15 the motion.

16 (D) The court shall take up and decide any motion
17 or request asserting or seeking enforcement of a
18 victim's right without delay, unless a specific time
19 period is specified by law or court rule. The reasons
20 for any decision denying the motion or request shall
21 be clearly stated on the record.

22 (5) Violation of rights and remedies.

23 (A) If the court determines that a victim's right
24 has been violated, the court shall determine the
25 appropriate remedy for the violation of the victim's
26 right by hearing from the victim and the parties,

1 considering all factors relevant to the issue, and
2 then awarding appropriate relief to the victim.

3 (A-5) Consideration of an issue of a substantive
4 nature or an issue that implicates the constitutional
5 or statutory right of a victim at a court proceeding
6 labeled as a status hearing shall constitute a per se
7 violation of a victim's right.

8 (B) The appropriate remedy shall include only
9 actions necessary to provide the victim the right to
10 which the victim was entitled and may include
11 reopening previously held proceedings; however, in no
12 event shall the court vacate a conviction. Any remedy
13 shall be tailored to provide the victim an appropriate
14 remedy without violating any constitutional right of
15 the defendant. In no event shall the appropriate
16 remedy be a new trial, damages, or costs.

17 (6) Right to be heard. Whenever a victim has the right
18 to be heard, the court shall allow the victim to exercise
19 the right in any reasonable manner the victim chooses.

20 (7) Right to attend trial. A party must file a written
21 motion to exclude a victim from trial at least 60 days
22 prior to the date set for trial. The motion must state with
23 specificity the reason exclusion is necessary to protect a
24 constitutional right of the party, and must contain an
25 offer of proof. The court shall rule on the motion within
26 30 days. If the motion is granted, the court shall set

1 forth on the record the facts that support its finding
2 that the victim's testimony will be materially affected if
3 the victim hears other testimony at trial.

4 (8) Right to have advocate and support person present
5 at court proceedings.

6 (A) A party who intends to call an advocate as a
7 witness at trial must seek permission of the court
8 before the subpoena is issued. The party must file a
9 written motion at least 90 days before trial that sets
10 forth specifically the issues on which the advocate's
11 testimony is sought and an offer of proof regarding
12 (i) the content of the anticipated testimony of the
13 advocate; and (ii) the relevance, admissibility, and
14 materiality of the anticipated testimony. The court
15 shall consider the motion and make findings within 30
16 days of the filing of the motion. If the court finds by
17 a preponderance of the evidence that: (i) the
18 anticipated testimony is not protected by an absolute
19 privilege; and (ii) the anticipated testimony contains
20 relevant, admissible, and material evidence that is
21 not available through other witnesses or evidence, the
22 court shall issue a subpoena requiring the advocate to
23 appear to testify at an in camera hearing. The
24 prosecuting attorney and the victim shall have 15 days
25 to seek appellate review before the advocate is
26 required to testify at an ex parte in camera

1 proceeding.

2 The prosecuting attorney, the victim, and the
3 advocate's attorney shall be allowed to be present at
4 the ex parte in camera proceeding. If, after
5 conducting the ex parte in camera hearing, the court
6 determines that due process requires any testimony
7 regarding confidential or privileged information or
8 communications, the court shall provide to the
9 prosecuting attorney, the victim, and the advocate's
10 attorney a written memorandum on the substance of the
11 advocate's testimony. The prosecuting attorney, the
12 victim, and the advocate's attorney shall have 15 days
13 to seek appellate review before a subpoena may be
14 issued for the advocate to testify at trial. The
15 presence of the prosecuting attorney at the ex parte
16 in camera proceeding does not make the substance of
17 the advocate's testimony that the court has ruled
18 inadmissible subject to discovery.

19 (B) If a victim has asserted the right to have a
20 support person present at the court proceedings, the
21 victim shall provide the name of the person the victim
22 has chosen to be the victim's support person to the
23 prosecuting attorney, within 60 days of trial. The
24 prosecuting attorney shall provide the name to the
25 defendant. If the defendant intends to call the
26 support person as a witness at trial, the defendant

1 must seek permission of the court before a subpoena is
2 issued. The defendant must file a written motion at
3 least 45 days prior to trial that sets forth
4 specifically the issues on which the support person
5 will testify and an offer of proof regarding: (i) the
6 content of the anticipated testimony of the support
7 person; and (ii) the relevance, admissibility, and
8 materiality of the anticipated testimony.

9 If the prosecuting attorney intends to call the
10 support person as a witness during the State's
11 case-in-chief, the prosecuting attorney shall inform
12 the court of this intent in the response to the
13 defendant's written motion. The victim may choose a
14 different person to be the victim's support person.
15 The court may allow the defendant to inquire about
16 matters outside the scope of the direct examination
17 during cross-examination. If the court allows the
18 defendant to do so, the support person shall be
19 allowed to remain in the courtroom after the support
20 person has testified. A defendant who fails to
21 question the support person about matters outside the
22 scope of direct examination during the State's
23 case-in-chief waives the right to challenge the
24 presence of the support person on appeal. The court
25 shall allow the support person to testify if called as
26 a witness in the defendant's case-in-chief or the

1 State's rebuttal.

2 If the court does not allow the defendant to
3 inquire about matters outside the scope of the direct
4 examination, the support person shall be allowed to
5 remain in the courtroom after the support person has
6 been called by the defendant or the defendant has
7 rested. The court shall allow the support person to
8 testify in the State's rebuttal.

9 If the prosecuting attorney does not intend to
10 call the support person in the State's case-in-chief,
11 the court shall verify with the support person whether
12 the support person, if called as a witness, would
13 testify as set forth in the offer of proof. If the
14 court finds that the support person would testify as
15 set forth in the offer of proof, the court shall rule
16 on the relevance, materiality, and admissibility of
17 the anticipated testimony. If the court rules the
18 anticipated testimony is admissible, the court shall
19 issue the subpoena. The support person may remain in
20 the courtroom after the support person testifies and
21 shall be allowed to testify in rebuttal.

22 If the court excludes the victim's support person
23 during the State's case-in-chief, the victim shall be
24 allowed to choose another support person to be present
25 in court.

26 If the victim fails to designate a support person

1 within 60 days of trial and the defendant has
2 subpoenaed the support person to testify at trial, the
3 court may exclude the support person from the trial
4 until the support person testifies. If the court
5 excludes the support person the victim may choose
6 another person as a support person.

7 (9) Right to notice and hearing before disclosure of
8 confidential or privileged information or records. A
9 defendant who seeks to subpoena records of or concerning
10 the victim that are confidential or privileged by law must
11 seek permission of the court before the subpoena is
12 issued. The defendant must file a written motion and an
13 offer of proof regarding the relevance, admissibility and
14 materiality of the records. If the court finds by a
15 preponderance of the evidence that: (A) the records are
16 not protected by an absolute privilege and (B) the records
17 contain relevant, admissible, and material evidence that
18 is not available through other witnesses or evidence, the
19 court shall issue a subpoena requiring a sealed copy of
20 the records be delivered to the court to be reviewed in
21 camera. If, after conducting an in camera review of the
22 records, the court determines that due process requires
23 disclosure of any portion of the records, the court shall
24 provide copies of what it intends to disclose to the
25 prosecuting attorney and the victim. The prosecuting
26 attorney and the victim shall have 30 days to seek

1 appellate review before the records are disclosed to the
2 defendant. The disclosure of copies of any portion of the
3 records to the prosecuting attorney does not make the
4 records subject to discovery.

5 (10) Right to notice of court proceedings. If the
6 victim is not present at a court proceeding in which a
7 right of the victim is at issue, the court shall ask the
8 prosecuting attorney whether the victim was notified of
9 the time, place, and purpose of the court proceeding and
10 that the victim had a right to be heard at the court
11 proceeding. If the court determines that timely notice was
12 not given or that the victim was not adequately informed
13 of the nature of the court proceeding, the court shall not
14 rule on any substantive issues, accept a plea, or impose a
15 sentence and shall continue the hearing for the time
16 necessary to notify the victim of the time, place and
17 nature of the court proceeding. The time between court
18 proceedings shall not be attributable to the State under
19 Section 103-5 of the Code of Criminal Procedure of 1963.

20 (11) Right to timely disposition of the case. A victim
21 has the right to timely disposition of the case so as to
22 minimize the stress, cost, and inconvenience resulting
23 from the victim's involvement in the case. Before ruling
24 on a motion to continue trial or other court proceeding,
25 the court shall inquire into the circumstances for the
26 request for the delay and, if the victim has provided

1 written notice of the assertion of the right to a timely
2 disposition, and whether the victim objects to the delay.
3 If the victim objects, the prosecutor shall inform the
4 court of the victim's objections. If the prosecutor has
5 not conferred with the victim about the continuance, the
6 prosecutor shall inform the court of the attempts to
7 confer. If the court finds the attempts of the prosecutor
8 to confer with the victim were inadequate to protect the
9 victim's right to be heard, the court shall give the
10 prosecutor at least 3 but not more than 5 business days to
11 confer with the victim. In ruling on a motion to continue,
12 the court shall consider the reasons for the requested
13 continuance, the number and length of continuances that
14 have been granted, the victim's objections and procedures
15 to avoid further delays. If a continuance is granted over
16 the victim's objection, the court shall specify on the
17 record the reasons for the continuance and the procedures
18 that have been or will be taken to avoid further delays.

19 (12) Right to Restitution.

20 (A) If the victim has asserted the right to
21 restitution and the amount of restitution is known at
22 the time of sentencing, the court shall enter the
23 judgment of restitution at the time of sentencing.

24 (B) If the victim has asserted the right to
25 restitution and the amount of restitution is not known
26 at the time of sentencing, the prosecutor shall,

1 within 5 days after sentencing, notify the victim what
2 information and documentation related to restitution
3 is needed and that the information and documentation
4 must be provided to the prosecutor within 45 days
5 after sentencing. Failure to timely provide
6 information and documentation related to restitution
7 shall be deemed a waiver of the right to restitution.
8 The prosecutor shall file and serve within 60 days
9 after sentencing a proposed judgment for restitution
10 and a notice that includes information concerning the
11 identity of any victims or other persons seeking
12 restitution, whether any victim or other person
13 expressly declines restitution, the nature and amount
14 of any damages together with any supporting
15 documentation, a restitution amount recommendation,
16 and the names of any co-defendants and their case
17 numbers. Within 30 days after receipt of the proposed
18 judgment for restitution, the defendant shall file any
19 objection to the proposed judgment, a statement of
20 grounds for the objection, and a financial statement.
21 If the defendant does not file an objection, the court
22 may enter the judgment for restitution without further
23 proceedings. If the defendant files an objection and
24 either party requests a hearing, the court shall
25 schedule a hearing.

26 (13) Access to presentence reports.

1 (A) The victim may request a copy of the
2 presentence report prepared under the Unified Code of
3 Corrections from the State's Attorney. The State's
4 Attorney shall redact the following information before
5 providing a copy of the report:

6 (i) the defendant's mental history and
7 condition;

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

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

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

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

19 (D) The State's Attorney must advise the victim
20 that the victim must maintain the confidentiality of
21 the report and other information. Any dissemination of
22 the report or information that was not stated at a
23 court proceeding constitutes indirect criminal
24 contempt of court.

25 (14) Appellate relief. If the trial court denies the
26 relief requested, the victim, the victim's attorney, or

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

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

14 (16) The right to be reasonably protected from the
15 accused throughout the criminal justice process and the
16 right to have the safety of the victim and the victim's
17 family considered in denying or fixing the amount of bail,
18 determining whether to release the defendant, and setting
19 conditions of release after arrest and conviction. A
20 victim of domestic violence, a sexual offense, or stalking
21 may request the entry of a protective order under Article
22 112A of the Code of Criminal Procedure of 1963.

23 (d) Procedures after the imposition of sentence.

24 (1) The Prisoner Review Board shall inform a victim or
25 any other concerned citizen, upon written request, of the
26 prisoner's release on parole, mandatory supervised

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

22 (2) When the defendant has been committed to the
23 Department of Human Services pursuant to Section 5-2-4 or
24 any other provision of the Unified Code of Corrections,
25 the victim may request to be notified by the releasing
26 authority of the approval by the court of an on-grounds

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

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

24 (4) The victim of the crime for which the prisoner has
25 been sentenced has the right to register with the Prisoner
26 Review Board's victim registry. Victims registered with

1 the Board shall receive reasonable written notice not less
2 than 30 days prior to the parole hearing or target
3 aftercare release date. The victim has the right to submit
4 a victim statement for consideration by the Prisoner
5 Review Board or the Department of Juvenile Justice in
6 writing, on film, videotape, or other electronic means, or
7 in the form of a recording prior to the parole hearing or
8 target aftercare release date, or in person at the parole
9 hearing or aftercare release protest hearing, or by
10 calling the toll-free number established in subsection (f)
11 of this Section. The victim shall be notified within 7
12 days after the prisoner has been granted parole or
13 aftercare release and shall be informed of the right to
14 inspect the registry of parole decisions, established
15 under subsection (g) of Section 3-3-5 of the Unified Code
16 of Corrections. The provisions of this paragraph (4) are
17 subject to the Open Parole Hearings Act. Victim statements
18 provided to the Board shall be confidential and
19 privileged, including any statements received prior to
20 January 1, 2020 (the effective date of Public Act
21 101-288), except if the statement was an oral statement
22 made by the victim at a hearing open to the public.

23 (4-1) The crime victim has the right to submit a
24 victim statement for consideration by the Prisoner Review
25 Board or the Department of Juvenile Justice prior to or at
26 a hearing to determine the conditions of mandatory

1 supervised release of a person sentenced to a determinate
2 sentence or at a hearing on revocation of mandatory
3 supervised release of a person sentenced to a determinate
4 sentence. A victim statement may be submitted in writing,
5 on film, videotape, or other electronic means, or in the
6 form of a recording, or orally at a hearing, or by calling
7 the toll-free number established in subsection (f) of this
8 Section. Victim statements provided to the Board shall be
9 confidential and privileged, including any statements
10 received prior to January 1, 2020 (the effective date of
11 Public Act 101-288), except if the statement was an oral
12 statement made by the victim at a hearing open to the
13 public.

14 (4-2) The crime victim has the right to submit a
15 victim statement to the Prisoner Review Board for
16 consideration at an executive clemency hearing as provided
17 in Section 3-3-13 of the Unified Code of Corrections. A
18 victim statement may be submitted in writing, on film,
19 videotape, or other electronic means, or in the form of a
20 recording prior to a hearing, or orally at a hearing, or by
21 calling the toll-free number established in subsection (f)
22 of this Section. Victim statements provided to the Board
23 shall be confidential and privileged, including any
24 statements received prior to January 1, 2020 (the
25 effective date of Public Act 101-288), except if the
26 statement was an oral statement made by the victim at a

1 hearing open to the public.

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

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

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

1 Department of Human Services to contact the victim.

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

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

23 (f) The Prisoner Review Board shall establish a toll-free
24 number that may be accessed by the crime victim to present a
25 victim statement to the Board in accordance with paragraphs
26 (4), (4-1), and (4-2) of subsection (d).

1 (Source: P.A. 101-81, eff. 7-12-19; 101-288, eff. 1-1-20;
2 102-22, eff. 6-25-21; 102-558, eff. 8-20-21; revised
3 12-13-21.)

4 (Text of Section after amendment by P.A. 101-652)

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

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

16 (a-5) When law enforcement authorities reopen a closed
17 case to resume investigating, they shall provide notice of the
18 reopening of the case, except where the State's Attorney
19 determines that disclosure of such information would
20 unreasonably interfere with the investigation.

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

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

1 (2) shall provide timely notice of the date, time, and
2 place of court proceedings; of any change in the date,
3 time, and place of court proceedings; and of any
4 cancellation of court proceedings. Notice shall be
5 provided in sufficient time, wherever possible, for the
6 victim to make arrangements to attend or to prevent an
7 unnecessary appearance at court proceedings;

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

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

16 (4) shall assist in having any stolen or other
17 personal property held by law enforcement authorities for
18 evidentiary or other purposes returned as expeditiously as
19 possible, pursuant to the procedures set out in Section
20 115-9 of the Code of Criminal Procedure of 1963;

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

26 (6) shall provide, whenever possible, a secure waiting

1 area during court proceedings that does not require
2 victims to be in close proximity to defendants or
3 juveniles accused of a violent crime, and their families
4 and friends;

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

11 (8) (blank);

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

17 (9) shall inform the victim of the right to have
18 present at all court proceedings, subject to the rules of
19 evidence and confidentiality, an advocate and other
20 support person of the victim's choice;

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

1 case;

2 (9.5) shall inform the victim of (A) the victim's
3 right under Section 6 of this Act to make a statement at
4 the sentencing hearing; (B) the right of the victim's
5 spouse, guardian, parent, grandparent, and other immediate
6 family and household members under Section 6 of this Act
7 to present a statement at sentencing; and (C) if a
8 presentence report is to be prepared, the right of the
9 victim's spouse, guardian, parent, grandparent, and other
10 immediate family and household members to submit
11 information to the preparer of the presentence report
12 about the effect the offense has had on the victim and the
13 person;

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

21 (11) shall request restitution at sentencing and as
22 part of a plea agreement if the victim requests
23 restitution;

24 (12) shall, upon the court entering a verdict of not
25 guilty by reason of insanity, inform the victim of the
26 notification services available from the Department of

1 Human Services, including the statewide telephone number,
2 under subparagraph (d) (2) of this Section;

3 (13) shall provide notice within a reasonable time
4 after receipt of notice from the custodian, of the release
5 of the defendant on pretrial release or personal
6 recognizance or the release from detention of a minor who
7 has been detained;

8 (14) shall explain in nontechnical language the
9 details of any plea or verdict of a defendant, or any
10 adjudication of a juvenile as a delinquent;

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

25 (16) shall provide notice of the ultimate disposition
26 of the cases arising from an indictment or an information,

1 or a petition to have a juvenile adjudicated as a
2 delinquent for a violent crime;

3 (17) shall provide notice of any appeal taken by the
4 defendant and information on how to contact the
5 appropriate agency handling the appeal, and how to request
6 notice of any hearing, oral argument, or decision of an
7 appellate court;

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

15 (19) shall forward a copy of any statement presented
16 under Section 6 to the Prisoner Review Board or Department
17 of Juvenile Justice to be considered in making a
18 determination under Section 3-2.5-85 or subsection (b) of
19 Section 3-3-8 of the Unified Code of Corrections;

20 (20) shall, within a reasonable time, offer to meet
21 with the crime victim regarding the decision of the
22 State's Attorney not to charge an offense, and shall meet
23 with the victim, if the victim agrees. The victim has a
24 right to have an attorney, advocate, and other support
25 person of the victim's choice attend this meeting with the
26 victim; and

1 (21) shall give the crime victim timely notice of any
2 decision not to pursue charges and consider the safety of
3 the victim when deciding how to give such notice.

4 (c) The court shall ensure that the rights of the victim
5 are afforded.

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

9 (1) Written notice. A victim may complete a written
10 notice of intent to assert rights on a form prepared by the
11 Office of the Attorney General and provided to the victim
12 by the State's Attorney. The victim may at any time
13 provide a revised written notice to the State's Attorney.
14 The State's Attorney shall file the written notice with
15 the court. At the beginning of any court proceeding in
16 which the right of a victim may be at issue, the court and
17 prosecutor shall review the written notice to determine
18 whether the victim has asserted the right that may be at
19 issue.

20 (2) Victim's retained attorney. A victim's attorney
21 shall file an entry of appearance limited to assertion of
22 the victim's rights. Upon the filing of the entry of
23 appearance and service on the State's Attorney and the
24 defendant, the attorney is to receive copies of all
25 notices, motions and court orders filed thereafter in the
26 case.

1 (3) Standing. The victim has standing to assert the
2 rights enumerated in subsection (a) of Article I, Section
3 8.1 of the Illinois Constitution and the statutory rights
4 under Section 4 of this Act in any court exercising
5 jurisdiction over the criminal case. The prosecuting
6 attorney, a victim, or the victim's retained attorney may
7 assert the victim's rights. The defendant in the criminal
8 case has no standing to assert a right of the victim in any
9 court proceeding, including on appeal.

10 (4) Assertion of and enforcement of rights.

11 (A) The prosecuting attorney shall assert a
12 victim's right or request enforcement of a right by
13 filing a motion or by orally asserting the right or
14 requesting enforcement in open court in the criminal
15 case outside the presence of the jury. The prosecuting
16 attorney shall consult with the victim and the
17 victim's attorney regarding the assertion or
18 enforcement of a right. If the prosecuting attorney
19 decides not to assert or enforce a victim's right, the
20 prosecuting attorney shall notify the victim or the
21 victim's attorney in sufficient time to allow the
22 victim or the victim's attorney to assert the right or
23 to seek enforcement of a right.

24 (B) If the prosecuting attorney elects not to
25 assert a victim's right or to seek enforcement of a
26 right, the victim or the victim's attorney may assert

1 the victim's right or request enforcement of a right
2 by filing a motion or by orally asserting the right or
3 requesting enforcement in open court in the criminal
4 case outside the presence of the jury.

5 (C) If the prosecuting attorney asserts a victim's
6 right or seeks enforcement of a right, unless the
7 prosecuting attorney objects or the trial court does
8 not allow it, the victim or the victim's attorney may
9 be heard regarding the prosecuting attorney's motion
10 or may file a simultaneous motion to assert or request
11 enforcement of the victim's right. If the victim or
12 the victim's attorney was not allowed to be heard at
13 the hearing regarding the prosecuting attorney's
14 motion, and the court denies the prosecuting
15 attorney's assertion of the right or denies the
16 request for enforcement of a right, the victim or
17 victim's attorney may file a motion to assert the
18 victim's right or to request enforcement of the right
19 within 10 days of the court's ruling. The motion need
20 not demonstrate the grounds for a motion for
21 reconsideration. The court shall rule on the merits of
22 the motion.

23 (D) The court shall take up and decide any motion
24 or request asserting or seeking enforcement of a
25 victim's right without delay, unless a specific time
26 period is specified by law or court rule. The reasons

1 for any decision denying the motion or request shall
2 be clearly stated on the record.

3 (E) No later than January 1, 2023, the Office of
4 the Attorney General shall:

5 (i) designate an administrative authority
6 within the Office of the Attorney General to
7 receive and investigate complaints relating to the
8 provision or violation of the rights of a crime
9 victim as described in Article I, Section 8.1 of
10 the Illinois Constitution and in this Act;

11 (ii) create and administer a course of
12 training for employees and offices of the State of
13 Illinois that fail to comply with provisions of
14 Illinois law pertaining to the treatment of crime
15 victims as described in Article I, Section 8.1 of
16 the Illinois Constitution and in this Act as
17 required by the court under Section 5 of this Act;
18 and

19 (iii) have the authority to make
20 recommendations to employees and offices of the
21 State of Illinois to respond more effectively to
22 the needs of crime victims, including regarding
23 the violation of the rights of a crime victim.

24 (F) Crime victims' rights may also be asserted by
25 filing a complaint for mandamus, injunctive, or
26 declaratory relief in the jurisdiction in which the

1 victim's right is being violated or where the crime is
2 being prosecuted. For complaints or motions filed by
3 or on behalf of the victim, the clerk of court shall
4 waive filing fees that would otherwise be owed by the
5 victim for any court filing with the purpose of
6 enforcing crime victims' rights. If the court denies
7 the relief sought by the victim, the reasons for the
8 denial shall be clearly stated on the record in the
9 transcript of the proceedings, in a written opinion,
10 or in the docket entry, and the victim may appeal the
11 circuit court's decision to the appellate court. The
12 court shall issue prompt rulings regarding victims'
13 rights. Proceedings seeking to enforce victims' rights
14 shall not be stayed or subject to unreasonable delay
15 via continuances.

16 (5) Violation of rights and remedies.

17 (A) If the court determines that a victim's right
18 has been violated, the court shall determine the
19 appropriate remedy for the violation of the victim's
20 right by hearing from the victim and the parties,
21 considering all factors relevant to the issue, and
22 then awarding appropriate relief to the victim.

23 (A-5) Consideration of an issue of a substantive
24 nature or an issue that implicates the constitutional
25 or statutory right of a victim at a court proceeding
26 labeled as a status hearing shall constitute a per se

1 violation of a victim's right.

2 (B) The appropriate remedy shall include only
3 actions necessary to provide the victim the right to
4 which the victim was entitled. Remedies may include,
5 but are not limited to: injunctive relief requiring
6 the victim's right to be afforded; declaratory
7 judgment recognizing or clarifying the victim's
8 rights; a writ of mandamus; and may include reopening
9 previously held proceedings; however, in no event
10 shall the court vacate a conviction. Any remedy shall
11 be tailored to provide the victim an appropriate
12 remedy without violating any constitutional right of
13 the defendant. In no event shall the appropriate
14 remedy to the victim be a new trial or damages.

15 The court shall impose a mandatory training course
16 provided by the Attorney General for the employee under
17 item (ii) of subparagraph (E) of paragraph (4), which must
18 be successfully completed within 6 months of the entry of
19 the court order.

20 This paragraph (5) takes effect January 2, 2023.

21 (6) Right to be heard. Whenever a victim has the right
22 to be heard, the court shall allow the victim to exercise
23 the right in any reasonable manner the victim chooses.

24 (7) Right to attend trial. A party must file a written
25 motion to exclude a victim from trial at least 60 days
26 prior to the date set for trial. The motion must state with

1 specificity the reason exclusion is necessary to protect a
2 constitutional right of the party, and must contain an
3 offer of proof. The court shall rule on the motion within
4 30 days. If the motion is granted, the court shall set
5 forth on the record the facts that support its finding
6 that the victim's testimony will be materially affected if
7 the victim hears other testimony at trial.

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

10 (A) A party who intends to call an advocate as a
11 witness at trial must seek permission of the court
12 before the subpoena is issued. The party must file a
13 written motion at least 90 days before trial that sets
14 forth specifically the issues on which the advocate's
15 testimony is sought and an offer of proof regarding
16 (i) the content of the anticipated testimony of the
17 advocate; and (ii) the relevance, admissibility, and
18 materiality of the anticipated testimony. The court
19 shall consider the motion and make findings within 30
20 days of the filing of the motion. If the court finds by
21 a preponderance of the evidence that: (i) the
22 anticipated testimony is not protected by an absolute
23 privilege; and (ii) the anticipated testimony contains
24 relevant, admissible, and material evidence that is
25 not available through other witnesses or evidence, the
26 court shall issue a subpoena requiring the advocate to

1 appear to testify at an in camera hearing. The
2 prosecuting attorney and the victim shall have 15 days
3 to seek appellate review before the advocate is
4 required to testify at an ex parte in camera
5 proceeding.

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

23 (B) If a victim has asserted the right to have a
24 support person present at the court proceedings, the
25 victim shall provide the name of the person the victim
26 has chosen to be the victim's support person to the

1 prosecuting attorney, within 60 days of trial. The
2 prosecuting attorney shall provide the name to the
3 defendant. If the defendant intends to call the
4 support person as a witness at trial, the defendant
5 must seek permission of the court before a subpoena is
6 issued. The defendant must file a written motion at
7 least 45 days prior to trial that sets forth
8 specifically the issues on which the support person
9 will testify and an offer of proof regarding: (i) the
10 content of the anticipated testimony of the support
11 person; and (ii) the relevance, admissibility, and
12 materiality of the anticipated testimony.

13 If the prosecuting attorney intends to call the
14 support person as a witness during the State's
15 case-in-chief, the prosecuting attorney shall inform
16 the court of this intent in the response to the
17 defendant's written motion. The victim may choose a
18 different person to be the victim's support person.
19 The court may allow the defendant to inquire about
20 matters outside the scope of the direct examination
21 during cross-examination. If the court allows the
22 defendant to do so, the support person shall be
23 allowed to remain in the courtroom after the support
24 person has testified. A defendant who fails to
25 question the support person about matters outside the
26 scope of direct examination during the State's

1 case-in-chief waives the right to challenge the
2 presence of the support person on appeal. The court
3 shall allow the support person to testify if called as
4 a witness in the defendant's case-in-chief or the
5 State's rebuttal.

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

13 If the prosecuting attorney does not intend to
14 call the support person in the State's case-in-chief,
15 the court shall verify with the support person whether
16 the support person, if called as a witness, would
17 testify as set forth in the offer of proof. If the
18 court finds that the support person would testify as
19 set forth in the offer of proof, the court shall rule
20 on the relevance, materiality, and admissibility of
21 the anticipated testimony. If the court rules the
22 anticipated testimony is admissible, the court shall
23 issue the subpoena. The support person may remain in
24 the courtroom after the support person testifies and
25 shall be allowed to testify in rebuttal.

26 If the court excludes the victim's support person

1 during the State's case-in-chief, the victim shall be
2 allowed to choose another support person to be present
3 in court.

4 If the victim fails to designate a support person
5 within 60 days of trial and the defendant has
6 subpoenaed the support person to testify at trial, the
7 court may exclude the support person from the trial
8 until the support person testifies. If the court
9 excludes the support person the victim may choose
10 another person as a support person.

11 (9) Right to notice and hearing before disclosure of
12 confidential or privileged information or records.

13 (A) A defendant who seeks to subpoena testimony or
14 records of or concerning the victim that are
15 confidential or privileged by law must seek permission
16 of the court before the subpoena is issued. The
17 defendant must file a written motion and an offer of
18 proof regarding the relevance, admissibility and
19 materiality of the testimony or records. If the court
20 finds by a preponderance of the evidence that:

21 (i) the testimony or records are not protected
22 by an absolute privilege and

23 (ii) the testimony or records contain
24 relevant, admissible, and material evidence that
25 is not available through other witnesses or
26 evidence, the court shall issue a subpoena

1 requiring the witness to appear in camera or a
2 sealed copy of the records be delivered to the
3 court to be reviewed in camera. If, after
4 conducting an in camera review of the witness
5 statement or records, the court determines that
6 due process requires disclosure of any potential
7 testimony or any portion of the records, the court
8 shall provide copies of the records that it
9 intends to disclose to the prosecuting attorney
10 and the victim. The prosecuting attorney and the
11 victim shall have 30 days to seek appellate review
12 before the records are disclosed to the defendant,
13 used in any court proceeding, or disclosed to
14 anyone or in any way that would subject the
15 testimony or records to public review. The
16 disclosure of copies of any portion of the
17 testimony or records to the prosecuting attorney
18 under this Section does not make the records
19 subject to discovery or required to be provided to
20 the defendant.

21 (B) A prosecuting attorney who seeks to subpoena
22 information or records concerning the victim that are
23 confidential or privileged by law must first request
24 the written consent of the crime victim. If the victim
25 does not provide such written consent, including where
26 necessary the appropriate signed document required for

1 waiving privilege, the prosecuting attorney must serve
2 the subpoena at least 21 days prior to the date a
3 response or appearance is required to allow the
4 subject of the subpoena time to file a motion to quash
5 or request a hearing. The prosecuting attorney must
6 also send a written notice to the victim at least 21
7 days prior to the response date to allow the victim to
8 file a motion or request a hearing. The notice to the
9 victim shall inform the victim (i) that a subpoena has
10 been issued for confidential information or records
11 concerning the victim, (ii) that the victim has the
12 right to request a hearing prior to the response date
13 of the subpoena, and (iii) how to request the hearing.
14 The notice to the victim shall also include a copy of
15 the subpoena. If requested, a hearing regarding the
16 subpoena shall occur before information or records are
17 provided to the prosecuting attorney.

18 (10) Right to notice of court proceedings. If the
19 victim is not present at a court proceeding in which a
20 right of the victim is at issue, the court shall ask the
21 prosecuting attorney whether the victim was notified of
22 the time, place, and purpose of the court proceeding and
23 that the victim had a right to be heard at the court
24 proceeding. If the court determines that timely notice was
25 not given or that the victim was not adequately informed
26 of the nature of the court proceeding, the court shall not

1 rule on any substantive issues, accept a plea, or impose a
2 sentence and shall continue the hearing for the time
3 necessary to notify the victim of the time, place and
4 nature of the court proceeding. The time between court
5 proceedings shall not be attributable to the State under
6 Section 103-5 of the Code of Criminal Procedure of 1963.

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

1 have been granted, the victim's objections and procedures
2 to avoid further delays. If a continuance is granted over
3 the victim's objection, the court shall specify on the
4 record the reasons for the continuance and the procedures
5 that have been or will be taken to avoid further delays.

6 (12) Right to Restitution.

7 (A) If the victim has asserted the right to
8 restitution and the amount of restitution is known at
9 the time of sentencing, the court shall enter the
10 judgment of restitution at the time of sentencing.

11 (B) If the victim has asserted the right to
12 restitution and the amount of restitution is not known
13 at the time of sentencing, the prosecutor shall,
14 within 5 days after sentencing, notify the victim what
15 information and documentation related to restitution
16 is needed and that the information and documentation
17 must be provided to the prosecutor within 45 days
18 after sentencing. Failure to timely provide
19 information and documentation related to restitution
20 shall be deemed a waiver of the right to restitution.
21 The prosecutor shall file and serve within 60 days
22 after sentencing a proposed judgment for restitution
23 and a notice that includes information concerning the
24 identity of any victims or other persons seeking
25 restitution, whether any victim or other person
26 expressly declines restitution, the nature and amount

1 of any damages together with any supporting
2 documentation, a restitution amount recommendation,
3 and the names of any co-defendants and their case
4 numbers. Within 30 days after receipt of the proposed
5 judgment for restitution, the defendant shall file any
6 objection to the proposed judgment, a statement of
7 grounds for the objection, and a financial statement.
8 If the defendant does not file an objection, the court
9 may enter the judgment for restitution without further
10 proceedings. If the defendant files an objection and
11 either party requests a hearing, the court shall
12 schedule a hearing.

13 (C) If the victim of a violation of Section 11-501
14 of the Illinois Vehicle Code, or a similar provision
15 of a local ordinance, that resulted in death is the
16 parent of a minor child or minor children, each minor
17 child of the victim has the right to restitution in an
18 amount that includes costs associated with the support
19 of the child until the child reaches 18 years of age;
20 except that, if the child reaches 18 years of age and
21 is enrolled in and attending a secondary school
22 program of instruction, support shall continue, if the
23 child continues to attend and progress toward
24 completion of such a program, until the child
25 completes the program or reaches 21 years of age,
26 whichever occurs first.

1 (13) Access to presentence reports.

2 (A) The victim may request a copy of the
3 presentence report prepared under the Unified Code of
4 Corrections from the State's Attorney. The State's
5 Attorney shall redact the following information before
6 providing a copy of the report:

7 (i) the defendant's mental history and
8 condition;

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

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

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

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

20 (D) The State's Attorney must advise the victim
21 that the victim must maintain the confidentiality of
22 the report and other information. Any dissemination of
23 the report or information that was not stated at a
24 court proceeding constitutes indirect criminal
25 contempt of court.

26 (14) Appellate relief. If the trial court denies the

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

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

15 (16) The right to be reasonably protected from the
16 accused throughout the criminal justice process and the
17 right to have the safety of the victim and the victim's
18 family considered in determining whether to release the
19 defendant, and setting conditions of release after arrest
20 and conviction. A victim of domestic violence, a sexual
21 offense, or stalking may request the entry of a protective
22 order under Article 112A of the Code of Criminal Procedure
23 of 1963.

24 (d) Procedures after the imposition of sentence.

25 (1) The Prisoner Review Board shall inform a victim or
26 any other concerned citizen, upon written request, of the

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

23 (2) When the defendant has been committed to the
24 Department of Human Services pursuant to Section 5-2-4 or
25 any other provision of the Unified Code of Corrections,
26 the victim may request to be notified by the releasing

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

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

25 (4) The victim of the crime for which the prisoner has
26 been sentenced has the right to register with the Prisoner

1 Review Board's victim registry. Victims registered with
2 the Board shall receive reasonable written notice not less
3 than 30 days prior to the parole hearing or target
4 aftercare release date. The victim has the right to submit
5 a victim statement for consideration by the Prisoner
6 Review Board or the Department of Juvenile Justice in
7 writing, on film, videotape, or other electronic means, or
8 in the form of a recording prior to the parole hearing or
9 target aftercare release date, or in person at the parole
10 hearing or aftercare release protest hearing, or by
11 calling the toll-free number established in subsection (f)
12 of this Section. The victim shall be notified within 7
13 days after the prisoner has been granted parole or
14 aftercare release and shall be informed of the right to
15 inspect the registry of parole decisions, established
16 under subsection (g) of Section 3-3-5 of the Unified Code
17 of Corrections. The provisions of this paragraph (4) are
18 subject to the Open Parole Hearings Act. Victim statements
19 provided to the Board shall be confidential and
20 privileged, including any statements received prior to
21 January 1, 2020 (the effective date of Public Act
22 101-288), except if the statement was an oral statement
23 made by the victim at a hearing open to the public.

24 (4-1) The crime victim has the right to submit a
25 victim statement for consideration by the Prisoner Review
26 Board or the Department of Juvenile Justice prior to or at

1 a hearing to determine the conditions of mandatory
2 supervised release of a person sentenced to a determinate
3 sentence or at a hearing on revocation of mandatory
4 supervised release of a person sentenced to a determinate
5 sentence. A victim statement may be submitted in writing,
6 on film, videotape, or other electronic means, or in the
7 form of a recording, or orally at a hearing, or by calling
8 the toll-free number established in subsection (f) of this
9 Section. Victim statements provided to the Board shall be
10 confidential and privileged, including any statements
11 received prior to January 1, 2020 (the effective date of
12 Public Act 101-288), except if the statement was an oral
13 statement made by the victim at a hearing open to the
14 public.

15 (4-2) The crime victim has the right to submit a
16 victim statement to the Prisoner Review Board for
17 consideration at an executive clemency hearing as provided
18 in Section 3-3-13 of the Unified Code of Corrections. A
19 victim statement may be submitted in writing, on film,
20 videotape, or other electronic means, or in the form of a
21 recording prior to a hearing, or orally at a hearing, or by
22 calling the toll-free number established in subsection (f)
23 of this Section. Victim statements provided to the Board
24 shall be confidential and privileged, including any
25 statements received prior to January 1, 2020 (the
26 effective date of Public Act 101-288), except if the

1 statement was an oral statement made by the victim at a
2 hearing open to the public.

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

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

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

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

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

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

24 (f) The Prisoner Review Board shall establish a toll-free
25 number that may be accessed by the crime victim to present a
26 victim statement to the Board in accordance with paragraphs

1 (4), (4-1), and (4-2) of subsection (d).

2 (Source: P.A. 101-81, eff. 7-12-19; 101-288, eff. 1-1-20;
3 101-652, eff. 1-1-23; 102-22, eff. 6-25-21; 102-558, eff.
4 8-20-21; revised 12-13-21.)

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

7 (730 ILCS 5/5-5-6) (from Ch. 38, par. 1005-5-6)

8 Sec. 5-5-6. In all convictions for offenses in violation
9 of the Criminal Code of 1961 or the Criminal Code of 2012 or of
10 Section 11-501 of the Illinois Vehicle Code in which the
11 person received any injury to his or her person or damage to
12 his or her real or personal property as a result of the
13 criminal act of the defendant, the court shall order
14 restitution as provided in this Section. In all other cases,
15 except cases in which restitution is required under this
16 Section, the court must at the sentence hearing determine
17 whether restitution is an appropriate sentence to be imposed
18 on each defendant convicted of an offense. If the court
19 determines that an order directing the offender to make
20 restitution is appropriate, the offender may be sentenced to
21 make restitution. The court may consider restitution an
22 appropriate sentence to be imposed on each defendant convicted
23 of an offense in addition to a sentence of imprisonment. The
24 sentence of the defendant to a term of imprisonment is not a

1 mitigating factor that prevents the court from ordering the
2 defendant to pay restitution. If the offender is sentenced to
3 make restitution the Court shall determine the restitution as
4 hereinafter set forth:

5 (a) At the sentence hearing, the court shall determine
6 whether the property may be restored in kind to the
7 possession of the owner or the person entitled to
8 possession thereof; or whether the defendant is possessed
9 of sufficient skill to repair and restore property
10 damaged; or whether the defendant should be required to
11 make restitution in cash, for out-of-pocket expenses,
12 damages, losses, or injuries found to have been
13 proximately caused by the conduct of the defendant or
14 another for whom the defendant is legally accountable
15 under the provisions of Article 5 of the Criminal Code of
16 1961 or the Criminal Code of 2012.

17 (b) In fixing the amount of restitution to be paid in
18 cash, the court shall allow credit for property returned
19 in kind, for property damages ordered to be repaired by
20 the defendant, and for property ordered to be restored by
21 the defendant; and after granting the credit, the court
22 shall assess the actual out-of-pocket expenses, losses,
23 damages, and injuries suffered by the victim named in the
24 charge and any other victims who may also have suffered
25 out-of-pocket expenses, losses, damages, and injuries
26 proximately caused by the same criminal conduct of the

1 defendant, and insurance carriers who have indemnified the
2 named victim or other victims for the out-of-pocket
3 expenses, losses, damages, or injuries, provided that in
4 no event shall restitution be ordered to be paid on
5 account of pain and suffering. When a victim's
6 out-of-pocket expenses have been paid pursuant to the
7 Crime Victims Compensation Act, the court shall order
8 restitution be paid to the compensation program. If a
9 defendant is placed on supervision for, or convicted of,
10 domestic battery, the defendant shall be required to pay
11 restitution to any domestic violence shelter in which the
12 victim and any other family or household members lived
13 because of the domestic battery. The amount of the
14 restitution shall equal the actual expenses of the
15 domestic violence shelter in providing housing and any
16 other services for the victim and any other family or
17 household members living at the shelter. If a defendant
18 fails to pay restitution in the manner or within the time
19 period specified by the court, the court may enter an
20 order directing the sheriff to seize any real or personal
21 property of a defendant to the extent necessary to satisfy
22 the order of restitution and dispose of the property by
23 public sale. All proceeds from such sale in excess of the
24 amount of restitution plus court costs and the costs of
25 the sheriff in conducting the sale shall be paid to the
26 defendant. The defendant convicted of domestic battery, if

1 a person under 18 years of age was present and witnessed
2 the domestic battery of the victim, is liable to pay
3 restitution for the cost of any counseling required for
4 the child at the discretion of the court. If the victim of
5 a violation of Section 11-501 of the Illinois Vehicle
6 Code, or a similar provision of a local ordinance, that
7 resulted in death is the parent of a minor child or minor
8 children, each minor child of the victim has the right to
9 restitution in an amount that includes costs associated
10 with the support of the child until the child reaches 18
11 years of age; except that, if the child reaches 18 years of
12 age and is enrolled in and attending a secondary school
13 program of instruction, support shall continue, if the
14 child continues to attend and progress toward completion
15 of such a program, until the child completes the program
16 or reaches 21 years of age, whichever occurs first.

17 (c) In cases where more than one defendant is
18 accountable for the same criminal conduct that results in
19 out-of-pocket expenses, losses, damages, or injuries, each
20 defendant shall be ordered to pay restitution in the
21 amount of the total actual out-of-pocket expenses, losses,
22 damages, or injuries to the victim proximately caused by
23 the conduct of all of the defendants who are legally
24 accountable for the offense.

25 (1) In no event shall the victim be entitled to
26 recover restitution in excess of the actual

1 out-of-pocket expenses, losses, damages, or injuries,
2 proximately caused by the conduct of all of the
3 defendants.

4 (2) As between the defendants, the court may
5 apportion the restitution that is payable in
6 proportion to each co-defendant's culpability in the
7 commission of the offense.

8 (3) In the absence of a specific order
9 apportioning the restitution, each defendant shall
10 bear his pro rata share of the restitution.

11 (4) As between the defendants, each defendant
12 shall be entitled to a pro rata reduction in the total
13 restitution required to be paid to the victim for
14 amounts of restitution actually paid by co-defendants,
15 and defendants who shall have paid more than their pro
16 rata share shall be entitled to refunds to be computed
17 by the court as additional amounts are paid by
18 co-defendants.

19 (d) In instances where a defendant has more than one
20 criminal charge pending against him in a single case, or
21 more than one case, and the defendant stands convicted of
22 one or more charges, a plea agreement negotiated by the
23 State's Attorney and the defendants may require the
24 defendant to make restitution to victims of charges that
25 have been dismissed or which it is contemplated will be
26 dismissed under the terms of the plea agreement, and under

1 the agreement, the court may impose a sentence of
2 restitution on the charge or charges of which the
3 defendant has been convicted that would require the
4 defendant to make restitution to victims of other offenses
5 as provided in the plea agreement.

6 (e) The court may require the defendant to apply the
7 balance of the cash bond, after payment of court costs,
8 and any fine that may be imposed to the payment of
9 restitution.

10 (f) Taking into consideration the ability of the
11 defendant to pay, including any real or personal property
12 or any other assets of the defendant, the court shall
13 determine whether restitution shall be paid in a single
14 payment or in installments, and shall fix a period of time
15 not in excess of 5 years, except for violations of
16 Sections 16-1.3 and 17-56 of the Criminal Code of 1961 or
17 the Criminal Code of 2012, or the period of time specified
18 in subsection (f-1), not including periods of
19 incarceration, within which payment of restitution is to
20 be paid in full. Complete restitution shall be paid in as
21 short a time period as possible. However, if the court
22 deems it necessary and in the best interest of the victim,
23 the court may extend beyond 5 years the period of time
24 within which the payment of restitution is to be paid. If
25 the defendant is ordered to pay restitution and the court
26 orders that restitution is to be paid over a period

1 greater than 6 months, the court shall order that the
2 defendant make monthly payments; the court may waive this
3 requirement of monthly payments only if there is a
4 specific finding of good cause for waiver.

5 (f-1)(1) In addition to any other penalty prescribed
6 by law and any restitution ordered under this Section that
7 did not include long-term physical health care costs, the
8 court may, upon conviction of any misdemeanor or felony,
9 order a defendant to pay restitution to a victim in
10 accordance with the provisions of this subsection (f-1) if
11 the victim has suffered physical injury as a result of the
12 offense that is reasonably probable to require or has
13 required long-term physical health care for more than 3
14 months. As used in this subsection (f-1), "long-term
15 physical health care" includes mental health care.

16 (2) The victim's estimate of long-term physical health
17 care costs may be made as part of a victim impact statement
18 under Section 6 of the Rights of Crime Victims and
19 Witnesses Act or made separately. The court shall enter
20 the long-term physical health care restitution order at
21 the time of sentencing. An order of restitution made under
22 this subsection (f-1) shall fix a monthly amount to be
23 paid by the defendant for as long as long-term physical
24 health care of the victim is required as a result of the
25 offense. The order may exceed the length of any sentence
26 imposed upon the defendant for the criminal activity. The

1 court shall include as a special finding in the judgment
2 of conviction its determination of the monthly cost of
3 long-term physical health care.

4 (3) After a sentencing order has been entered, the
5 court may from time to time, on the petition of either the
6 defendant or the victim, or upon its own motion, enter an
7 order for restitution for long-term physical care or
8 modify the existing order for restitution for long-term
9 physical care as to the amount of monthly payments. Any
10 modification of the order shall be based only upon a
11 substantial change of circumstances relating to the cost
12 of long-term physical health care or the financial
13 condition of either the defendant or the victim. The
14 petition shall be filed as part of the original criminal
15 docket.

16 (g) In addition to the sentences provided for in
17 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
18 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14,
19 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of
20 Section 11-14.4, of the Criminal Code of 1961 or the
21 Criminal Code of 2012, the court may order any person who
22 is convicted of violating any of those Sections or who was
23 charged with any of those offenses and which charge was
24 reduced to another charge as a result of a plea agreement
25 under subsection (d) of this Section to meet all or any
26 portion of the financial obligations of treatment,

1 including but not limited to medical, psychiatric, or
2 rehabilitative treatment or psychological counseling,
3 prescribed for the victim or victims of the offense. If
4 the victim of a violation of Section 11-501 of the
5 Illinois Vehicle Code, or a similar provision of a local
6 ordinance, that resulted in death is the parent of a minor
7 child or minor children, the amount of restitution awarded
8 may also include any portion of the financial obligations
9 of treatment, including, but not limited to, medical,
10 psychiatric, or rehabilitative treatment or psychological
11 counseling, prescribed for the minor child or children of
12 the victim.

13 The payments shall be made by the defendant to the
14 clerk of the circuit court and transmitted by the clerk to
15 the appropriate person or agency as directed by the court.
16 Except as otherwise provided in subsection (f-1), the
17 order may require such payments to be made for a period not
18 to exceed 5 years after sentencing, not including periods
19 of incarceration.

20 (h) The judge may enter an order of withholding to
21 collect the amount of restitution owed in accordance with
22 Part 8 of Article XII of the Code of Civil Procedure.

23 (i) A sentence of restitution may be modified or
24 revoked by the court if the offender commits another
25 offense, or the offender fails to make restitution as
26 ordered by the court, but no sentence to make restitution

1 shall be revoked unless the court shall find that the
2 offender has had the financial ability to make
3 restitution, and he has wilfully refused to do so. When
4 the offender's ability to pay restitution was established
5 at the time an order of restitution was entered or
6 modified, or when the offender's ability to pay was based
7 on the offender's willingness to make restitution as part
8 of a plea agreement made at the time the order of
9 restitution was entered or modified, there is a rebuttable
10 presumption that the facts and circumstances considered by
11 the court at the hearing at which the order of restitution
12 was entered or modified regarding the offender's ability
13 or willingness to pay restitution have not materially
14 changed. If the court shall find that the defendant has
15 failed to make restitution and that the failure is not
16 wilful, the court may impose an additional period of time
17 within which to make restitution. The length of the
18 additional period shall not be more than 2 years. The
19 court shall retain all of the incidents of the original
20 sentence, including the authority to modify or enlarge the
21 conditions, and to revoke or further modify the sentence
22 if the conditions of payment are violated during the
23 additional period.

24 (j) The procedure upon the filing of a Petition to
25 Revoke a sentence to make restitution shall be the same as
26 the procedures set forth in Section 5-6-4 of this Code

1 governing violation, modification, or revocation of
2 Probation, of Conditional Discharge, or of Supervision.

3 (k) Nothing contained in this Section shall preclude
4 the right of any party to proceed in a civil action to
5 recover for any damages incurred due to the criminal
6 misconduct of the defendant.

7 (l) Restitution ordered under this Section shall not
8 be subject to disbursement by the circuit clerk under the
9 Criminal and Traffic Assessment Act.

10 (m) A restitution order under this Section is a
11 judgment lien in favor of the victim that:

12 (1) Attaches to the property of the person subject
13 to the order;

14 (2) May be perfected in the same manner as
15 provided in Part 3 of Article 9 of the Uniform
16 Commercial Code;

17 (3) May be enforced to satisfy any payment that is
18 delinquent under the restitution order by the person
19 in whose favor the order is issued or the person's
20 assignee; and

21 (4) Expires in the same manner as a judgment lien
22 created in a civil proceeding.

23 When a restitution order is issued under this Section,
24 the issuing court shall send a certified copy of the order
25 to the clerk of the circuit court in the county where the
26 charge was filed. Upon receiving the order, the clerk

1 shall enter and index the order in the circuit court
2 judgment docket.

3 (n) An order of restitution under this Section does
4 not bar a civil action for:

5 (1) Damages that the court did not require the
6 person to pay to the victim under the restitution
7 order but arise from an injury or property damages
8 that is the basis of restitution ordered by the court;
9 and

10 (2) Other damages suffered by the victim.

11 The restitution order is not discharged by the completion
12 of the sentence imposed for the offense.

13 A restitution order under this Section is not discharged
14 by the liquidation of a person's estate by a receiver. A
15 restitution order under this Section may be enforced in the
16 same manner as judgment liens are enforced under Article XII
17 of the Code of Civil Procedure.

18 The provisions of Section 2-1303 of the Code of Civil
19 Procedure, providing for interest on judgments, apply to
20 judgments for restitution entered under this Section.

21 (Source: P.A. 100-987, eff. 7-1-19; 101-81, eff. 7-12-19.)

22 Section 95. No acceleration or delay. Where this Act makes
23 changes in a statute that is represented in this Act by text
24 that is not yet or no longer in effect (for example, a Section
25 represented by multiple versions), the use of that text does

1 not accelerate or delay the taking effect of (i) the changes
2 made by this Act or (ii) provisions derived from any other
3 Public Act.".