



Office of the Attorney General
Violence Prevention and Crime
Victim Services Division

Enforcement of Crime Victims' Rights



Crime changes things in ways you may not expect

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Introduction

This handbook is designed to assist stakeholders in the criminal justice system with their duties to afford crime victims their rights as guaranteed by the Crime Victims' Bill of Rights in Article I of the Illinois Constitution and the Rights of Crime Victims and Witnesses Act ("Act")¹. In doing so, this handbook centers the purpose of the Rights of the Crime Victims and Witness Act, which is to:

Implement, preserve, protect, and enforce the rights guaranteed to crime victims by Article I, Section 8.1. of the Illinois Constitution to ensure that victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system, to ensure that crime victims are informed of their rights and have standing to assert their rights in the trial and appellate courts, to establish procedures for enforcement of those rights, and to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the witnesses of crime who are essential to prosecution.

725 ILCS 120/2.

Appendices contain The Victims' Bill of Rights, the Crime Victim and Witnesses Act, a copy of the Notice of Victim's Assertion of Rights Form, and other resources.

This handbook will be updated periodically. Users are encouraged to contact the Violence Prevention and Crime Victim Services Division of the Office of the Illinois Attorney General to suggest improvements, discuss issues not previously anticipated, and relate situations where victims' rights have been successfully enforced.

CONTACT INFORMATION

Violence Prevention and Crime Victim Services Division

(800) 228-3368

Individuals with hearing or speech disabilities can reach us by using the 7-1-1 relay service.

¹ This handbook does not address the responsibilities of the Illinois Department of Corrections, the Prisoner Review Board, the Illinois Department of Human Services, or other governmental agencies.

Illinois Crime Victims' Bill of Rights

Victims' rights were first codified in Illinois in 1984. Pub. Act 83-1432. In the following four decades, they have regularly been strengthened and expanded. Voters twice approved amendments, in 1992 and 2014, elevating crime victims' rights to constitutional rights within the state constitution. In turn, the General Assembly continues the push to prioritize and expand the rights of victims through multiple amendments to the Rights of Crime Victims and Witnesses Act.

The Crime Victims' Bill of Rights encompasses twelve rights, which are enumerated both in the Illinois Constitution and the Rights of Crime Victims and Witnesses Act. Article I, Section 8.1 of the Illinois Constitution provides:

SECTION 8.1. CRIME VICTIMS' RIGHTS.

(a) Crime victims, as defined by law, shall have the following rights:

- (1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
- (2) The right to notice and to a hearing before a ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
- (3) The right to timely notification of all court proceedings.
- (4) The right to communicate with the prosecution.
- (5) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
- (6) The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.
- (7) The right to timely disposition of the case following the arrest of the accused.
- (8) The right to be reasonably protected from the accused throughout the criminal justice process.
- (9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
- (10) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
- (11) The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.
- (12) The right to restitution.

While the statutory and constitutional language parallel each other, the language of each are laid out side-by-side with the appropriate corresponding citations in the table below:

Article 1, Section 8.1	725 ILCS 120/4
(a) Crime victims, as defined by laws, shall have the following rights:	(a) Crime victims shall have the following rights:
(1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.	(1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
(2) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.	(1.5) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
(3) The right to timely notification of all court proceedings.	(2) The right to timely notification of all court proceedings.
(4) The right to communicate with the prosecution.	(3) The right to communicate with the prosecution.
(5) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.	(4) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
(6) The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.	(5) The right to be notified of the conviction, the sentence, the imprisonment and the release of the accused.
(7) The right to timely disposition of the case following the arrest of the accused.	(6) The right to timely disposition of the case following the arrest of the accused.
(8) The right to be reasonably protected from the accused throughout the criminal justice process.	(7) The right to be reasonably protected from the accused through the criminal justice process.
(9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.	(7.5) The right to have the safety of the victim and the victim's family considered in determining whether to release the defendant and setting conditions of release after arrest and detention.
(10) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.	(8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
(11) The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.	(9) The right to have present at all court proceedings, including under the Juvenile Court Act of 1987, and subject to the rules of evidence, and advocate and other support person of the victim's choice.
(12) The right to restitution.	(10) The right to restitution.

Defining Crime Victim(s)

The rights enumerated in the Illinois Constitution are guaranteed to “[c]rime victims, as defined by law.” The Rights of Crime Victims and Witnesses Act is the defining law, and it gives courts and prosecutors “the power to decide who is, and is not, a victim.” *People v. Chatman*, 2016 IL App. (1st) 152395 ¶¶52-56, ¶61. Who may assert victims’ rights under the Act varies based on their age, capacity, and role in the offense. These considerations are defined in Section 3(a) of the Act discussed below.

Individuals 18 Years and Older

The victim may be:

- A natural person who suffered direct physical or psychological harm as a result of a violent crime perpetrated or attempted against the person.²
- A natural person who suffered direct physical or psychological harm as a result of:
 - the offense of driving while under the influence³ or similar provision of a local ordinance.⁴
 - the offense of Involuntary Manslaughter and Reckless Homicide.⁵
- An immediate family member of a victim as defined above chosen by the victim.⁶

Individuals Under 18 Years of Age; Adults Who are Incompetent or Incapacitated

The victim may be both parents, legal guardians, foster parents, or a single adult representative.⁷ Victims under this part of the definition may choose any person to be their representative, but they cannot designate another person to be a victim.⁸

Deceased Individual 18 Years or Older

The victim may be two representatives who may be the spouse, parent, child, or sibling of the deceased, or a representative of the victim’s estate.⁹ Victims, age 18 and over, under this part of the definition may choose any person to be their representative, but they cannot designate another person to be treated as a victim under the law.¹⁰

Exclusions

Neither the defendant nor any person who aided or abetted in the commission of the crime may be considered a victim, crime victim, or victim’s representative. 725 ILCS 120/3(a)(4).

² 725 ILCS 120/3(a)(1).

³ 625 ILCS 5/11-501.

⁴ 725 ILCS 120/3(a)(1)(i).

⁵ 720 ILCS 5/9-3; 725 ILCS 120/3(a)(1)(ii).

⁶ 725 ILCS 120/3(a)(4).

⁷ 725 ILCS 120/3(a)(2).

⁸ 725 ILCS 120/3(a)(4).

⁹ 725 ILCS 120/3(a)(3).

¹⁰ 725 ILCS 120/3(a)(4).

Asserting, Ensuring, and Enforcing Rights

The 12 rights enshrined in Section 8.1(a) of the Illinois Constitution and in the Rights of Crime Victims and Witnesses Act belong to victims. While victims *may* complete a written notice of intent to assert rights form, 725 ILCS 120/4.5(c-5)(1), and *may* choose to waive some or all of their rights, it is the duty of the prosecuting attorney to assert a victim's rights and it is the duty of the court to ensure they are afforded.

Guiding Directives in the Rights of Crime Victims and Witnesses Act

Prosecutors

"The prosecuting attorney *shall* assert a victim's right or request enforcement of a right."

The "prosecuting attorney *shall* consult with the victim and the victim's attorney regarding the assertion or enforcement of a right."

725 ILCS 120/4.5(c-5)(A)(emphasis added).

Courts

"The court *shall* ensure that the rights of the victim are afforded."

725 ILCS 120/4.5(c)(emphasis added).

The following sections of the handbook detail specific responsibilities of prosecutors, courts, law enforcement authorities, and victims that are necessary to assert, ensure, and enforce victims' rights. Each should be applied with the above duties in mind.

Asserting Victims' Rights

Standing

Victims have standing to assert their rights “in any court exercising jurisdiction over the criminal case.” 725 ILCS 120/4.5 (c-5)(3). These rights may be asserted by the prosecuting attorney, victim, or victim’s attorney. *Id.*

The defendant in a criminal case, however, “has no standing to assert a right of the victim in any court proceeding, including on appeal.” *Id.*

Written Notice – Assertion of Victim’s Rights

A common way for victims to assert their rights is by filing a written “Notice of Victim’s Assertion of Rights Form.” *See Appendix C.* The Act describes the steps required of victims, prosecutors, and courts when a written assertion of rights form is completed.

Victims’ Role

“A victim *may* complete a written notice of intent to assert rights on a form.” 725 ILCS 120/4.5(c-5)(1)(emphasis added). The “Notice of Victim’s Assertion of Rights” form lists each of the victim’s enumerated rights and allows victims to list any rights that they do not want to assert. *See Appendix C.* A victim’s initial elections are not final – a victim “may at any time provide a revised notice to the State’s Attorney.” 725 ILCS 120/4.5(c-5)(1).

State’s Attorney’s Role

The State’s Attorney is responsible for providing victims with the Notice of Victim’s Assertion of Rights Form. 725 ILCS 120/4.5(c-5)(1). The State’s Attorney has the responsibility for filing the written notice with the court. *Id.* The prosecutor’s responsibilities do not end with filing the written notice. At the beginning of any court proceeding where “the right of a victim may be at issue” the prosecutor shall review the written notice with the court “to determine whether the victim has asserted the right that may be at issue.” *Id.*

Court’s Role

Like the prosecutor, the court shall “[a]t the beginning of any court proceeding in which the right of a victim may be at issue” review the written notice with the prosecutor “to determine whether the victim has asserted the right that may be at issue.” 725 ILCS 130/4.5(c-5)(1).

Ensuring Victims' Rights

To ensure that the rights asserted by crime victims are afforded, the Act creates a general framework for considering and enforcing rights. The roles and responsibilities of each stakeholder are explained below:

Role of the State's Attorney

- The prosecuting attorney shall assert a victim's right or request enforcement of a right by: filing a motion, orally asserting the right, or requesting enforcement in open court outside the presence of the jury.¹¹
- The prosecuting attorney shall consult with a victim and the victim's attorney regarding the assertion and enforcement of a right.¹²
- Ensure copies of all notices, motions, and court orders filed in the case are provided to the victim's retained attorney if one has filed an entry of appearance in the case.¹³

Role of the Court

- The court shall "decide any motion or request asserting or seeking enforcement of a victim's right without delay, unless a specific time period is specified by law or rule."¹⁴
- The court shall clearly state on the record "[t]he reasons for any decision denying the motion or request."¹⁵
- The court shall ensure that copies of all notices, motions, and court orders filed in the case are provided to the victim's attorney if one has filed an entry of appearance in the case.¹⁶

Role of the victim's retained attorney

"At any point, the victim has the right to retain a victim's attorney who may be present during all stages of any interview, investigation, or other interaction with the representatives of the criminal justice system." 725 ILCS 120/4(d).

- The "victim's attorney shall file an entry of appearance limited to the assertion of the victim's rights."¹⁷
- The victim's attorney "is to receive copies of all notices, motions and court orders" filed in the case after filing of the entry of notice of appearance and service on the State's Attorney.¹⁸
- The victim's attorney has the right to attend a meeting between the State's Attorney and the victim regarding the decision of the State's Attorney not to charge an offense.¹⁹

¹¹ 725 ILCS 120/4.5(c-5)(4)(A).

¹² 725 ILCS 120/4.5(c-5)(4)(A).

¹³ 725 ILCS 120/4.5(c-5)(2); 725 ILCS 120/4.5(b)(9.3).

¹⁴ 725 ILCS 120/4.5(c-5)(4)(D).

¹⁵ *Id.*

¹⁶ 725 ILCS 120/4.5(c-5)(2).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 725 ILCS 120/4.5(b)(20).

- Should the prosecutor elect not to assert or enforce a victim’s right, the victim’s attorney may assert the right or request enforcement by: filing a motion, orally asserting the right, or requesting enforcement in open court outside the presence of the jury.²⁰
- Where a prosecutor asserts a victim’s right, the victim’s attorney may be heard on the prosecutor’s motion or may file a simultaneous motion.²¹
- Where a victim (or victim’s attorney) was not heard on a motion to assert or enforce a victim’s right and the court denies the motion, the victim’s attorney may file a motion as provided by 720 ILCS 102/4.5(c-5)(4)(C), and described below.

Note: the treatment of the victim “should not be affected or altered in any way as a result of the victim’s decision to exercise this right.” 725 ILCS 120/4(d).

Procedure for Ensuring Victim’s Rights

Recent amendments provide specific procedures to follow when asserting and requesting enforcement of victim’s rights. The procedures vary depending on the elections of the prosecutor.

Where the prosecutor decides/elects not to assert or enforce a victim’s right

If the prosecuting attorney decides not to assert or enforce a victim’s right:

- The prosecutor *shall* notify the victim or victim’s attorney “in sufficient time to allow the victim or the victim’s attorney to assert the right or seek enforcement of the right.”²²
- In these situations, “the victim or the victim’s attorney may assert the victim’s right or request enforcement of a right by filing a motion, or by orally asserting the right or requesting enforcement in open court in the criminal case outside the presence of the jury.”²³

Procedure where the prosecutor asserts a victim’s right or the enforcement of a right

Where the prosecutor asserts a victim’s right or seeks to enforce of a right:

- The victim or the victim’s attorney may be heard regarding the prosecuting attorney’s motion or may file a simultaneous motion to assert or request enforcement of the victim’s right, unless the prosecuting attorney objects or the trial court does not allow it.²⁴
- If the victim or the victim’s attorney was not allowed to be heard at the hearing regarding the prosecuting attorney’s motion, and the court denies the prosecuting attorney’s assertion of a right, the victim or victim’s attorney may file a motion to assert the victim’s right or to request enforcement of the right within 10 days of the court’s ruling. The motion need not demonstrate the grounds for a motion for reconsideration.²⁵

²⁰ 725 ILCS 120/4.5(c-5)(4)(B).

²¹ 725 ILCS 120/4.5(c-5)(4)(C).

²² 725 ILCS 120/4.5(c-5)(4)(A).

²³ 725 ILCS 120/4.5(c-5)(4)(B).

²⁴ 725 ILCS 120/4.5(c-5)(4)(C).

²⁵ 725 ILCS 120/4.5(c-5)(4)(C).

Enforcing Victims' Rights -- Violations of Rights and Remedies

Where a victim's assertion or request to enforce a right is denied or violated, the Act details the procedures, relief, and remedies available.

Circuit Court

"The court shall issue prompt rulings regarding victims' rights." 725 ILCS 120/4.5(c-5)(4)(F). Any proceeding to enforce victims' rights "shall not be stayed or subject to unreasonable delay via continuances" *Id.*

If the court denies the relief sought by the victim, the reasons "shall be clearly stated on the record in the transcript of the proceedings, in a written opinion, or in the docket entry." 725 ILCS 120/4.5(c-5)(4)(F). In the case of an appeal, "[i]f the appellate court denies the relief sought, the reasons for the denial shall be clearly stated in a written opinion." 725 ILCS 120/4.5(c-5)(14).

The victim may appeal the decision. 725 ILCS 120/4.5(c-5)(4)(F).²⁶ In the case of an appeal, either the trial or appellate court "may stay the court proceedings if the court finds that the stay would not violate a constitutional right of the defendant." 725 ILCS 120/4.5(c-5)(14).

Determining the violation

If the court determines that a victim's right has been violated, "the court shall determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties, considering all factors relevant to the issue, and then awarding appropriate relief to the victim." 725 ILCS 120/4.5(c-5)(5).

It is a *per se* violation of a victim's right to consider an "issue of a substantive nature or an issue that implicates the constitutional or statutory right of a victim at a court proceeding labeled as a status hearing." 725 ILCS 120/4.5(c-5)(5)(A-5). The Act's definition of "status hearing" is included in the "Definitions" section at the end of this handbook.

Remedies

An appropriate remedy for a violation of victims' rights "shall include only actions necessary to provide the victim the right to which the victim was entitled." 725 ILCS 120/4.5(c-5)(5)(B). A remedy may include, but is not limited to:

- Injunctive relief requiring the victim's right be afforded;²⁷
- Declaratory judgment recognizing or clarifying the victim's rights;²⁸
- A writ of mandamus;²⁹ and
- Reopening previously held proceedings.³⁰

²⁶ The clerk of the court shall "waive filing fees that would otherwise be owed by the victim for any court filing with the purpose of enforcing crime victims' rights" for complaints or motions filed by or on behalf of the victim. 725 ILCS 120/4.5(c-5)(4)(F).

²⁷ 725 ILCS 120 4.5(c-5)(5)(B).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

Remedies “shall be tailored to provide the victim an appropriate remedy without violating any constitutional right of the defendant.” 725 ILCS 120/4.5(c-5)(5)(B).

In no event shall the remedy:

- vacate a conviction,
- award a new trial, or
- provide damages to the victim

725 ILCS 120/4.5(c-5)(5)(B).

Additionally, effective January 2, 2023, where victims’ rights are violated by “employees and offices of the State of Illinois” the court “shall impose a mandatory training court provided by the Attorney General” which must be successfully completed within six months of the entry of the court order. *Id.*

Appellate Relief

If the trial court denies requested relief, “the victim, the victim’s attorney, or the prosecuting attorney may file an appeal within 30 days of the trial court’s ruling.” 725 ILCS 120/4.5(c-5)(14).

“In any appeal in a criminal case, the State may assert as error the court’s denial of any crime victim’s right in the proceeding to which the appeal relates.” 725 ILCS 120/4.5(c-5)(14).

Mandamus, injunctive, or declaratory relief

“Crime victims’ rights may also be asserted by filing a complaint for mandamus, injunctive, or declaratory relief in the jurisdiction in which the victim’s right is being violated or where the crime is being prosecuted.” 725 ILCS 120/4.5(c-5)(4)(F).

“Proceedings seeking to enforce victims’ rights shall not be stayed or subject to unreasonable delay via continuance.” 725 ILCS 120/4.5(c-5)((4)(F).

Complaints to the Office of the Attorney General

Effective January 2, 2023, the General Assembly created a process for the Office of the Attorney General to “receive and investigate complaints relating to the provision or violation of the rights of a crime victim” as described in the Illinois Constitution and the Rights of Crime Victims and Witnesses Act. 725 ILCS 120/4.5(c-5)(4)(E)(i). Complaint forms are available on the Office of the Attorney General’s website and included in *Appendix F*.

Complaints may be submitted by a crime victim, parent/guardian, victim’s representative or advocate, prosecutor, defense counsel, judge, victim’s rights attorney, or assigned victim witness staff in the criminal case at issue. *See Appendix F*. Complaints must be submitted within 60 days of the complainant’s knowledge of the rights violation and be within one year of the alleged violation. *Id.*

The complaint and subsequent investigation are designed to make recommendations and/or request corrective action for employees or offices of the State of Illinois who may have violated the Rights of Crime Victims and Witnesses Act. *Id.*

Specific Responsibilities of Prosecuting Attorneys

The specific duties and responsibilities of prosecuting attorneys are set forth in Section 4.5(b) of the Rights of Crime Victims and Witnesses Act. Many involve informing victims of their rights and how to exercise their rights. The duties and responsibilities are grouped into three categories:

Information About Victims' Rights and Responsibilities

The Office of the State's Attorney:

- Shall provide notice to the crime victim of the right to have a translator present at all court proceedings and, in compliance with the federal Americans with Disabilities Act of 1990, the right to communications access through a sign language interpreter or by other means.³¹
- Shall inform the victim of the right to be present at all court proceedings, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at trial.³²
- Shall inform the victim of the right to be present at all court proceedings, subject to rules of evidence and confidentiality, an advocate and support person of their choice.³³
- Shall inform the victim of the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions, and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case.³⁴
- Shall inform the victim of:
 - The right of the victim and the victim's spouse, guardian, parent, grandparent and other immediate family and household members to make a statement at the sentencing hearing under Section 6 of the Act.³⁵
 - If a presentence report is to be prepared, the right of the victim's spouse, guardian, parent, grandparent, and other immediate family and household members to submit information to the preparer of the presentence report about the effect the offense has had on the victim and the person.³⁶
- Shall maintain the confidentiality of crime victim and witness contact information.³⁷

³¹ 725 ILCS 120/4.5(b)(7).

³² 725 ILCS 120/4.5(b)(8.5).

³³ 725 ILCS 120/4.5(9).

³⁴ 725 ILCS 120/4.5(9.3).

³⁵ 725 ILCS 120/4.5(9.5)(A).

³⁶ 725 ILCS 120/45(9.5)(C).

³⁷ 725 ILCS 120/7(d).

Notifications to Victims

The Office of the State's Attorney:

- Shall provide notice of the filing of an information, the return of an indictment, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime.³⁸
- Shall provide timely notice of the date, time, and place of court proceedings; of any change in the date, time, and place of court proceedings; and of any cancellation of court proceedings. Notice shall be provided in sufficient time, wherever possible, for the victim to make arrangements to attend or to prevent an unnecessary appearance at court proceedings.³⁹
- Shall, upon the court entering a verdict of not guilty by reason of insanity, inform the victim of the notification services available from the Department of Human Services, including the statewide telephone number.⁴⁰
 - Notifications related to these offenders can be made through the Illinois Victim Information and Notification Everyday (VINE) System. The Illinois VINE System provides victims with a website or toll-free number they can access for up-to-date information on the custody and/or case status of an offender. It is available at www.vinelink.com. Victims can register for an automatic notification of a change in a case or custody status of an inmate, create a Watch list, and access victim service providers through the Illinois VINE System. Illinois VINE is also available by phone at 1-866-5-NOTIFY (Voice) and 1-877-502-2423 (TTY). Notifications are available by email, text message, phone call, or through the VINE application for mobile devices.
 - The Office of the Attorney General maybe contacted by phone at 1-800-228-3368 and (TTY: 1-877-398-1130).
- Shall provide notice within a reasonable time of the release of the defendant on pretrial release or personal recognizance of the release from detention of a minor who has been detained.⁴¹
- Shall provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime.⁴²
- Shall provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal, and how to request notice of any hearing, oral argument, or decision of an appellate court.⁴³
- Shall provide timely notice of any request for post-conviction review filed by the defendant, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given within 48 hours of the court's scheduling of the hearing.⁴⁴

³⁸ 725 ILCS 120/4.5(b)(1).

³⁹ 725 ILCS 120/4.5(b)(2).

⁴⁰ 725 ILCS 120/4.5(b)(12).

⁴¹ 725 ILCS 120/4.5(b)(13).

⁴² 725 ILCS 120/4.5(b)(16).

⁴³ 725 ILCS 120/4.5(b)(17).

⁴⁴ 725 ILCS 120/4.5(b)(18).

Available Assistance and Services

Prosecuting attorneys and their staff:

- Shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance.⁴⁵
- Shall provide information about available victim services, including referrals to programs, counselors, and agencies that assist a victim to deal with trauma, loss, and grief.⁴⁶
- Shall assist in having any stolen or other personal property held by the law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in 725 ILCS 5/115-9.⁴⁷
- Shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances.⁴⁸
- Shall provide whenever possible, a secure waiting area during court proceedings that does not require victims to be in close proximity to defendants or juveniles accused of a violent crime, and their families and friends.⁴⁹
- At sentencing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board or Department of Juvenile Justice information concerning the release of the defendant.⁵⁰
- Shall request restitution if the victim requests restitution.⁵¹
- Shall explain in non-technical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent.⁵²
- Shall make all reasonable efforts to consult with the crime victim before making an offer of a plea bargain to the defendant or entering into negotiations with the defendant concerning a possible plea agreement, and consider the written victim impact statement, if prepared prior to entering into a plea agreement.⁵³
 - The victim's right to consult with the prosecutor does not include the right to veto a plea agreement or to insist the case go to trial.⁵⁴

⁴⁵ 725 ILCS 120/4.5(b)(3).

⁴⁶ 725 ILCS 120/4.5(b)(3.5).

⁴⁷ 725 ILCS 120/4.5(b)(4).

⁴⁸ 725 ILCS 120/4.5(b)(5).

⁴⁹ 725 ILCS 120/4.5(b)(6).

⁵⁰ 725 ILCS 120/4.5(b)(10).

⁵¹ 725 ILCS 120/4.5(b)(11).

⁵² 725 ILCS 120/4.5(b)(14).

⁵³ 725 ILCS 120/4.5(b)(15).

⁵⁴ 725 ILCS 120/4.5(b)(15).

- If the prosecutor has not consulted with the victim prior to making an offer or entering into plea negotiations with the defendant, the prosecutor must notify the victim of the offer or the negotiations within two business days and confer with the victim.⁵⁵
- Shall forward a copy of any statement presented at sentencing to the Prisoner Review Board or Department of Juvenile Justice to be considered in making a determination under the Unified Code of Corrections.⁵⁶
- Shall, within a reasonable time, offer to meet with the crime victim regarding the decision of the State's Attorney not to charge an offense, and shall meet with the victim, if the victim agrees. The victim has a right to have an attorney, advocate, and other support person of the victim's choice attend this meeting with the victim.⁵⁷
- Shall give the crime victim timely notice of any decision not to pursue charges and consider the safety of the victim when deciding how to give such notice.⁵⁸

⁵⁵ 725 ILCS 120/4.5(b)(15).

⁵⁶ 725 ILCS 120/4.5(b)(19).

⁵⁷ 725 ILCS 120/4.5(b)(20).

⁵⁸ 725 ILCS 120/4.5(b)(21).

Specific Responsibilities of the Court

Courts play a central role in affording victims their rights under the Illinois Constitution and the Rights of Crime Victims and Witnesses Act. Section 4.5(c) of the Act states it plainly: “The court *shall* ensure that the rights of the victim are afforded.” 725 ILCS 120/4.5(c)(emphasis added).

As discussed earlier, the court’s role in ensuring that the rights of a victim are afforded begins by reviewing the written notice to determine whether the victim has asserted a right that may be at issue. 725 ILCS 120.4.5(c-5)(1). This should be done at the “beginning of court proceeding in which the right of a victim may be at issue.” *Id.*

Additionally, the Constitution requires that where a victim’s right is asserted, “[t]he court shall promptly rule on a victim’s request.” In doing so, the court shall rule “without delay, unless a specific period of time is specified by law or court rule.” 725 ILCS 120/4.5(c-5)(4)(D).

In the instance that a court denies a motion or request to assert or enforce a victim’s rights made by the prosecuting attorney, victim, or victim’s attorney, the court must clearly state the reason(s) for the denial on the record. 725 ILCS 120/4.5(c-5)(4)(D).

The Right to Be Heard

“Whenever a victim has the right to be heard, the court shall allow the victim to exercise the right in any reasonable manner the victim chooses.” 725 ILCS 120/4.5(c-5)(6).

The Right to Attend Trial

Victims have the right to be present at trial “unless the victim is to testify and the court determines that the victim’s testimony would be materially affected if the victim hears other testimony at the trial.” Art. I, Sec. 8.1 (a)(10); 725 ILCS 120/4(a)(8).

Where the victim is a witness, the court shall follow the procedures in subsection 4.5 (c-5)(7) of the Act:

- The party must file a written motion to exclude a victim from trial at least 60 days prior to the dates set for trial.
- The motion must state with specificity the reason exclusion is necessary to protect a constitutional right of the party.
- The motion must contain an offer of proof.
- The court shall rule on the motion within 30 days.
- If the motion is granted, the court shall set forth on the record the facts that support its finding that the victim’s testimony will be materially affected if the victim hears other testimony at trial.

Court Clerk

Shall post the rights of crime victims set forth in Art. I, Section 8.1(a) of the Illinois Constitution and subsection (a) of this Section within 3 feet of the door to any courtroom where criminal proceedings are conducted. 725 ILCS 120/4(c).

Shall waive filing fees that would otherwise be owed by the victim for any court filing with the purpose of enforcing crime victims’ rights” for complaints or motions filed by or on behalf of the victim. 725 ILCS 120/4.5(c-5)(4)(F).

The Right to Notice of Court Proceedings

If a victim is not present at a court proceeding in which their rights are at issue, the court *shall* ask the prosecution whether they notified the victim of the time, place, and purpose of the court proceeding” and of the victim’s right to be heard at the court proceeding.” 725 ILCS 120/4.5(c-5)(10).

If the court determines that timely notice was not given or that the victim was not adequately informed of the nature of the court proceeding, the court *shall not*:

- Rule on any substantive issues,
- Accept a plea, or
- Impose a sentence.

AND, “the court shall continue the hearing for the time necessary to notify the victim of the time, place, and nature of the court proceeding. 725 ILCS 120/4.5(c-5)(10)⁵⁹.

Note: 725 ILCS 120/4.5(c-5)(5)(A-5) states that “[c]onsideration of an issue of a substantive nature or an issue that implicates a constitutional or statutory right of a victim at a court proceeding labeled as a status hearing shall constitute a *per se* violation of a victim’s right.”

Right to Timely Disposition: Motion to Continue Trial, Other Court Proceedings

Victims have the “right to timely disposition of the case.” 725 ILCS 120/4.5(c-5)(11). Timely disposition is intended to “minimize the stress, cost, and inconvenience resulting from the victim’s involvement in the case.” *Id.* To this end, the Act provides procedures for courts to follow when considering motions to continue trial or other court proceedings. Before ruling on a motion to continue trial or other court proceedings, the court *shall*:

- Inquire into the circumstances for the request for the delay,⁶⁰ and
- Inquire if the victim has provided written notice of their right to a timely disposition,⁶¹ and
- Inquire whether the victim objects to the delay.⁶²

If the victim objects, the prosecutor shall inform the court of the objection. 725 ILCS 120/4.5(c-5)(11). If the prosecutor has not conferred with a victim, they shall inform the court of their attempts to confer. *Id.* If the court finds the attempts to confer inadequate to protect the victim’s right to be heard, it shall give the prosecutor at least 3 but not more than 5 business days to confer with the victim. *Id.*

In ruling, the court shall “consider the reasons for the requested continuance, the number and length of the continuances that have been granted, the victim’s objections and procedures to avoid further delays.” 725 ILCS 120/4.5(c-5)(11). If a continuance is granted over the victim’s objection, the court shall specify on the record the reasons for the continuance and the procedures taken to avoid further delays. *Id.*

⁵⁹ The time shall not be attributable to the State. 725 ILCS 120/4.5(c-5)(10).

⁶⁰ 725 ILCS 120/4.5(c-5)(11).

⁶¹ *Id.*

⁶² *Id.*

Specific Responsibilities of Law Enforcement⁶³

Any law enforcement agency that investigates an offense committed in Illinois “shall provide a crime victim with a written statement and explanation of the rights of crime victims.” 725 ILCS 120/4(b).

Written Notice

The written notice shall:

- Be provided within 48 hours of initial contact with a victim.⁶⁴
- Include “information about crime victim compensation, including how to contact the Office of the Illinois Attorney General to file a claim.”⁶⁵
- Include appropriate referrals to local and State programs that provide victim services.⁶⁶

Law enforcement shall also provide crime victims with a sign-off sheet that the victim shall sign and date. 725 ILCS 120/4(b). A copy is included in *Appendix D*.

Free Copy of Police Report

At the request of a victim, the law enforcement agency having jurisdiction “shall provide a free copy of the police report concerning the victim’s incident.” 725 ILCS 120/(b-5). This shall be provided “as soon as practicable, but in no event later than 5 business days from the request.” 725 ILCS 120/4(b-5).

Notice of Status

At the request of the victim, law enforcement shall provide notice of the status of the investigation. 725 ILCS 120/4.5(a). The Act provides an exception when the State’s Attorney determines disclosure would unreasonably interfere with the investigation. *Id.* This applies until the assailment is apprehended or the investigation is closed.” *Id.*

Notice when Reopening a Closed Case

When law enforcement reopens a closed case to resume investigating, they are required to “provide notice of the status of the case” to the victim. 725 ILCS 120/4.5(a-5). The Act provides an exemption to this requirement where the State’s Attorney determines that providing such notice would unreasonably interfere with the investigation. *Id.* If notice is provided, the victim may inquire into the status of the investigation pursuant to Section 4.5(a) described above.

Maintaining the Confidentiality of Victim Information

Crime victims and witnesses are required to notify law enforcement of changes to their contact information, including their address, telephone number, and email address. 725 ILCS 120/7(d). Law enforcement shall maintain the confidentiality of this information. *Id.*

⁶³ This list is limited to responsibilities under Art I, Sec. 8.1 and the Act. It is not comprehensive of Law Enforcement responsibilities towards victims. For example, the Sexual Assault Incident Procedure Act requires notice of the Sexual Assault Tracking System. 725 ILCS 203/25.

⁶⁴ 725 ILCS 120/4(b).

⁶⁵ *Id.* A sample Victims Compensation Claim Form is included in *Appendix G*.

⁶⁶ 725 ILCS 120/4(b).

Specific Responsibilities of Victims and Witnesses

To ensure their constitutional rights are enforced and to aid the prosecution of violent crime, victims and witnesses have responsibilities under the Act. 725 ILCS 120/7.

It is the responsibility of victims and witnesses to:

- Make a timely report of the crime;
- Cooperate with law enforcement authorities throughout investigation, prosecution, and trial;
- Testify at trial;
- Timely provide information and documentation to the prosecuting attorney related to the assertion of their rights; and
- Notify law enforcement authorities, including the prosecutor, of any change of contact information including address, telephone number, and email address.

725 ILCS 120/7(a-d).

A court “may find that the failure to notify the prosecuting attorney of any change in contact information constitutes a waiver of a right.” *Id.*

New Provision

A victim who declines to provide privileged or confidential information or documentation to the prosecutor, or chooses not to waive a privilege, but otherwise cooperates with law enforcement authorities “shall still be considered as a cooperating witness” and maintain the status of victim and the rights afforded by the Act.

725 ILCS 120/7(e).

Procedures Related to Specific Rights

The Right to be Treated with Fairness, Respect for Dignity and Privacy

Victims have “the right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse.” Art. I, Sect 8.1(a)(1); 725 ILCS 120/4(a)(1).

Courts may consider this right when determining the manner in which a victim is allowed to testify and applicable “security and safety protocols” in a courtroom. *See e.g., People v. Tapley*, 2020 Ill.App. (2d) 190137 ¶ 64-81 (finding that the circuit court did not abuse its discretion in allowing a minor victim of sexual abuse who suffered from PTSD to testify with her dog present). This right has also been considered when weighing Freedom of Information Act requests for victims’ records. *McGee v. Kelley*, 2017 Ill.App. (3d) 160324 ¶ 19-20 (the degree of invasion of personal privacy of the victim outweighs other factors in the FOIA request for unredacted police reports in a sexual assault case).

The Right to Notice and Hearing Before Disclosure of Confidential or Privileged Information or Records

Crime victims have the right to “notice and a hearing before a court ruling on a request for access to any of the victim’s records, information, or communications which are privileged or confidential by law.” Art. I, Sec. 8.1(a)(2); 725 ILCS 125/4(a)(1.5)(emphasis added).⁶⁷ Section 4.5(c-5)(9) of the Rights of Crime Victims and Witnesses Act sets forth the procedure that must be followed prior to disclosure of confidential or privileged information or records.

Defendant Seeks Subpoena

Where a defendant seeks to subpoena testimony or records of or concerning the victim that are confidential or privileged by law, the defendant must seek permission of the court before a subpoena issued. 725 ILCS 120/4.5(c-5)(9)(A). To do so the defendant shall:

- File a written motion.⁶⁸
- File an offer or proof regarding the relevance, admissibility, and materiality of the testimony or records.⁶⁹

The court applies a preponderance of the evidence standard when reviewing the defense motion. 725 ILCS 120/4.5(c-5)(9)(A). If the court finds, by a preponderance of the evidence, that:

- The testimony or records are not protected by an absolute privilege, and
- The records contain relevant, admissible, and material evidence that is not available through other witnesses or evidence,

the court shall issue a subpoena requiring the witness to appear in camera or a sealed copy of the records be reviewed in camera. *Id.*

⁶⁷ The prosecutor must provide timely notice to the victim of these court proceedings. 725 ILCS 120/4.5(b)(2).

⁶⁸ 725 ILCS 120/4.5(c-5)(9)(A).

⁶⁹ 725 ILCS 120/4.5(c-5)(9)(A).

After in camera review of the witness statement or records, if the court determines that due process requires the disclosure of any potential testimony or any portion of the records, it shall provide copies of the records it intends to disclose to the prosecuting attorney and the victim. 725 ILCS 120/4.5(c-5)(9)(A)(ii).⁷⁰

The prosecuting attorney and victim have 30 days to seek appellate review⁷¹ before the records are disclosed to the defendant, used in any court proceeding, or disclosed to anyone or in any way that would subject them to public review. 725 ILCS 120/4.5(c-5)(9)(A)(ii). “The disclosure of copies of any portion of the testimony or records to the prosecuting attorney under this Section does not make the records subject to discovery or required to be provided to the defendant.” *Id.*

Though *People v. Harlacher*, 262 Ill.App.3d 1 (2d Dist. 1994), predates the current version of the Act, it provides an example of this procedure. In that case, the defendant sought access to the victim’s records possessed by a sexual assault and rape counseling center. *Id.* at 9. These records are provided absolute privilege under Section 8-802.1 of the Code of Civil Procedure. *Id.*; see also *People v. Foggy*, 121 Ill.2d 337 (there is a strong public policy in favor of confidentiality in communications between sexual assault victims and counselors). Under the two-step procedure, both the defendant’s failure to establish the materiality of the records, and their absolute privilege, barred the circuit court from conducting an in camera review of the records. *Id.* at 10. The appellate court concluded that the circuit court did not violate the defendant’s due process rights by refusing the defendant access to these records. *Id.* at 8-10.

Prosecutor Seeks Subpoena

Where the prosecutor seeks to subpoena “information or records concerning the victim that are confidential or privileged by law” the prosecutor “*must first request the written consent of the crime victim.*” 725 ILCS 120/4.5(c-5)(9)(B)(emphasis added). If the victim does not provide written consent – including the appropriate signed document waiving privilege where necessary – the prosecutor must:

- Serve the subpoena at least 21 days prior to the date response or appearance is required to allow the subject time to file a motion to quash or request a hearing.⁷²
- Send written notice to the victim at least 21 days prior to the response date to allow the victim to file a motion to request a hearing.⁷³
- The notice to the victim shall inform the victim:⁷⁴
 - A subpoena has been issued for confidential information or records concerning them,
 - That the victim has the right to request a hearing prior to the response date of the subpoena, and
 - How to request a hearing.
- Include a copy of the subpoena.

If a victim requests a hearing, the hearing “regarding the subpoena shall occur before information or records are provided to the prosecuting attorney.” 725 ILCS 120/4.5(c-5)(9)(B).

⁷⁰ Note 725 ILCS 120/4.5(c-5)(2) requires copies for the victim’s attorney when one is retained.

⁷¹ See 725 ILCS 120/4.5(c-5)(4)(F).

⁷² 725 ILCS 120/4.5(c-5)(9)(B).

⁷³ *Id.*

⁷⁴ *Id.*

The Right to Timely Notification of Court Proceedings

Victims have the “right to timely notification of all court proceedings.” Art. I, Sec. 8.1(a)(3); 725 ILCS 120/4(a)(2). The term “court proceeding” is very broad. It includes, but is not limited to, the preliminary hearing, any post-arraignment hearing the effect of which may be the release of the defendant from custody, change of plea hearing, trial, any pretrial or post-trial hearing, sentencing hearing, notice of appeal, oral argument or hearing before an Illinois appellate court, hearing under the Mental Health and Developmental Disabilities Code after a finding that the defendant is not guilty by reason of insanity, any hearing related to a modification of sentence, probation revocation hearing, aftercare release or parole hearings, post-conviction relief proceedings, habeas corpus proceedings, and clemency proceedings related to the defendant’s conviction or sentence. 725 ILCS 120/3(a)(e).

While the Act specifically exempts (1) grand jury proceedings; (2) status hearings; and (3) the issuance of an order or decision of an Illinois court that dismisses a charge, reverses a conviction, reduces a sentence, or releases an offender under a court rule, from the definition of “court proceedings” as the term applies to the right to be present, it does not exempt these proceedings from the right to timely notification. *Id.*

“If a victim is not present at a court proceeding in which a right of the victim is at issue, the court shall ask the prosecutor whether the victim was notified” and follow the procedures outlined in 725 ILCS 120/4.5(c-5)(10). These are explained in detail in the section on “Responsibilities of the Court.”

The Right to Communicate with the Prosecution

Victims have “the right to communicate with the prosecution.” Art I Sec 8.1(a)(4); 725 ILCS 120.4(a)(3). Subsection 4.5(b) provides specific instances where the prosecution shall communicate with victims. These are discussed in the section on “Responsibilities of Prosecuting Attorneys” above.

Some duties begin before charges are filed. These attach when the prosecutor is deciding whether to file charges. 725 ILCS 120/4.5(c-5)(20-21).⁷⁵

The prosecutor:

- Shall, within a reasonable time, offer to meet with the crime victim regarding the decision of the State’s Attorney not to charge the offense⁷⁶;
- Shall meet with the victim, if the victim agrees⁷⁷ ;
- Shall give the crime victim timely notice of any decision not to pursue charges⁷⁸; and
- Shall consider the safety of the victim when deciding how to give such notice. ⁷⁹
- The victim has the right to have an attorney, advocate, or other support person of the victim’s choice attend the meeting with the victim.⁸⁰

⁷⁵ See also *Doe v. United States*, 950 F.Supp.2d 1262, 1267 (S. D. Florida 2013)(right to confer with the attorney for the Government” in the federal Crime Victims’ Rights Act extends to pre-charging decisions).

⁷⁶ 725 ILCS 120/4.5(b)(20).

⁷⁷ *Id.*

⁷⁸ 725 ILCS 120/4.5(b)(21).

⁷⁹ *Id.*

⁸⁰ *Id.*

The Right to Be Heard

Victims have the “right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.” Art. I, Sec. 8.1(a)(5); 725 ILCS 120/4(a)(4).

Whenever a victim has a right to be heard, the court must allow the victim to exercise the right in any reasonable manner the victim chooses. 725 ILCS 120/4.5(c-5)(6). A crime victim has the right to prepare a victim impact statement and present it to the State’s Attorney at any time in the proceedings. 725 ILCS 120/6(b).

Generally

At sentencing a “crime victim shall be allowed to present an oral or written statement in any case in which a defendant has been convicted of a violent crime or a juvenile has been adjudicated delinquent for a violent crime after a bench or jury trial, or a defendant who was charged with a violent crime has been convicted under a plea agreement of a violent crime.” 725 ILCS 120/6(a). “The court shall allow a victim to make an oral statement if the victim is present in the courtroom and requests to make an oral statement.” *Id.* The oral statement “includes the victim or a representative of the victim reading the statement.” *Id.*

The court “may allow persons impacted” by a violent crime, who do not meet the definition of “victim” in the Act, “to present an oral or written statement.” *Id.* A victim, representative, or impacted person making an oral statement “shall not be put under oath or subject to cross-examination.” *Id.* The court shall “consider any statement presented along with all other appropriate factors in determining the sentence of the defendant or disposition” of a juvenile. *Id.*

Violent Crimes Involving Vehicles and the Use of Streets and Highways

Where the defendant has been convicted of a violation that relates “to the use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle, except parking violations,” and the violation resulted in great bodily harm or death, the following individuals are entitled to notice of the sentencing hearing:

- The person who suffered great bodily harm⁸¹
- The injured person’s representative⁸²
- The representative of the deceased person⁸³

The above individuals “shall have the right to address the court regarding the impact that the defendant’s criminal conduct has had upon them.” 725 ILCS 120/6(a-1).

The Act defines “representative” to include “the spouse, guardian, grandparent, or other immediate family or household member of an injured or deceased person.” *Id.* If more than one representative of an injured or deceased person is present in the courtroom at the time of sentencing, “the court has discretion to permit one or more representatives to present an oral statement.” *Id.*

⁸¹ 725 ILCS 120/6(a-5).

⁸² *Id.*

⁸³ *Id.*

People v. Larson, 2002 Ill.App. (3d) 190482 (2022), addresses this provision and discusses the “reasoned exercise of discretion” required by a circuit court when deciding to allow statements from multiple representatives. *Id.* ¶ 34-40.

A victim and any person making an oral statement shall not be put under oath or subject to cross-examination; and the court shall consider the statement along with all other appropriate factors in determining the sentence of the defendant. 725 ILCS 120/6(a-1).

Plea Proceedings

Any statement submitted to the State’s Attorney’s Office “shall be considered by the court during its consideration of aggravation and mitigation in plea proceedings under Supreme Court Rule 402.” 720 ILCS 120/6(b).

Hearings under the Mental Health and Developmental Disabilities Code

Crime victims shall be allowed to present oral and written victim impact statements at certain hearings order under the Mental Health and Developmental Disabilities Code. 725 ILCS 120/6(a-5) unless the defendant was under 18 years of age when the offense was committed. The court also *may* allow those impacted by a crime but who are not defined as victims under the Act to present an oral or written statement. *Id.* The Act limits how a court may consider impact statements in these hearings. Those limitations are detailed in 725 ILCS 120/6(a-5)(1-4).

Prisoner Review Board Hearings

Crime victims have the right to register with the victim registry of the Prisoner Review Board and to submit a victim statement to the Board for consideration at Section 4.5 hearings. 725 ILCS 120/6(b-5). These statements shall be confidential and privileged. *Id.*

Juvenile Dispositional Hearings

Victims’ rights to be heard at sentencing apply to any victims during any dispositional hearing under the Juvenile Court Act that takes place pursuant to adjudication, trial, or plea of delinquency for any applicable offense. 725 ILCS 120/6(c).

Access to Presentence Reports

A victim may request a copy of the presentence report. 725 ILCS 120/4.5(c-5)(13). When a victim requests a presentence report, the prosecutor shall redact portions specified by 725 ILCS 120/4.5(c-5)(13)(A).⁸⁴ Either the State’s Attorney or defendant may ask the court to redact other information in the report that may endanger the safety of another person. 725 ILCS 120/4.5(c-5)(13)(B). The State’s Attorney must advise the victim that they are required to maintain the confidentiality of the report and other information. 725 ILCS 120/4.5(c-5)(13)(D). Dissemination of the report or information that was not stated at a court proceeding “constitutes indirect criminal contempt of court.” *Id.*

⁸⁴ The prosecutor may orally disclose to the victim any of the information that had been redacted if there is a reasonable likelihood the information will be stated in court at sentencing. 725 ILCS 120/4.5(c-5)(13)(C).

Right to be Notified of Conviction, Sentence, Imprisonment, and Release of the Accused

Victims have the right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused. Art. I, Sec. 8.1(a)(6); 725 ILCS 120/4(a)(5). Prosecutors are required to provide victims notice “of the release of the defendant on pretrial release or personal recognizance or the release from detention of a minor who had been detained” within a reasonable time. 725 ILCS 120/4.5(b)(13).

Right to the timely disposition

Victims have the right to timely disposition of the case following the arrest of the accused. Art. I, Sec. 8.1(a)(7); 725 ILCS 120/4(a)(6). This is intended to minimize the victim’s stress, cost and inconvenience while the case is pending in the courts. 720 ILCS 120/4.5(c-5)(11). The procedure governing the enforcement of this right is contained in Section 4.5(c-5)(11) and discussed in more detail in the section on “Responsibilities of the Court.”

The Right to Be Reasonably Protected; Right to Have the Safety of the Victim and Victim’s Family Considered When Setting Conditions of Release after Arrest and Conviction

The victim’s right to be reasonably protected extends throughout the criminal justice process – from arrest through service of sentence, including supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, and mandatory supervised release. 725 ILCS 120/4(a)(7-7.5).

The victim has the right to have their physical and emotional safety, as well as the physical and emotional safety of their family, considered by the court when the court is deciding whether to release the offender and under what conditions. 725 ILCS 120/4(a)(7.5).

Victims of “domestic violence, a sexual offense, or stalking may request entry of a protective order under Article 112A of the Code of Criminal Procedure.” 725 ILCS 120/4.5(c-5)(16).

The Right to be Present at Trial and All other Court Proceedings

Crime victims have the “right to be present at trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim’s testimony would be materially affected if the victim hears other testimony at the trial.” 725 ILCS 120/4(a)(8).

The Act establishes the procedures to exclude a victim from trial in subsection 4.5(c-5)(7). These are explained in detail in the section on “Responsibilities of the Court.”

For this right, “court proceedings” do not include:

- (1) grand jury proceedings

- (2) status hearings⁸⁵
- (3) the issuance of an order or decision of an Illinois court that dismisses a charge, reverses a conviction, reduces a sentence, or releases an offender under a court rule.

725 ILCS 120/3(a)(e).

The Right to an Advocate and Support Person

Victims have the right to “an advocate *and* other support person of the victim’s choice” at all court proceedings, including those under the Juvenile Court Act. 725 ILCS 120/4(a)(9)(emphasis added).

“Advocate” is defined in section 3(a-3) of the Act as “a person whose communications with the victim are privileged under Section 8-802.1 or 8-802.2 of the Code of Civil Procedure, or Section 227 of the Illinois Domestic Violence Act of 1986.” 725 ILCS 120/3(a-3). The three types of advocates referred to in the definition are: rape crisis personnel,⁸⁶ personnel of programs that provide services to victims of violent crimes,⁸⁷ and domestic violence counselors.⁸⁸

Exceptions

Non-court proceedings

Just as with the right of a victim to be present, the Act carves out four exceptions to “court proceedings” at which a victim and support person do not have the right to be present. These are:

- (1) grand jury proceedings,
- (2) status hearings, and
- (3) the issuance of an order or decision of an Illinois court that dismisses a charge, reverses a conviction, reduces a sentence, or releases an offender under a court rule.

725 ILCS 120/3(e).

Exclusion of witnesses

The right to have an advocate or support person present at court proceedings is subject to the rules of evidence. *Id.* The Act sets forth the process required when a party seeks to subpoena an advocate or support person as a witness. 725 ILCS 120/4.5(c-5)(8)(A-B).

Procedure to call an advocate as a witness

A party must seek the court’s permission before issuing a subpoena to call an advocate as a witness at trial. 725 ILCS 120/4.5(c-5)(8)(A). To do so, the party must file a written motion at least 90 days before trial. *Id.*

⁸⁵ It is a *per se* violation of a victim’s right to consider an “issue of a substantive nature or an issue that implicates the constitutional or statutory right of a victim at a court proceeding labeled as a status hearing.” 725 ILCS 120/4.5(c-5)(5)(A-5).

⁸⁶ 735 ILCS 5/8-802.1.

⁸⁷ 735 ILCS 5/8-802.2.

⁸⁸ 750 ILCS 60/227.

The motion must set forth the issues on which the advocate's testimony is sought and an offer of proof regarding the content, relevance, admissibility and materiality of the anticipated testimony of the advocate. *Id.*

The court must review and make findings on the motion within 30 days of filing. *Id.* In doing so, the court applies a preponderance of the evidence standard. *Id.* If the court finds:

- (1) the anticipated testimony is not covered by absolute privilege; and
- (2) the anticipated testimony is relevant, admissible, and material; and
- (3) is not available through other witnesses or evidence,

the court shall issue a subpoena requiring the advocate to appear to testify in camera. 725 ILCS 120/4.5(c-5)(8)(A).

The prosecuting attorney and victim shall have 15 days to seek appellate review before the advocate is required to testify at an *ex parte* in camera proceeding. *Id.*

The prosecuting attorney⁸⁹, victim, and advocate's attorney "shall be allowed" to be present in the *ex parte* in camera proceeding. *Id.* If the court determines due process requires any testimony regarding confidential or privileged information, the court shall prepare a written memorandum on the substance of the advocate's testimony and provide this memorandum to the prosecuting attorney, victim⁹⁰, and the victim advocate's attorney. *Id.*

The victim, advocate's attorney, and prosecuting attorney shall have 15 days to appeal before a subpoena is issued for the advocate to testify at trial. *Id.*

Procedure to call a support person as a witness

The prosecuting attorney is responsible for providing the defendant the name of the support person chosen by the victim. 725 ILCS 120/4.5(c-5)(8)(B).

If the defendant seeks to call the support person as a witness at trial, they must seek permission of the court by filing a written motion. *Id.* This motion must be filed at least 45 days prior to trial (compared 90 days for an advocate). *Id.*

Procedure where the defense and prosecution intend to call the support person

If the prosecuting attorney intends to call the support person in their case-in-chief, they shall inform the court of this in response to the defendant's written motion. *Id.* In this situation, the court may allow the defense to inquire about matters outside the scope of direct examination during cross-examination⁹¹. *Id.* When this is allowed, the support person shall be allowed to remain in the courtroom after they have testified. *Id.* The court shall allow the support person to testify in the prosecution's rebuttal.

In cases where the court does not allow the defense to inquire on matters outside the scope of the support person's direct examination, the support person shall be allowed to remain in the

⁸⁹ The presence of the prosecuting attorney at the *ex parte* in camera proceeding does not make the substance of the advocate's testimony that the court has ruled inadmissible subject to discovery. 725 ILCS 120/4.5(c-5)(8)(A).

⁹⁰ If the victim has retained an attorney, the attorney is to receive copies of all notices, motions, and court orders filed in the case. 725 ILCS 120/4.5(c-5)(2).

⁹¹ If the defendant fails to question the support person on matters outside the scope of direct examination, the defendant waives the right to challenge the presence of the support person in court on appeal. 725 ILCS 120/4.5(c-5)(8)(B).

courtroom after they are called by defense counsel or the defense rests. *Id.* The prosecution shall be allowed to call the support person to testify in rebuttal. *Id.*

Procedure where only the defense intends to call the support person

Where the defense files a written motion for the support person to testify, and the prosecuting attorney does not intend to call the support person in their case-in-chief, “the court shall verify with the support person” whether they would testify as anticipated by the defense’s offer of proof. 723 ILCS 120.4.5(c-5)(8)(B). The court shall issue the subpoena if it rules the anticipated testimony is relevant, material and admissible. *Id.* In this situation, the support person may remain in the courtroom after they testify. *Id.* The support person is also allowed to testify in rebuttal. *Id.*

Responsibility of Victim

When asserting their right to have a support person present at court proceedings, it is the responsibility of the victim to provide the name of the person they have chosen as a support person to the prosecuting attorney within 60 days of trial. 725 ILCS 120/4.5(c-5)(8)(B). If a victim fails to designate a support person within 60 days of trial and the defendant has subpoenaed the support person to testify, the court may exclude the support person from trial until they testify. *Id.* In this situation, a victim may choose another support person. *Id.*

Additionally, the victim may choose a different support person where:

- The defense and prosecuting attorney intend to call the support person
- The court excludes the support person during the State’s case-in-chief.

725 ILCS 120/4.5(c-5)(8)(B).

Medical and Evidentiary Exams

Crime victims have the right to have an advocate present “during any medical evidentiary or physical exam” unless an advocate cannot be summoned in a reasonably timely manner. 725 ILCS 120/4.6(a). Victims also have the right to have “an additional person present for support” during any medical evidentiary or physical exam. *Id.* Victims retain these rights even if they waive them for a previous exam. 725 ILCS 120/4.6(b).

The Right to Restitution

Crime victims have the “right to restitution.” 725 ILCS 120/4(a)(10). The Act requires prosecuting attorneys to request restitution at sentencing and as part of a plea agreement when requested by victims. 725 ILCS 120/4.5(b)(11). Section 5-5-6 of the Unified Code of Corrections provides that the court “shall” order restitution when the defendant has physically injured the victim. 730 ILCS 5/5-5-6.

Where the amount of restitution is known at the time of sentencing “the court shall enter the judgment of restitution at the time of sentencing.” 725 ILCS 120/4.5(c-5)(12)(A). However, where the amount of restitution is not known at the time of sentencing, the Act provides the following procedures.

Responsibilities of the Prosecutor

- Shall, within 5 days after sentencing, notify the victim what restitution documentation and information is needed, and that it must be provided to within 45 days after sentencing⁹².
- Shall file and serve, within 60 days after sentencing, a proposed judgement for restitution and notice that includes information concerning the identity of those seeking restitution, whether any victim or other person expressly declines restitution, the nature and amount of damages, any supporting documents, restitution amount recommendation, and the names of any co-defendants and their case numbers.

725 ILCS 120/4.5(c-5)(12)(B).

Responsibilities of the Court

- If a defendant files an objection or either party requests a hearing, the court shall schedule a hearing.
- If a defendant does not file an objection, the court may enter the judgment without further proceedings.

725 ILCS 120/4.5(c-5)(12)(B).

The fundamentals of ordering restitution are found in the Unified Code of Corrections. Section 5-5-6(b) requires the court to “assess actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge” 730 ILCS 5/5-5-6(b).

Restitution to the Crime Victims Compensation Program

Section 5-5-6(b) of the Unified Code of Corrections provides in relevant part: “When a victim’s out-of-pocket expenses have been paid pursuant to the Crime Victims Compensation Act, the court shall order restitution be paid to the compensation program.” 730 ILCS 5/5-5-6(b).

⁹² If the victim fails to timely provide documentation related to restitution, restitution is considered waived. 725 ILCS 120/4.5(c-5)(12)(B).

Definitions

Violent Crime

Violent crime means:

- Any felony in which force or threat of force was used against the victim.⁹³
- Any offense involving sexual exploitation, sexual conduct, or sexual penetration.⁹⁴
- The offense of child pornography.^{95 96}
- The offense of non-consensual dissemination of private sexual images.^{97 98}
- Domestic battery, stalking.⁹⁹
- A violation of an order of protection, a civil no contact order, or a stalking no contact order.¹⁰⁰
- Any misdemeanor which results in death or great bodily harm to the victim.¹⁰¹
- Involuntary manslaughter and reckless homicide.^{102 103}
- The offense of driving while under the influence¹⁰⁴ that resulted in personal injury or death.¹⁰⁵ Personal injury includes:
 - Any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility.¹⁰⁶
 - A Type A injury includes severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.¹⁰⁷

Note: "Violent crime" includes any action committed by a juvenile that would be a violent crime if committed by an adult.¹²⁰

⁹³ 725 ILCS 120/3(c)(1).

⁹⁴ 725 ILCS 120/3(c)(2).

⁹⁵ 720 ILCS 5/11-20.1.

⁹⁶ 725 ILCS 120/3(c)(3).

⁹⁷ 720 ILCS 5/11-23.5.

⁹⁸ 725 ILCS 120/3(c)(3).

⁹⁹ 725 ILCS 120/3(c)(4).

¹⁰⁰ 725 ILCS 120/3(c)(5).

¹⁰¹ 725 ILCS 120/3(c)(6).

¹⁰² 720 ILCS 5/9-3.

¹⁰³ 725 ILCS 120/3(c)(7).

¹⁰⁴ 625 ILCS 5/11-501.

¹⁰⁵ 725 ILCS 120/3(c)(7).

¹⁰⁶ 725 ILCS 120/3(c).

¹⁰⁷ 725 ILCS 120/3(c).

Court Proceeding

The term “court proceeding” is very broad. It is defined in the Act, 725 ILCS 120/3(e), to include, but not be limited to:

- Preliminary hearing.
- Any post-arraignment hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond.
- Change of plea hearing.
- Trial.
- Any pretrial or post-trial hearing.
- Sentencing hearing.
- Notice of appeal.
- Any oral argument or hearing before an Illinois appellate court.
- Any hearing under the Mental Health and Developmental Disabilities Code after a finding that the defendant is not guilty by reason of insanity.
- Any hearing related to a modification of sentence.
- Probation revocation hearing.
- Aftercare release or parole hearings.
- Post-conviction relief proceedings.
- Habeas corpus proceedings.
- Clemency proceedings related to the defendant’s conviction or sentence.

Status Hearing

The Act defines “status hearing,” 725 ILCS 120/3(a-10), as a hearing that is all of the following:

- Designed to provide information to the court;
- A hearing at which no motion is implicated or at issue; and
- A hearing where no constitutional or statutory right of a crime victim is implicated or at issue.

Sentence

The term “sentence” is defined in the Act, 725 ILCS 120/3(a-7), and includes but is not limited to:

- The imposition of sentence.
- A request for a reduction in sentence.
- Parole.
- Mandatory supervised release.
- Aftercare release.
- Early Release, which refers to a discretionary release.
- Inpatient treatment.
- Outpatient treatment.
- Conditional release after a finding that the defendant is not guilty by reason of insanity.

- Clemency.
- A proposal that would reduce the defendant’s sentence or result in the defendant’s release.

Sentencing

The term “sentencing” is defined in the Act, 725 ILCS 120/3(a-9), and includes but is not limited to:

- The imposition of sentence.
- A request for a reduction in sentence.
- Parole.
- Mandatory supervised release.
- Aftercare release.
- Early Release, which refers to a discretionary release.
- Inpatient treatment.
- Outpatient treatment.
- Conditional release after a finding that the defendant is not guilty by reason of insanity.

Victim’s Attorney

A “victim’s attorney” is defined in 725 ILCS 120/3(g) as:

- An attorney retained by the victim for the purposes of asserting their constitutional and statutory rights.
- A retained attorney is one hired to represent the victim at the victim’s expense or one who agrees to provide *pro bono* representation.¹⁰⁸

Confer

As defined in the Act, 725 ILCS 120/3(a-5), “confer” means to:

- Consult together.
- Share information.
- Compare opinions.
- Carry on a discussion or deliberation.

Advocate

An “advocate” is defined in 725 ILCS 120/3(a-3) as a person whose communications with a victim are privileged under specific provisions of Illinois law. Individuals with such privilege are:

- Rape crisis counselors.¹⁰⁹
- Personnel counseling victims of violent crimes.¹¹⁰
- Domestic violence advocates or counselors.¹¹¹

¹⁰⁸ The Act does not create a right to counsel at public expense for a victim. 725 ILCS 120/3(g).

¹⁰⁹ 735 ILCS 5/8-802.1(b)(2).

¹¹⁰ 735 ILCS 5/8-802.2(a)(c).

¹¹¹ 750 ILCS 60/227(a)(2).

Witness

725 ILCS 120/3(b), defines a “witness” as:

- A person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois.
- A person who will be called by the prosecution to give testimony establishing a necessary nexus between the offender and the violent crime.

Concerned Citizen

A “concerned citizen” is defined by the Act, 725 ILCS 120/3(f), to include:

- Relatives of the victim.
- Friends of the victim.
- Witnesses to the crime.
- Any other person associated with the victim or prisoner.

Support Person

A “support person” is defined to mean “a person chosen by the victim to be present at court proceedings. 725 ILCS 120/3(h).

Appendix A

Crime Victims' Bill of Rights

SECTION 8.1. CRIME VICTIMS' RIGHTS.

- (a) Crime victims, as defined by law, shall have the following rights:
- (1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
 - (2) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
 - (3) The right to timely notification of all court proceedings.
 - (4) The right to communicate with the prosecution.
 - (5) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
 - (6) The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.
 - (7) The right to timely disposition of the case following the arrest of the accused.
 - (8) The right to be reasonably protected from the accused throughout the criminal justice process.
 - (9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
 - (10) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
 - (11) The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.
 - (12) The right to restitution.
- (b) The victim has standing to assert the rights enumerated in subsection (a) in any court exercising jurisdiction over the case. The court shall promptly rule on a victim's request. The victim does not have party status. The accused does not have standing to assert the rights of a victim. The court shall not appoint an attorney for the victim under this Section. Nothing in this Section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney.
- (c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.
- (d) Nothing in this Section or any law enacted under this Section creates a cause of action in equity or at law for compensation, attorney's fees, or damages against the State, a political subdivision of the State, an officer, employee, or agent of the State or of any political subdivision of the State, or an officer or employee of the court.
- (e) Nothing in this Section or any law enacted under this Section shall be construed as creating (1) a basis for vacating a conviction or (2) a ground for any relief requested by the defendant.

Appendix B

Rights of Crime Victims and Witnesses Act

CRIMINAL PROCEDURE

(725 ILCS 120/) Rights of Crime Victims and Witnesses Act.

Sec. 1. Short title. This Article I may be cited as the Rights of Crime Victims and Witnesses Act.

Sec. 2. The purpose of this Act is to implement, preserve, protect, and enforce the rights guaranteed to crime victims by Article I, Section 8.1 of the Illinois Constitution to ensure that crime victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system, to ensure that crime victims are informed of their rights and have standing to assert their rights in the trial and appellate courts, to establish procedures for enforcement of those rights, and to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the

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

(a) "Crime victim" or "victim" means: (1) any natural person determined by the prosecutor or the court to have suffered direct physical or psychological harm as a result of a violent crime perpetrated or attempted against that person or direct physical or psychological harm as a result of (i) a violation of Section 11-501 of the Illinois Vehicle Code or similar provision of a local ordinance or (ii) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012; (2) in the case of a crime victim who is under 18 years of age or an adult victim who is incompetent or incapacitated, both parents, legal guardians, foster parents, or a single adult representative; (3) in the case of an adult deceased victim, 2 representatives who may be the spouse, parent, child or sibling of the victim, or the representative of the victim's estate; and (4) an immediate family member of a victim under clause (1) of this paragraph (a) chosen by the victim. If the victim is 18 years of age or over, the victim may choose any person to be the victim's representative. In no event shall the defendant or any person who aided and abetted in the commission of the crime be considered a victim, a crime victim, or a representative of the victim.

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

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

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

(a-7) "Sentence" includes, but is not limited to, the imposition of sentence, a request for a reduction in sentence, parole, mandatory supervised release, aftercare release, early release, inpatient treatment, outpatient treatment, conditional release after a finding that the defendant is not guilty by reason of

insanity, clemency, or a proposal that would reduce the defendant's sentence or result in the defendant's release. "Early release" refers to a discretionary release.

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

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

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

(c) "Violent crime" means: (1) any felony in which force or threat of force was used against the victim; (2) any offense involving sexual exploitation, sexual conduct, or sexual penetration; (3) a violation of Section 11-20.1, 11-20.1B, 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the Criminal Code of 2012; (4) domestic battery or stalking; (5) violation of an order of protection, a civil no contact order, or a stalking no contact order; (6) any misdemeanor which results in death or great bodily harm to the victim; or (7) any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death. "Violent crime" includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic crash report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(d) (Blank).

(e) "Court proceedings" includes, but is not limited to, the preliminary hearing, any post-arraignment hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, change of plea hearing, the trial, any pretrial or post-trial hearing, sentencing, any oral argument or hearing before an Illinois appellate court, any hearing under the Mental Health and Developmental Disabilities Code or Section 5-2-4 of the Unified Code of Corrections after a finding that the defendant is not guilty by reason of insanity, including a hearing for conditional release, any hearing related to a modification of sentence, probation revocation hearing, aftercare release or parole hearings, post-conviction relief proceedings, habeas corpus proceedings and clemency proceedings related to the defendant's conviction or sentence. For purposes of the victim's right to be present, "court proceedings" does not include (1) grand jury proceedings, (2) status hearings, or (3) the issuance of an order or decision of an Illinois court that dismisses a charge, reverses a conviction, reduces a sentence, or releases an offender under a court rule.

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

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

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

Sec. 4. Rights of crime victims.

(a) Crime victims shall have the following rights:

(1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.

(1.5) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.

(2) The right to timely notification of all court proceedings.

(3) The right to communicate with the prosecution.

(4) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.

(5) The right to be notified of the conviction, the sentence, the imprisonment and the release of the accused.

(6) The right to the timely disposition of the case following the arrest of the accused.

(7) The right to be reasonably protected from the accused through the criminal justice process.

(7.5) The right to have the safety of the victim and the victim's family considered in determining whether to release the defendant and setting conditions of release after arrest and conviction.

(8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.

(9) The right to have present at all court proceedings, including proceedings under the Juvenile Court Act of 1987, subject to the rules of evidence, an advocate and other support person of the victim's choice.

(10) The right to restitution.

(b) Any law enforcement agency that investigates an offense committed in this State shall provide a crime victim with a written statement and explanation of the rights of crime victims under this amendatory Act of the 99th General Assembly within 48 hours of law enforcement's initial contact with a victim. The statement shall include information about crime victim compensation, including how to contact the Office of the Illinois Attorney General to file a claim, and appropriate referrals to local and State programs that provide victim services. The content of the statement shall be provided to law enforcement by the Attorney General. Law enforcement shall also provide a crime victim with a sign-off

sheet that the victim shall sign and date as an acknowledgement that he or she has been furnished with information and an explanation of the rights of crime victims and compensation set forth in this Act.

(b-5) Upon the request of the victim, the law enforcement agency having jurisdiction shall provide a free copy of the police report concerning the victim's incident, as soon as practicable, but in no event later than 5 business days from the request.

(c) The Clerk of the Circuit Court shall post the rights of crime victims set forth in Article I, Section 8.1(a) of the Illinois Constitution and subsection (a) of this Section within 3 feet of the door to any courtroom where criminal proceedings are conducted. The clerk may also post the rights in other locations in the courthouse.

(d) At any point, the victim has the right to retain a victim's attorney who may be present during all stages of any interview, investigation, or other interaction with representatives of the criminal justice system. Treatment of the victim should not be affected or altered in any way as a result of the victim's decision to exercise this right.

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

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

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

(b) The Office of the State's Attorney:

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

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

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

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

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

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

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

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

(8) (blank);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Assertion of and enforcement of rights.

(A) The prosecuting attorney shall assert a victim's right or request enforcement of a right by filing a motion or by orally asserting the right or requesting enforcement in open court in the criminal case outside the presence of the jury. The prosecuting attorney shall consult with the victim and the victim's attorney regarding the assertion or enforcement of a right. If the prosecuting attorney decides not to assert or enforce a victim's right, the prosecuting attorney shall notify the victim or the victim's attorney in sufficient time to allow the victim or the victim's attorney to assert the right or to seek enforcement of a right.

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

(C) If the prosecuting attorney asserts a victim's right or seeks enforcement of a right, unless the prosecuting attorney objects or the trial court does not allow it, the victim or the victim's attorney may be heard regarding the prosecuting attorney's motion or may file a simultaneous motion to assert or request enforcement of the victim's right. If the victim or the victim's attorney was not allowed to be heard at the hearing regarding the prosecuting attorney's motion, and the court denies the prosecuting attorney's assertion of the right or denies the request for enforcement of a right, the victim or victim's attorney may file a motion to assert the victim's right or to request enforcement of the right within 10 days of the court's ruling. The motion need not demonstrate the grounds for a motion for reconsideration. The court shall rule on the merits of the motion.

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

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

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

(ii) create and administer a course of training for employees and offices of the State of Illinois that fails to comply with provisions of Illinois law pertaining to the treatment of crime victims as

described in Article I, Section 8.1 of the Illinois Constitution and in this Act as required by the court under Section 5 of this Act; and

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

(F) Crime victims' rights may also be asserted by filing a complaint for mandamus, injunctive, or declaratory relief in the jurisdiction in which the victim's right is being violated or where the crime is being prosecuted. For complaints or motions filed by or on behalf of the victim, the clerk of court shall waive filing fees that would otherwise be owed by the victim for any court filing with the purpose of enforcing crime victims' rights. If the court denies the relief sought by the victim, the reasons for the denial shall be clearly stated on the record in the transcript of the proceedings, in a written opinion, or in the docket entry, and the victim may appeal the circuit court's decision to the appellate court. The court shall issue prompt rulings regarding victims' rights. Proceedings seeking to enforce victims' rights shall not be stayed or subject to unreasonable delay via continuances.

(5) Violation of rights and remedies.

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

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

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

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

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

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

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

the facts that support its finding that the victim's testimony will be materially affected if the victim hears other testimony at trial.

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

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

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

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

If the prosecuting attorney intends to call the support person as a witness during the State's case-in-chief, the prosecuting attorney shall inform the court of this intent in the response to the defendant's written motion. The victim may choose a different person to be the victim's support person. The court may allow the defendant to inquire about matters outside the scope of the direct examination during cross-examination. If the court allows the defendant to do so, the support person shall be allowed to remain in the courtroom after the support person has testified. A defendant who fails to question the support person about matters outside the scope of direct examination during the State's case-in-chief waives the right to challenge the presence of the support person on appeal. The court shall allow the support person to testify if called as a witness in the defendant's case-in-chief or the State's rebuttal.

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

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

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

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

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

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

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

(ii) the testimony or records contain relevant, admissible, and material evidence that is not available through other witnesses or evidence, the court shall issue a subpoena requiring the witness to appear in camera or a sealed copy of the records be delivered to the court to be reviewed in camera. If, after conducting an in-camera review of the witness statement or records, the court determines that due process requires disclosure of any potential testimony or any portion of the records, the court shall provide copies of the records that it intends to disclose to the prosecuting attorney and the victim. The prosecuting attorney and the victim shall have 30 days to seek appellate review before the records are disclosed to the defendant, used in any court proceeding, or disclosed to anyone or in any way that would subject the testimony or records to public review. The disclosure of copies of any portion of the testimony or records to the prosecuting attorney under this Section does not make the records subject to discovery or required to be provided to the defendant.

(B) A prosecuting attorney who seeks to subpoena information or records concerning the victim that are confidential or privileged by law must first request the written consent of the crime victim. If the victim does not provide such written consent, including where necessary the appropriate signed document required for waiving privilege, the prosecuting attorney must serve the subpoena at least 21 days prior to the date a response or appearance is required to allow the subject of the subpoena time to

file a motion to quash or request a hearing. The prosecuting attorney must also send a written notice to the victim at least 21 days prior to the response date to allow the victim to file a motion or request a hearing. The notice to the victim shall inform the victim (i) that a subpoena has been issued for confidential information or records concerning the victim, (ii) that the victim has the right to request a hearing prior to the response date of the subpoena, and (iii) how to request the hearing. The notice to the victim shall also include a copy of the subpoena. If requested, a hearing regarding the subpoena shall occur before information or records are provided to the prosecuting attorney.

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

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

(12) Right to Restitution.

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

(B) If the victim has asserted the right to restitution and the amount of restitution is not known at the time of sentencing, the prosecutor shall, within 5 days after sentencing, notify the victim what information and documentation related to restitution is needed and that the information and documentation must be provided to the prosecutor within 45 days after sentencing. Failure to timely provide information and documentation related to restitution shall be deemed a waiver of the right to restitution. The prosecutor shall file and serve within 60 days after sentencing a proposed judgment for restitution and a notice that includes information concerning the identity of any victims or other persons seeking restitution, whether any victim or other person expressly declines restitution, the nature and amount of any damages together with any supporting documentation, a restitution amount

recommendation, and the names of any co-defendants and their case numbers. Within 30 days after receipt of the proposed judgment for restitution, the defendant shall file any objection to the proposed judgment, a statement of grounds for the objection, and a financial statement. If the defendant does not file an objection, the court may enter the judgment for restitution without further proceedings. If the defendant files an objection and either party requests a hearing, the court shall schedule a hearing.

(13) Access to presentence reports.

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

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

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

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

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

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

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

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

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

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

(d) Procedures after the imposition of sentence.

(1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian, other than the Department of Juvenile Justice, of the discharge of any individual who was adjudicated a delinquent for a crime from State

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

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the approval by the court of an on-grounds pass, a supervised off-grounds pass, an unsupervised off-grounds pass, or conditional release; the release on an off-grounds pass; the return from an off-grounds pass; transfer to another facility; conditional release; escape; death; or final discharge from State custody. The Department of Human Services shall establish and maintain a statewide telephone number to be used by victims to make notification requests under these provisions and shall publicize this telephone number on its website and to the State's Attorney of each county.

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

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

(4-1) The crime victim has the right to submit a victim statement for consideration by the Prisoner Review Board or the Department of Juvenile Justice prior to or at a hearing to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on

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

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

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

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

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

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

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

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

Sec. 4.6. Advocates; support person.

(a) A crime victim has a right to have an advocate present during any medical evidentiary or physical examination, unless no advocate can be summoned in a reasonably timely manner. The victim also has the right to have an additional person present for support during any medical evidentiary or physical examination.

(b) A victim retains the rights prescribed in subsection (a) of this Section even if the victim has waived these rights in a previous examination.

Sec. 5. Rights of witnesses.

(a) Witnesses as defined in subsection (b) of Section 3 of this Act shall have the following rights:

(1) to be notified by the Office of the State's Attorney of all court proceedings at which the witness' presence is required in a reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court, where possible;

(2) to be provided with appropriate employer intercession services by the Office of the State's Attorney or the victim advocate personnel to ensure that employers of witnesses will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(3) to be provided, whenever possible, a secure waiting area during court proceedings that does not require witnesses to be in close proximity to defendants and their families and friends;

(4) to be provided with notice by the Office of the State's Attorney, where necessary, of the right to have a translator present whenever the witness' presence is required and, in compliance with the federal Americans with Disabilities Act of 1990, to be provided with notice of the right to communications access through a sign language interpreter or by other means.

(b) At the written request of the witness, the witness shall:

(1) receive notice from the office of the State's Attorney of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time, and place of any hearing concerning the petition for post-conviction review; whenever possible, notice of the hearing on the petition shall be given in advance;

(2) receive notice by the releasing authority of the defendant's discharge from State custody if the defendant was committed to the Department of Human Services under Section 5-2-4 or any other provision of the Unified Code of Corrections;

(3) receive notice from the Prisoner Review Board of the prisoner's escape from State custody, after the Board has been notified of the escape by the Department of Corrections or the Department of Juvenile Justice; when the escapee is apprehended, the Department of Corrections or the Department

of Juvenile Justice shall immediately notify the Prisoner Review Board and the Board shall notify the witness; and

(4) receive notice from the Prisoner Review Board or the Department of Juvenile Justice of the prisoner's release on parole, aftercare release, electronic detention, work release or mandatory supervised release and of the prisoner's final discharge from parole, aftercare release, electronic detention, work release, or mandatory supervised release.

(c) The crime victim has the right to submit a victim statement to the Prisoner Review Board for consideration at a medical release hearing as provided in Section 3-3-14 of the Unified Code of Corrections. A victim statement may be submitted in writing, on film, videotape, or other electronic means, or in the form of a recording prior to a hearing, or orally at a hearing, or by calling the toll-free number established in subsection (f) of Section 4.5. Victim statements provided to the Board shall be confidential and privileged, including any statements received prior to the effective date of this amendatory Act of the 102nd General Assembly, except if the statement was an oral statement made by the victim at a hearing open to the public.

Sec. 6. Right to be heard at sentencing.

(a) A crime victim shall be allowed to present an oral or written statement in any case in which a defendant has been convicted of a violent crime or a juvenile has been adjudicated delinquent for a violent crime after a bench or jury trial, or a defendant who was charged with a violent crime and has been convicted under a plea agreement of a crime that is not a violent crime as defined in subsection (c) of Section 3 of this Act. The court shall allow a victim to make an oral statement if the victim is present in the courtroom and requests to make an oral statement. An oral statement includes the victim or a representative of the victim reading the written statement. The court may allow persons impacted by the crime who are not victims under subsection (a) of Section 3 of this Act to present an oral or written statement. A victim and any person making an oral statement shall not be put under oath or subject to cross-examination. The court shall consider any statement presented along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

(a-1) In any case where a defendant has been convicted of a violation of any statute, ordinance, or regulation relating to the operation or use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle, except parking violations, if the violation resulted in great bodily harm or death, the person who suffered great bodily harm, the injured person's representative, or the representative of a deceased person shall be entitled to notice of the sentencing hearing. "Representative" includes the spouse, guardian, grandparent, or other immediate family or household member of an injured or deceased person. The injured person or his or her representative and a representative of the deceased person shall have the right to address the court regarding the impact that the defendant's criminal conduct has had upon them. If more than one representative of an injured or deceased person is present in the courtroom at the time of sentencing, the court has discretion to permit one or more of the representatives to present an oral impact statement. A victim and any person making an oral statement shall not be put under oath or subject to cross-examination. The court shall consider any impact statement presented along with all other appropriate factors in determining the sentence of the defendant.

(a-5) A crime victim shall be allowed to present an oral and written victim impact statement at a hearing ordered by the court under the Mental Health and Developmental Disabilities Code to determine if the defendant is: (1) in need of mental health services on an inpatient basis; (2) in need of mental health services on an outpatient basis; or (3) not in need of mental health services, unless the defendant was under 18 years of age at the time the offense was committed. The court shall allow a victim to make an oral impact statement if the victim is present in the courtroom and requests to make an oral statement. An oral statement includes the victim or a representative of the victim reading the written impact statement. The court may allow persons impacted by the crime who are not victims under subsection (a) of Section 3 of this Act, to present an oral or written statement. A victim and any person making an oral statement shall not be put under oath or subject to cross-examination. The court may only consider the impact statement along with all other appropriate factors in determining the: (1) threat of serious physical harm posed by the respondent to himself or herself, or to another person; (2) location of inpatient or outpatient mental health services ordered by the court, but only after complying with all other applicable administrative, rule, and statutory requirements; (3) maximum period of commitment for inpatient mental health services; and (4) conditions of release for outpatient mental health services ordered by the court.

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

(b-5) The crime victim has the right to register with the Prisoner Review Board's victim registry. The crime victim has the right to submit a victim statement to the Board for consideration at hearings as provided in Section 4.5. Victim statements provided to the Board shall be confidential and privileged, including any statements received prior to the effective date of this amendatory Act of the 101st General Assembly, except if the statement was an oral statement made by the victim at a hearing open to the public.

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

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

Sec. 7. Responsibilities of victims and witnesses.

Victims and witnesses shall have the following responsibilities to aid in the prosecution of violent crime and to ensure that their constitutional rights are enforced:

- (a) To make a timely report of the crime;
- (b) To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial;
- (c) To testify at trial;

(c-5) to timely provide information and documentation to the prosecuting attorney that is related to the assertion of their rights;

(d) to notify law enforcement authorities and the prosecuting attorney of any change of contact information, including but not limited to, changes of address and contact information, including but not limited to changes of address, telephone number, and email address. Law enforcement authorities and the prosecuting attorney shall maintain the confidentiality of this information. A court may find that the failure to notify the prosecuting attorney of any change in contact information constitutes waiver of a right; and

(e) a victim who otherwise cooperates with law enforcement authorities and the prosecuting attorney, but declines to provide information and documentation to the prosecuting attorney that is privileged or confidential under the law, or chooses not to waive privilege, shall still be considered as cooperating for the purposes of this Act and maintain the status of victim and the rights afforded to victims under this Act.

Sec. 8. Privately operated crime victim and witness notification service.

A county sheriff with the approval of the county board in counties with 3,000,000 or fewer inhabitants, or a county department of corrections with the approval of the county board of commissioners and under the direction of the sheriff in counties with more than 3,000,000 inhabitants, and the Office of the State's Attorney with the approval of the respective county board or county board of commissioners may contract with a private entity to operate a crime victim and witness notification service. The county sheriff, the county department of corrections, and the State's Attorney shall make available to the private entity the information to implement the notification procedure in a timely manner. The private entity shall immediately deliver the notification information to the requesting crime victim or witness according to the requirements of this Act for certain offenses determined by the county board upon the release or discharge of a defendant or prisoner in county custody. The release of information to the private entity to implement the contract shall be limited to the extent necessary to comply with the provisions of this Act.

Sec. 8.5. Statewide victim and witness notification system.

(a) The Attorney General may establish a crime victim and witness notification system to assist public officials in carrying out their duties to notify and inform crime victims and witnesses under Section 4.5 of this Act or under subsections (a), (a-2), and (a-3) of Section 120 of the Sex Offender Community Notification Law. The system shall download necessary information from participating officials into its computers, where it shall be maintained, updated, and automatically transmitted to victims and witnesses by telephone, computer, written notice, SMS text message, or other electronic means.

(b) The Illinois Department of Corrections, the Department of Juvenile Justice, the Department of Human Services, and the Prisoner Review Board shall cooperate with the Attorney General in the implementation of this Section and shall provide information as necessary to the effective operation of the system.

(c) State's attorneys, circuit court clerks, and local law enforcement and correctional authorities may enter into agreements with the Attorney General for participation in the system. The Attorney General

may provide those who elect to participate with the equipment, software, or training necessary to bring their offices into the system.

(d) The provision of information to crime victims and witnesses through the Attorney General's notification system satisfies a given State or local official's corresponding obligation to provide the information.

(e) The Attorney General may provide for telephonic, electronic, or other public access to the database established under this Section.

(f) (Blank).

(g) There is established in the Office of the Attorney General a Crime Victim and Witness Notification Advisory Committee consisting of those victim's advocates, sheriffs, State's Attorneys, circuit court clerks, Illinois Department of Corrections, the Department of Juvenile Justice, and Prisoner Review Board employees that the Attorney General chooses to appoint. The Attorney General shall designate one member to chair the Committee.

(1) The Committee shall consult with and advise the Attorney General as to the exercise of the Attorney General's authority under this Section, including, but not limited to:

(i) the design, scope, and operation of the notification system;

(ii) the content of any rules adopted to implement this Section;

(iii) the procurement of hardware, software, and support for the system, including choice of supplier or operator; and

(iv) the acceptance of agreements with and the award of equipment, software, or training to officials that seek to participate in the system.

(2) The Committee shall review the status and operation of the system and report any findings and recommendations for changes to the Attorney General and the General Assembly by November 1 of each year.

(3) The members of the Committee shall receive no compensation for their services as members of the Committee, but may be reimbursed for their actual expenses incurred in serving on the Committee.

(h) The Attorney General shall not release the names, addresses, phone numbers, personal identification numbers, or email addresses of any person registered to receive notifications to any other person except State or local officials using the notification system to satisfy the official's obligation to provide the information. The Attorney General may grant limited access to the Automated Victim Notification system (AVN) to law enforcement, prosecution, and other agencies that provide service to victims of violent crime to assist victims in enrolling and utilizing the AVN system.

Sec. 9. This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime.

Any act of omission or commission by any law enforcement officer, circuit court clerk, or State's Attorney, by the Attorney General, Prisoner Review Board, Department of Corrections, the Department of Juvenile Justice, Department of Human Services, or other State agency, or private entity under

contract pursuant to Section 8, or by any employee of any State agency or private entity under contract pursuant to Section 8 acting in good faith in rendering crime victim's assistance or otherwise enforcing this Act shall not impose civil liability upon the individual or entity or his or her supervisor or employer. Nothing in this Act shall create a basis for vacating a conviction or a ground for relief requested by the defendant in any criminal case.

Appendix C

Notice of Victim's Assertion of Rights

COUNTY: _____ CASE NAME: PEOPLE v. _____ CASE NO.: _____

NOTICE OF VICTIM'S ASSERTION OF RIGHTS

I assert the rights below that are guaranteed to me under Article I, Section 8.1(a) of the Illinois Constitution. I understand this "Notice of Victim's Assertion of Rights" form will not alter the powers, duties, and responsibilities of the court or prosecuting attorney to protect my rights as outlined in the "Rights of Crime Victims and Witnesses Act," 725 ILCS 120. I understand that if I change my mind about the rights asserted, I must complete and sign a new Notice of Victim's Assertion of Rights and give the form to the State's Attorney's Office

1. The right to be treated with fairness and respect for my dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
2. The right to notice and to a hearing before a court ruling on a request for access to any of my records, information, or communications which are privileged or confidential by law.
3. The right to timely notification of all court proceedings.
4. The right to communicate with the prosecution.
5. The right to be heard at any post-arraignment court proceeding in which one of my rights is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
6. The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.
7. The right to timely disposition of the case following the arrest of the accused.
8. The right to be reasonably protected from the accused throughout the criminal justice process.
9. The right to have my safety and my family's safety considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
10. The right to be present at the trial and all other court proceedings on the same basis as the accused, unless I will testify and the court determines that my testimony would be materially affected if I hear other testimony at the trial.
11. The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of my choice.
12. The right to restitution.

I **do not** want to assert the following rights: _____

Printed Name of Victim: _____

Signature of Victim: _____ **Date:** _____

Appendix D

Written Statement of Crime Victims' Rights



OFFICE OF THE ATTORNEY GENERAL

VIOLENCE PREVENTION AND CRIME VICTIM SERVICES DIVISION

Kwame Raoul
ATTORNEY GENERAL

STATEMENT OF CRIME VICTIMS' RIGHTS

If you are the victim of a violent crime, the Illinois Constitution and Rights of Crime Victims and Witnesses Act give you the following rights:

1. The right to be treated with fairness and respect for your dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
2. The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
3. The right to timely notification of all court proceedings.
4. The right to communicate with the prosecution.
5. The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
6. The right to be notified of information about the conviction, sentence, imprisonment, and release of the accused.
7. The right to timely disposition of the case following the arrest of the accused.
8. The right to be reasonably protected from the accused throughout the criminal justice process.
9. The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
10. The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
11. The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.
12. The right to restitution.

While police are investigating the crime, you can ask them for information about the status of the investigation. You may also request a copy of the police report, which must then be provided to you no later than five business days from the request.

The office of the state's attorney shall timely notify the crime victim of a decision not to charge an offense and shall meet with the victim if the victim agrees. The victim has a right to have an advocate and other support person attend this meeting with the victims

At any point, the victim has the right to retain a victim's attorney who may be present during all stages of any interview, investigation, or other interaction with representatives of the criminal justice system

For more information about your rights after criminal charges are filed, call the **Attorney General's Crime Victims Assistance Line at 1-800-228-3368 (TTY: 1-877-398-1130)** or contact your local **State's Attorney's Office**.

Financial Assistance

You may be eligible for financial assistance for your out-of-pocket expenses under the Illinois Crime Victims Compensation Act. For information and applications, contact the **Attorney General's toll-free Crime Victims Assistance Line** at 1-800-228-3368 (TTY: 1-877-398-1130) or visit the Attorney General's website at www.illinoisattorneygeneral.gov/victims/cvc.html.

ACKNOWLEDGMENT OF RIGHTS

Signature: _____ Date: _____

Appendix E

Recent Amendments to the Rights of Crime Victims and Witnesses Act

Pub. Act 102-22 (effective June 25, 2021) amended Sections 4.5, 7, and 9 of the Act¹¹². Excerpts are below.

Amends 720ILCS120/4.5 as follows:

Section 4.5 Procedures to implement the rights of crime victims

Adds the following responsibilities for the Office of the State's Attorney in subsection (b):

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

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

Amends subsection (c-5) in the following ways:

(4) Assertion of and enforcement of rights.

(C) If the prosecuting attorney asserts a victim's right or seeks enforcement of a right, unless the prosecuting attorney objects or the trial court does not allow it, the victim or the victim's attorney may be heard regarding the prosecuting attorney's motion or may file a simultaneous motion to assert or request enforcement of the victim's right. If the victim or the victim's attorney was not allowed to be heard at the hearing regarding the prosecuting attorney's motion, and the court denies the prosecuting attorney's assertion of the right or denies the request for enforcement of a right, the victim or victim's attorney may file a motion to assert the victim's right or to request enforcement of the right within 10 days of the court's ruling. The motion need not demonstrate the grounds for a motion for reconsideration. The court shall rule on the merits of the motion.

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

¹¹² This Act references the text as amended by Pub. Act 101-6052.

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

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

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

(F) Crime victims' rights may also be asserted by filing a complaint for mandamus, injunctive, or declaratory relief in the jurisdiction in which the victim's right is being violated or where the crime is being prosecuted. For complaints or motions filed by or on behalf of the victim, the clerk of court shall waive filing fees that would otherwise be owed by the victim for any court filing with the purpose of enforcing crime victims' rights. If the court denies the relief sought by the victim, the reasons for the denial shall be clearly stated on the record in the transcript of the proceedings, in a written opinion, or in the docket entry, and the victim may appeal the circuit court's decision to the appellate court. The court shall issue prompt Page 61 of 73 2021 Ill. HB 1739 rulings regarding victims' rights. Proceedings seeking to enforce victims' rights shall not be stayed or subject to unreasonable delay via continuances.

5) Violation of rights and remedies.

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

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

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

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

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

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

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

(i)(A) the testimony or records are not protected by an absolute privilege and (ii)(B) the testimony or records contain relevant, admissible, and material evidence that is not available through other witnesses or evidence, the court shall issue a subpoena requiring the witness to appear in camera or a sealed copy of the records be delivered to the court to be reviewed in camera. If, after conducting an in-camera review of the witness statement or records, the court determines that due process requires disclosure of any potential testimony or any portion of the records, the court shall provide copies of the records that it intends to disclose to the prosecuting attorney and the victim. The prosecuting attorney and the victim shall have 30 days to seek appellate review before the records are disclosed to the defendant, used in any court proceeding, or disclosed to anyone or in any way that would subject the testimony or records to public review. The disclosure of copies of any portion of the testimony or records to the prosecuting attorney under this Section does not make the records subject to discovery or required to be provided to the defendant.

(B) A prosecuting attorney who seeks to subpoena information or records concerning the victim that are confidential or privileged by law must first request the written consent of the crime victim. If the victim does not provide such written consent, including where necessary the appropriate signed document required for waiving privilege, the prosecuting attorney must serve the subpoena at least 21 days prior to the date a response or appearance is required to allow the subject of the subpoena time to file a motion to quash or request a hearing. The prosecuting attorney must also send a written notice to the victim at least 21 days prior to the response date to allow the victim to file a motion or request a hearing. The notice to the victim shall inform the victim (i) that a subpoena has been issued for confidential information or records concerning the victim, (ii) that the victim has the right to request a hearing prior to the response date of the subpoena, and (iii) how to request the hearing. The notice to the victim shall also include a copy of the subpoena. If requested, a hearing regarding the subpoena shall occur before information or records are provided to the prosecuting attorney.

Adds the following to 720 ILCS 120/7:

Sec. 7. Responsibilities of victims and witnesses.

(e) A victim who otherwise cooperates with law enforcement authorities and the prosecuting attorney, but declines to provide information and documentation to the prosecuting attorney that is privileged or confidential under the law, or chooses not to waive privilege, shall still be considered as cooperating for the purposes of this Act and maintain the status of victim and the rights afforded to victims under this Act.

Amends 720 ILCS 120/9 as follows:

Sec. 9. This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime.

Appendix F

Violation of Crime Victim's Rights
Complaint Form



KWAME RAOUL

Office of the Illinois Attorney General
Violence Prevention and Crime Victim Services Division
100 West Randolph, 13th Floor
Chicago, IL 60601
1-800-228-3368, 7-1-1 Relay Service

COMPLAINT

ALLEGING AN EMPLOYEE OR OFFICE OF THE STATE OF ILLINOIS HAS VIOLATED VICTIMS RIGHT ENUMERATED IN THE ILLINOIS CONSTITUTION AND/OR THE RIGHTS OF CRIME VICTIMS AND WITNESSES ACT

Enter information in the spaces provided and press SUBMIT at the end of the form to return by email. Select PRINT to return a completed form by mail.
If you download the form to complete offline, please type or print neatly before returning it by mail.

Complaint Submissions:

- All complaints must be submitted **within sixty (60) days** of the complainant's knowledge of the rights violation and be **within one year** of the alleged violation.
- The complaint and subsequent investigation are designed to **make recommendations and/or request corrective action** for employees or offices of the State of Illinois who may have violated the Rights of Crime Victims' and Witnesses Act.
- Complaints regarding victim rights violations as defined in the Act may be submitted by crime victims, parent/guardians, victim's representatives or advocates, the prosecutor, defense attorney, judge, victim's rights attorney, or assigned victim witness staff in the criminal case at issue.
- A crime victim includes any person who has been directly and proximately harmed as a result of the commission of a violent crime as defined by the Act.
- Receipt of complaints along with investigation determinations will be acknowledged in writing.

The information provided herein will be used along with other information developed during the investigation to resolve or otherwise determine the merits of this complaint. The information may be furnished to designated employees and departments of the Illinois Attorney General's Office in order to resolve or otherwise determine the merits of this complaint.

Please check the box that applies to the person filing this complaint.

Victim

Attorney representing victim

Parent/Legal Guardian

Other (describe) _____

Name, phone number, and relationship to victim of person completing this form (if not the victim).

Is the victim represented by an attorney in the complaint? Yes No

If yes, please provide the attorney's name and contact information. All future contacts with the victim regarding this complaint will be made through the attorney. _____

1. PERSONAL INFORMATION ABOUT THE VICTIM

First Name:	Middle Name:	Last Name:	
Title: Mr. Mrs. Ms. Miss: Other:			
Street Address:			
City:	State:	County:	Zip Code:
Home Telephone:	Work Telephone:	Cell Phone:	
Email Address:			

2. INFORMATION ABOUT CRIMINAL CASE:

The following section requests important information about the criminal investigation or case in which you are a victim. Please provide as much information as you can.

Stage of the Criminal Justice Process - Select most recent event:						
Investigation	Arrest	Arraignment	Preliminary Hearing	Guilty Plea	Trial	Sentencing
Parole Hearing	Other _____					
Defendant(s) Name(s):			Prosecutor(s):			
Case Number:	County:		Judge:			

3. INFORMATION ABOUT THE VICTIM'S COMPLAINT

What is the location and name of the office(s) that is/are the subject of your complaint?

Is your complaint against a specific person in that office? Yes No

If yes, please identify the person(s) (include position or title, if known) who failed to provide the right(s) about which you are complaining. _____

Which of the following rights afforded by Article I, Section 8.1 of the Illinois Constitution and Crime Victims' Rights Act, 725 ILCS 120, was the victim denied? Please check all that apply.

Notification of victim's rights and/or procedure for asserting said rights.

The right to be treated with fairness and respect for my dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.

The right to notice and to a hearing before a court ruling on a request for access to any of my records, information, or communications which are privileged or confidential by law.

The right to timely notification of all court proceedings.

The right to communicate with the prosecution.

The right to be heard at any post-arraignment court proceeding in which one of my rights is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.

The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.

The right to timely disposition of the case following the arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to have my safety and my family's safety considered in determining whether to release the defendant, and setting conditions of release after arrest and conviction.

The right to be present at the trial and all other court proceedings on the same basis as the accused, unless I will testify and the court determines that my testimony would be materially affected if I hear other testimony at the trial.

The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of my choice.

The right to restitution.

The right to request the presentence report and submit information to the preparer of the report about the effect the offense has had on the victim and the person.

Other (Please Specify) _____

4. STATEMENT OF COMPLAINT

Please provide as much detailed information about your complaint as possible, including the date(s) of the alleged violation(s), an explanation of how the violation(s) occurred, any person(s) that may have additional information, and any information that you feel helps explain the complaint. You may attach additional pages or documents to this complaint.

5. **PRIOR NOTIFICATION TO THE OFFICE(S) THAT ARE THE SUBJECT OF YOUR COMPLAINT**

Although you are not required to do so, did you notify the office(s) that are the subject of the above-alleged violation before filing this complaint? Yes No

Please describe your efforts to resolve this matter, including the date(s); the name, address and telephone number of the person with whom you attempted to resolve this matter; and any actions made by the office(s) to resolve your complaint. You may attached additional pages or documents to this complaint.

6. **OTHER RELEVANT INFORMATION**

Provide any other relevant information or event(s). You may attach additional pages or documents to this complaint.

READ THE FOLLOWING BEFORE SIGNING BELOW:

- In filing this complaint, I understand that the Attorney General is not my private attorney and will not serve as a victim's rights attorney on my behalf. Instead the Attorney General will investigate my complaint and make recommendations to employees and offices of the State of Illinois to respond more effectively to the needs of crime victims, including, regarding the violation of the rights of a crime victims. I have no objection to the designated employees and departments of the Illinois Attorney General's office using the information I have provided to investigate this complaint.
- By filing this complaint, I hereby give the Attorney General my consent to communicate with all involved parties regarding the underlying criminal case along with any and all matters connected to this complaint.

Signature: _____ Date _____

Appendix G

Crime Victims Compensation Application

CRIME VICTIMS COMPENSATION APPLICATION

State of Illinois
Court of Claims



State of Illinois
Attorney General

APPLICATION INSTRUCTIONS

- **Who should fill out the application?** A person who was the victim of a violent crime should fill out the application. If the victim is under the age of 18 or under a legal disability, then the victim's parent or legal guardian should fill out the application. If the victim is deceased, a relative of the victim should fill out the application. **The application must be signed by the victim or the victim's parent or legal guardian if the victim is under 18 or under a legal disability.**
- **Documents.** Please send copies of all the documents you have with the completed application (e.g., police report, plenary order of protection, civil no-contact order, hospital or doctor bills). If you do not have all the documents, send whatever documentation you have with the completed application. Collect copies of any additional information so that you will have it when we contact you.
- **Police reports.** To complete our investigation, we must get a police report for the incident. If you have the police report number, please include it in the crime section. If you do not have the number, please provide as much information about the crime as possible.
- **Please provide all of the requested information.** Attach additional sheets if the application does not provide sufficient space. Mail your completed application to:
Office of the Illinois Attorney General
Crime Victims Compensation Bureau
100 West Randolph Street, 13th Floor
Chicago, IL 60601
- **Address or phone number change.** Once you have submitted an application, you must let us know if your address or phone number changes; without the correct information, your claim may not be recommended for payment. Send a letter informing us of your new contact information.
- **If we determine that you are eligible for the program, additional forms will be sent to you.** These forms must be filled out and returned to our office within 30 days before any expenses can be reimbursed.
- **If you need help completing this application** or would like referrals for services, contact the Office of the Illinois Attorney General at 1-800-228-3368 (Voice), 7-1-1 relay service.

Section I. Victim and Claimant Information

- If you were the victim of a violent crime and you are over the age of 18, please fill in the victim information only. You will also be the claimant so it is not necessary for you to repeat your contact information in Part B. The claimant is someone who is applying for compensation due to a violent crime.
- If you are applying on behalf of a victim (i.e., you are the parent of a minor child or the relative of a deceased victim) please put the victim's information in Part A and your contact information in Part B. The person who fills out Part B should also be the person signing the application.
- Your correct information is necessary for our office to contact you with further questions and to send documents. If it is not correct, you may not be able to receive payment.
- A Social Security number is requested but it is not necessary.
- An advocate works with crime victims and provides assistance and referrals. You do not need an advocate to apply for compensation. However, if you are working with an advocate and you would like us to try and obtain information about your case from your advocate, please list the information in Section C.
- If there is another individual who you would like us to discuss your claim with, please provide that person's name in Section C. If the analysts working on your claim are unable to reach you, your claim may not be recommended for payment. It is helpful, but not necessary, to have another means of getting information about the claim to avoid becoming ineligible for the program.
- If you are the spouse or parent of a victim applying for your own expenses, please complete a separate application for yourself.

Section II. Crime and Court Information

- This section collects information about the crime and any court proceedings that have taken place as a result of the crime. Not all of the sections may apply to your situation; provide as much information as you have available.
- Include a police report number, if known.
- Please submit one application per crime.

Section III. Losses Claimed

- This section collects information on what types of compensable loss you may have incurred as a result of the crime. Compensable losses are those types of losses that are covered by the Crime Victims Compensation Program.
- If you have any questions or would like to have more information on the types of expenses that are compensable, please call 1-800-228-3368 (Voice), 7-1-1 relay service.

Section IV. Medical Information and Benefits

- Complete this section if you are applying for medical, dental or counseling expenses. If you are not interested in applying for these expenses, check "no" and leave this section blank.
- If you are a spouse or parent applying for counseling expenses you incurred because of the crime against your spouse or child, fill out a separate application listing yourself as the victim.
- Counseling expenses can only be considered for payment if the counseling is provided by one of the following: licensed clinical psychologist, licensed clinical social worker, licensed clinical professional counselor, licensed professional counselor or a Christian Science practitioner.

Section V. Employment Information

- Complete this section if you are applying for lost earnings. Reimbursement is available for earnings lost due to time off recovering from the crime and attending court.
- If you are a spouse or parent applying for lost earnings for time you missed from work to care for your spouse or child, fill out a separate application listing yourself as the victim.

Section VI. Funeral/Burial Information & Death Benefits

- Fill out this section if you are applying on behalf of a deceased victim.
- Loss of support is provided when a crime victim was working prior to the crime, but due to his or her death is no longer able to provide monetary support or meet a legal obligation to provide monetary support.
- We require information on all of the dependents of the victim before any recommendations can be made. Include the name(s) and phone number(s) of any dependents.

Section VII. Certification and Authorization

- The Acknowledgement of Subrogation indicates that you have read the section, understand and agree to subrogate your rights to recovery should you get restitution from the criminal case or money from a civil lawsuit. This means that if you, or any vendors on your behalf, receive money from the Crime Victims Compensation Program, you agree that if you recover money from any other source, such as from the offender or a civil suit, that you will repay the money you received from the Crime Victims Compensation Program.
- The Release of Information authorizes the Office of the Illinois Attorney General to request medical, financial and other necessary information to process your claim. The Office of the Illinois Attorney General will request only what is necessary to investigate the claim.
- Read the Certification of Application, which certifies that the information you have given in the application is true and accurate, under penalties of perjury. Make sure that you have provided the most complete and accurate available information before you sign.
- The application requests information about an attorney. However, you do not need an attorney to apply for this program.

CRIME VICTIMS COMPENSATION APPLICATION

STATE OF ILLINOIS
COURT OF CLAIMS



STATE OF ILLINOIS
ATTORNEY GENERAL

COMPLETE ALL SECTIONS TO THE BEST OF YOUR ABILITY.

SEE INSTRUCTIONS FOR INFORMATION ON FILLING OUT THE APPLICATION.

If you need help, call the Attorney General's Office at 1-800-228-3368 (Voice), 7-1-1 relay service.

SECTION I. VICTIM & CLAIMANT INFORMATION

Office Use Only

A. VICTIM INFORMATION

Victim's Name: _____
Last First

Date of Birth: ____ / ____ / ____ Male Female

Street Address: _____ Apt # _____

City: _____ State: _____ Zip Code: _____

E-mail Address: _____

Home Phone: (____) ____ - ____ Cell Phone: (____) ____ - ____

Work Phone: (____) ____ - ____ Other Phone: (____) ____ - ____

Social Security No.: ____ - ____ - ____

Marital Status: Single Married Divorced Widow(er) Civil Union Partner

The following information is used for statistical purposes only according to federal regulations. Providing this information is voluntary and will not affect your application. Victim's Ethnic Group: Black (not Hispanic)

American Indian or Alaskan Native White (not Hispanic) Hispanic (any Spanish culture) Asian or Pacific Islander (including Indian subcontinent) Other. Country of Birth _____

Do you have a disability? Yes No, If yes, nature of disability physical mental developmental.

How did you learn about Crime Victims Compensation? _____

B. CLAIMANT INFORMATION

Complete only if you are parent/legal guardian of a victim under the age of 18 or survivor of a deceased victim. Male

Claimant's Name: _____ Date of Birth: ____ / ____ / ____ Female
Last First

Street Address: _____ Apt # _____ City: _____

State: _____ Zip Code: _____ E-mail Address: _____

Home Phone: (____) ____ - ____ Cell Phone: (____) ____ - ____

Work Phone: (____) ____ - ____ Social Security No.: ____ - ____ - ____

Marital Status: Single Married Divorced Widow(er) Civil Union Partner

Relationship to victim: _____

C. CONTACT INFORMATION

- Is English your preferred language? Yes No

If no, language you are most comfortable speaking: _____

- Are you working with an advocate? Yes No If yes, please provide the following:

Name: _____ Telephone: (____) ____ - ____

Organization: _____ E-mail Address: _____

- Is there another person you would prefer us to contact to discuss your claim? Yes No

Name: _____ Telephone: (____) ____ - ____

Relationship to you: _____

SECTION II. CRIME AND COURT INFORMATION

A. CRIME INFORMATION

Police Report # _____

Date of Crime: ___ / ___ / ___ Date Crime Reported: ___ / ___ / ___

Street Address where crime occurred: _____ City: _____ County: _____

Name of Agency/Police Department crime reported to: _____

Briefly Describe crime: _____

Briefly Describe injuries: _____

- Do you know the identity of the offender(s)? Yes No

If yes, offender(s) name(s): _____

Relationship, if any, between victim and offender(s): _____

- Was the offender(s) arrested? Yes No Unknown
- Was a sexual assault evidence collection kit performed at a hospital? Yes No
- Was the victim on probation or parole for a felony at the time of the crime? Yes No

B. CRIMINAL COURT INFORMATION (If known, please complete)

- Has an offender been charged in court? Yes No Unknown

If yes, what is the charge? _____ Criminal Case # _____ County: _____

Assistant State's Attorney Name: _____ Telephone: (____) ____ - ____

- Have you attended court for this case? Yes No
- Were you required to testify for this case? Yes No If yes, on what date? ___ / ___ / _____
- What was the outcome of the criminal case? _____
- Has restitution been ordered against an offender?: Yes No If yes, how much? \$ _____

C. ORDER OF PROTECTION INFORMATION

- Did you obtain a Plenary Order of Protection or Civil No-Contact Order? Yes No

If yes, please attach a copy of the order and enter the number: OOP# _____ CNCO# _____

D. CIVIL CASE INFORMATION

- Has a civil lawsuit been filed against anyone in relation to this incident? Yes No

If yes, please provide Civil Case # _____ County: _____

Name of lawyer handling your civil suit: _____ ARDC No.: _____

Telephone: (____) ____ - ____ E-mail Address: _____

SECTION III. LOSSES CLAIMED

- Did the victim experience a financial loss of tuition because of the crime? Yes No
- Was it necessary to purchase a wheelchair or other equipment to make the home accessible for the victim for an injury that happened during the crime? Yes No
- Have you had to replace (or purchase) eyeglasses, hearing aids or prosthetic devices because of the crime? Yes No
- Was it necessary to leave your home because of the crime? Yes No
 - If yes, were you able to return to your home? Yes No
 - If no, did you relocate to a new home? Yes No
- Did the police take clothing or bedding as evidence that you had to replace? Yes No
- Was it necessary to replace locks and/or windows because of the crime? Yes No
- Was it necessary to hire personnel to do crime scene clean-up? Yes No
- Was it necessary to hire other people to perform tasks that the victim is now unable to perform because of the crime? Yes No

SECTION IV. MEDICAL INFORMATION & BENEFITS

- Does the victim have medical or dental costs because of the crime? Yes No
- Does the victim have counseling costs because of the crime? Yes No
- Do you expect more medical, dental or counseling costs because of the crime? Yes No

List the names and phone numbers of all doctors, hospitals, counselors or other medical service providers who treated the victim for injuries because of the crime. Please attach copies of any bills that you currently have. If you receive bills at a later date, please send them at that time.

Medical Provider	City	Provider Phone No.	Date(s) of Services	Amount of Bill
		()		
		()		
		()		
		()		
		()		

- Do you have any type of medical insurance coverage? Yes No
- If yes, please check each type of coverage that is available to cover the above charges.
Note: Compensation is available only after all other medical benefits have been exhausted.

- | | |
|---|--|
| <input type="checkbox"/> Medical Card (Public Aid or AFDC)
<input type="checkbox"/> Medicare or Medical Assistance
<input type="checkbox"/> Private, Group, Employer or Union Health Insurance
<input type="checkbox"/> Workers Compensation
<input type="checkbox"/> Veteran's Administration, Champus
<input type="checkbox"/> SSI or SSDI
<input type="checkbox"/> Proceeds of Personal Injury or Other Litigation
<input type="checkbox"/> Hospital uninsured discount or other financial assistance program | Card Number: _____
Provider's Name: _____
Provider's Name: _____
Provider's Name: _____
Provider's Name: _____
Case Number: _____ |
|---|--|

SECTION V. EMPLOYMENT INFORMATION

- Are you applying for any wages you lost because of the crime?.....Yes No
- If yes, please answer the following questions and fill in the chart below.
- o Were you employed at the time of the crime?.....Yes No
 - o Did you receive disability benefits or sick pay for time missed from work after the crime?.....Yes No
 - o Since the crime, have you returned to work?.....Yes No
- If yes, date you returned to work: ____ / ____ / ____

Please list all employment during the six (6) months before the crime:

Name of Employer	Employer's Address	Employer's Phone No.	Victim's Net Monthly Wages (Take Home Pay)
		()	
		()	
		()	

SECTION VI. FUNERAL/BURIAL INFORMATION & DEATH BENEFITS

A. FUNERAL AND BURIAL

- Are you requesting funeral and/or burial costs? Yes No
If yes, in what amount? \$ _____

- Have these costs already been paid? Yes No
If yes, in what amount? \$ _____

Name of Person(s) Who Paid	Phone No. of Person Who Paid	Relationship Between Victim and Person Who Paid	Amount Paid
	()		
	()		
	()		

- Name of Funeral Home: _____ Telephone: (____) ____ - _____
- Funeral Home City: _____
- Name of Cemetary: _____ Telephone: (____) ____ - _____

B. INSURANCE

- Did the victim have a life insurance policy? Yes No
If yes, provide details about the life insurance coverage:

Name of Insurance Company	Name of Beneficiary	Beneficiary's Phone No.	Amount Paid
		()	
		()	

C. LOSS OF SUPPORT TO DEPENDENTS

- Was the victim employed during the six (6) months before the crime? Yes No
- If yes, are you claiming loss of support? Yes No
If yes, fill out the rest of this section.

- At the time of death, did the deceased victim contribute financial support to:
 - o A spouse? Yes No Amount per month? \$ _____
 - o Any dependents? Yes No Amount per month? \$ _____

Please list all minor (18 years or under) dependents and any other dependents of the victim:

Name of Dependent	Relationship to Victim	Date of Birth	Name/Phone Number of Legal Guardian

SECTION VII. CERTIFICATION AND AUTHORIZATION

Acknowledgement of Subrogation: As required by the subrogation provision of the Illinois Crime Victims Compensation Act, 740 ILCS 45/17, I will contact and repay the Crime Victims Compensation Program if I receive any payments from the offender, a civil lawsuit, an insurance policy, or any other government or private agency to cover expenses for which I receive payment from the Compensation Program. I understand that I will be responsible for repaying the Compensation Program any amount for which it is later determined that I was not eligible.

Release of Information: I hereby authorize any hospital, physician, health care provider, mental health provider, funeral director, or other person who rendered related services; any employer of the victim or claimant; any law enforcement or governmental agency; any insurance company; or any other individual company, agency or organization having relevant knowledge, to furnish any and all information in their possession with respect to the incident that is the basis for this claim to the Crime Victims Compensation Bureau of the Illinois Attorney General's Office. This information is to be used in any way necessary related to my claim for an award of compensation from the Illinois Crime Victims Compensation Program.

I understand that medical records may contain information regarding care of psychiatric/psychological conditions, drug or alcohol abuse, HIV test results, AIDS, and AIDS-related conditions.

I understand that at any time I may revoke this authorization from the Illinois Attorney General's Office, except to the extent that action has been taken in reliance on this authorization. This authorization will expire in 3 years from the date the victim/claimant signed or when this claim is resolved.

This authorization complies with the requirements of 45 C.F.R. § 164.508, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA Privacy Rule. A photocopy or facsimile copy of this authorization shall have the same effect as the original.

Certification of Application: I hereby certify, subject to the penalties of perjury, that all of the information that I have provided in this application is true, accurate, and complete to the best of my knowledge. I understand that if I willfully provide any information that is false, incomplete, or misleading, I may be denied benefits and/or I may be prosecuted for crimes punishable by imprisonment, a fine, or both.

Applicant's Signature

Date Signed

If the applicant is represented by counsel for this crime victims compensation claim, please provide the following:

Name of Lawyer: _____ ARDC No: _____

Address: _____ City: _____ State: _____ Zip Code : _____

Telephone: (____) _____ - _____ E-mail Address: _____

740 ILCS 45/12 prohibits the charging of fees for presenting this form to the Court of Claims.

Please return completed application
and all subsequent information to:

**Office of the Illinois Attorney General
Crime Victims Services Bureau
100 West Randolph Street, 13th Floor
Chicago, IL 60601**

Appendix H

Checklist of Victims' Rights for Practitioners¹¹³

¹¹³ The checklist is not an exhaustive list of rights and responsibilities. It is intended as a tool to help practitioners recognize moments when Victims' Rights may be at issue.

Responsibilities for Ensuring Crime Victim Rights

A non-exhaustive checklist of responsibilities for practitioners under the Rights of Crime Victims and Witnesses Act

BEFORE CHARGES

PROSECUTOR

- Give timely notice of any decision not to pursue charges; consider safety of victim when giving notice.
- Offer to meet with victim regarding decision not to charge an offense.

LAW ENFORCEMENT

- Within 48 hours of contact with victim – provide written statement and explanation of rights.
- When reopening a case – provide notice to the victim.

CHARGING

PROSECUTOR

- Provide notice of filing information/return indictment/petition to adjudicate minor.
- Provide victim with Notice of Victim's Assertion of Rights Form.
- File written notice of rights with the Court.
- Provide notice of defendant's release within a reasonable time.

PROCEEDINGS TO DISPOSITION

PROSECUTOR

- Consult with victim regarding their rights.
- Inform victim of right to be present, have an advocate/support person present, at all court proceedings.
- Provide timely notice of court proceedings.
- Provide a secure waiting area during proceedings, whenever possible.
- At the beginning of any court proceedings – review written notice with the court to determine if a victim's right is at issue.
- Notify victim in sufficient time if electing not to assert a victim's right.
- Consult with victim before offering a plea or entering plea negotiations.
- Provide the defense the name of the victim's chosen support person (victims are responsible for providing this name 60 days prior to trial).

COURT

- At the beginning of any court proceedings – review written notice, determine if a victim's right is at issue.
- Motions seeking a subpoena for confidential or privileged material – procedures vary by party seeking the subpoena. *See* 725 ILCS 120/4.5(c-5)(9)(A)-(B).
- Where the victim is not present at court proceedings, ask the prosecutor whether the victim was notified pursuant to 725 ILCS 120/4.5(c-5)(10).
- If victim was not provided timely notice, courts shall not – rule on substantive issues, accept a plea, or impose a sentence.
- Motions to continue – consider victim's right to timely disposition; follow procedures in 725 ILCS 120/4.5(c-5)(11).
- Victim testifying – motion to exclude required 60 days in advance, ruling within 30 days. *See* 725 ILCS 120/4.5(c-5)(7).
- Advocate or support person sought as witness – follow procedures in 725 ILCS 120/4.5(c-5)(8)(A). Motions must be filed 90 days (advocate) or 45 days (support person) before trial.
- Allow the victim to be heard in any reasonable manner the victim chooses.
- Promptly rule on victim's request, and state reasons for any denial on the record.

POST-DISPOSITION, SENTENCING

PROSECUTOR

- Inform victim(s) of right to make a statement at sentencing, this may be presented to the State's Attorney at any time.
- Inform victim(s) of their right to submit information for the presentence report.
- Provide notice of: ultimate disposition, appeal by the defendant, request for post-conviction review.
- In good faith, attempt to explain the minimum time the defendant may be physically imprisoned.
- Explain, in non-technical language, details of any plea, verdict, or adjudication.
- In violent crimes involving vehicles or use of streets and highways – provide notice of sentencing hearing as required by 725 ILCS 120/6(a-1).
- Where victim requests presentence reports, redact report as required by 725 ILCS 120/4.5(c-5)(13)(D).
- Request restitution.
- Within 5 days after sentencing, notify victim of needed restitution documents.
- Within 60 days after sentencing file and serve proposed judgment for restitution.

COURT

- At victim's request and where victim is present in court, shall allow victim to make an oral statement.
- Allow victim to exercise their right to be heard in any reasonable manner they choose.
- May allow impacted person to present an oral or written statement.
- Individuals making written statements shall not be put under oath.

Appendix I

Orders of Protection and No Contact Orders

ILLINOIS ORDERS OF PROTECTION AND NO CONTACT ORDERS

Who is eligible for these protections?

Domestic Violence Order of Protection

- Family or household members who:
- are related by blood, or by current or former marriage to the offender;
 - share or shared a common home with the offender;
 - have or allegedly have a child in common with the offender;
 - share or allegedly share a blood relationship to the offender through a child;
 - have or had a dating relationship or engagement with the offender; or
 - are high risk adults with disabilities abused by a family member or caregiver.

Remedies & Protections

The judge can grant up to 18 remedies, from prohibiting further abuse to ordering the offender to stay away, revoking a FOID card, protecting property and pets, requiring financial support, providing temporary care of children, and ordering exclusive possession of the home.

Violations

The first violation of a Domestic Violence Order of Protection is a Class A misdemeanor. A subsequent violation or a violation following other domestic convictions is a Class 4 felony.

Sexual Assault Civil No Contact Order

Any person who is a victim of nonconsensual sexual conduct or sexual penetration.

- These orders also can protect the following people:
- Family or household members of a victim; and
 - Rape crisis center employees and volunteers.

The judge can grant any or all of the following remedies:

- Prohibit contact with the victim;
- Order the offender to stay away from victim generally and/or to stay away from specific locations;
- Protection of property and pets;
- Order the offender to transfer to another school if the victim and offender attend the same school;
- Other injunctive relief necessary to protect the victim.

The first violation of a Sexual Assault Civil No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.

Stalking No Contact Order

Any person who is the victim of a course of conduct that causes the victim to fear for his or her safety or the safety of another person, or to suffer emotional distress, and relief is not available to the victim through the Illinois Domestic Violence Act or through a Sexual Assault Civil No Contact Order.

The judge can grant any or all of the following remedies:

- Prohibit further stalking or threats of stalking;
- Prohibit contact with the victim;
- Order stalker to stay away from specific locations;
- Prohibit stalker from having FOID card and owning firearms;
- Other injunctive relief necessary to protect the victim.

Attorneys' fees are the only financial remedy available.

The first violation of a Stalking No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.



Illinois Attorney General

