

## ILLINOIS VICTIMS' RIGHTS LAWS<sup>1</sup>

### Constitution

#### Article I, § 8.1 – Crime Victim's Rights

- (a) Crime victims, as defined by law, shall have the following rights as provided by law:
- (1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
  - (2) The right to notification of court proceedings.
  - (3) The right to communicate with the prosecution.
  - (4) The right to make a statement to the court at sentencing.
  - (5) The right to information about the conviction, sentence, imprisonment, and release of the accused.
  - (6) The right to timely disposition of the case following the arrest of the accused;
  - (7) The right to be reasonably protected from the accused throughout the criminal justice process.
  - (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, subject to the rules of evidence, an advocate or other support person of the victim's choice.
  - (10) The right to restitution.
- (b) The General Assembly may provide by law for the enforcement of this Section.
- (c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.

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<sup>1</sup> Not intended to be exhaustive.

(d) Nothing in this Section or in any law enacted under this Section shall be construed as creating a basis for vacating a conviction or a ground for appellate relief in any criminal case.

## **Statutes**

### **Chapter 725, Act 120 – Rights of Crime Victims and Witnesses Act**

#### **120/1 – Short title**

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

#### **120/2 – Purpose**

The purpose of this Act is to implement, preserve and protect 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 and to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the witnesses of violent crime who are essential to prosecution.

#### **120/3 – Definitions**

The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Crime victim" means (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended;
- (b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime;
- (c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the

Criminal Code of 1961, 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, and 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 accident 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) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.
- (e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

#### **120/4 – 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 throughout the criminal justice process.
  - (2) The right to notification of court proceedings.
  - (3) The right to communicate with the prosecution.
  - (4) The right to make a statement to the court at sentencing.
  - (5) The right to information about the conviction, sentence, imprisonment and 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.
  - (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, subject to the rules of evidence, an advocate or other support person of the victim's choice.
  - (10) The right to restitution.
- (b) A statement and explanation of the rights of crime victims set forth in paragraph (a) of this Section shall be given to a crime victim at the initial contact with the criminal justice system by the appropriate authorities and shall be conspicuously posted in all court facilities.

## **120/5 – 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.

(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; when the escapee is apprehended, the Department of Corrections shall immediately notify the Prisoner Review Board and the Board shall notify the witness;
- (4) receive notice from the Prisoner Review Board of the prisoner's release on parole, electronic detention, work release or mandatory supervised release and of the prisoner's final discharge from parole, electronic detention, work release, or mandatory supervised release.

## **120/6 – Rights to present victim impact statement**

(a) In any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime and a victim of the violent crime or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member is present in the courtroom at the time of the sentencing or the disposition hearing, the victim or his or her representative shall have the right and the victim's spouse, guardian, parent, grandparent, and other immediate family or household member upon his, her, or their request

may be permitted by the court to address the court regarding the impact that the defendant's criminal conduct or the juvenile's delinquent conduct has had upon them and the victim. The court has discretion to determine the number of oral presentations of victim impact statements. Any impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing. In conjunction with the Office of the State's Attorney, a victim impact statement that is presented orally may be done so by the victim or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member or his, her, or their representative. At the sentencing hearing, the prosecution may introduce that evidence either in its case in chief or in rebuttal. The court shall consider any impact statement admitted along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

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

### **120/7 – Responsibilities of victims and witnesses**

Responsibilities of victims and witnesses. Victims and witnesses shall have the following responsibilities to aid in the prosecution of violent crime.

- (a) To make a timely report of the violent crime;
- (b) To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial;
- (c) To testify at trial;
- (d) To notify law enforcement authorities of any change of address.

### **120/8 – Privately operated crime victim and witness notification service**

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.

### **120/8.5 – Statewide victim and witness notification system**

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 as the Attorney General specifies by rule. 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, or written notice.
- (b) The Illinois Department of Corrections, 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 under Section 4.5 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) The Attorney General shall adopt rules as necessary to implement this Section. The rules shall include, but not be limited to, provisions for the scope and operation of any system the Attorney General may establish and procedures, requirements, and standards for entering into agreements to participate in the system and to receive equipment, software, or training.
- (g) There is established in the Office of the Attorney General a Crime Victim and Witness Notification Advisory Committee consisting of those victims advocates, sheriffs, State's Attorneys, circuit court clerks, Illinois Department of Corrections, 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.

#### **120/9 – Scope of Act [Effective Until May 31, 2006]**

This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime, nor does it grant any person a cause of action for damages or attorneys fees. 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, 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 appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.

#### **120/9 – Scope of Act [Effective June 1, 2006]**

This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime, nor does it grant any person a cause of action for damages or attorneys fees. 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 appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.