

TO: All Legislators

**FROM: Sen. André Jacque
Rep. Cody Horlacher**

DATE: Monday, January 14, 2019

RE: Co-sponsorship of LRB-0170/1 & LRB-1391/1, Crime Victim Impact Statement Protection Act

DEADLINE: Tuesday, January 29 at 5:00pm

Presently, a crime victim is allowed to submit a statement regarding the impact that a crime has had on their lives, which is not considered in determining a criminal verdict but can be considered at sentencing, disposition, or parole hearings. These accounts are naturally very personal, frequently painful to recount, and may contain intimate, private details about victims' lives which should not be publicly divulged against their wishes. Unfortunately, there is nothing to safeguard such information from being disclosed outside the courtroom.

For example, in one case, the defendant took a copy of the victim impact statement and right after sentencing started forwarding it to others, including the victim's ex-husband, who then started contacting the victim and belittling her. In another example, a robbery victim who filed her victim impact statement with the court ahead of time was shocked and dismayed to find her quotes from it reproduced publicly and without her consent before the case was even resolved.

We will be introducing legislation drafted in coordination with a workgroup of victims' rights advocates to ensure that a victim impact statement is treated as confidential, and unless the statement contains exculpatory information, the statement is not considered a witness statement that must be disclosed by the prosecuting attorney to the court and to the defendant at trial. The intent of this proposal is to treat the victim impact statement similar to how a preliminary sentencing investigation report for an offender is treated, and allows a victim to amend or retract a victim impact statement they have provided up until the time at which it is disclosed.

Under the bill, a victim impact statement may not be disclosed until after a plea has been entered or a conviction has been obtained in a criminal case, at which time the statement must be disclosed to the court, the prosecuting attorney, and the defendant or the defendant's attorney, and the judge must enter a protective order barring redisclosure of the statement. LRB 0170/1 requires that a disclosed statement be kept confidential and returned to the court at the conclusion of representation. Of course, victims will still be able to comment publicly or submit their statements to the media at their discretion.

To be added on as a co-sponsor of this legislation, please reply to this email or contact Nik in Sen. Jacque's office at 6-3512 or Anna in Rep. Horlacher's office at 6-5715 by 5:00pm on Tuesday, January 29th.

Analysis by the Legislative Reference Bureau

Under current law, a crime victim may offer a statement regarding the impact of the crime on his or her life, which may be considered at sentencing, disposition, or parole hearings.

This bill names such a statement a "victim impact statement." Under the bill, a victim impact statement is confidential, and unless the statement contains exculpatory information, the statement is not considered a witness statement that must be disclosed by the prosecuting attorney to the court and to the defendant at trial. The bill allows a victim to amend or retract a victim impact statement he or she has provided up until the time at which it is disclosed. Under the bill, a victim impact statement may not be disclosed until after a plea has been entered or a conviction has been obtained in a criminal case, at which time the statement must be disclosed to the court, the prosecuting attorney, and the defendant or the defendant's attorney, and the judge must enter a protective order barring redisclosure of the statement. The bill requires that a disclosed statement be kept confidential and returned to the court at the conclusion of representation.