THE LAW BOOK

ILLINOIS SEX OFFENSES AND RELATED STATUTES

---

with Amended and Newly-Enacted Statutes
through P.A. 104-0459

Illinois Coalition Against Sexual Assault
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LIMITATION & DISCLAIMER

This resource is intended to be an accurate rendition of the compiled statutes through the Spring Legislative Session that ended in May 2025 and Veto Session that ended on October 31, 2025, including Public Acts signed into law **through January 16, 2026**, some of which will not be effective until later dates. Each included statute lists the last Public Act that amended the statute and the latest effective date. **The reader is responsible for checking the official statute.** Administrative Rules may also impact implementation of the statutes.

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TITLE III: SPECIFIC OFFENSES
Part B: Offenses Directed Against the Person

Article 11: Sex Offenses

720 ILCS 5/11-0.1 to 5/11-45

GENERAL DEFINITIONS

Definitions

720 ILCS 5/11-0.1

In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

"Accused" means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

"Adult obscenity or child sexual abuse material Internet site". See Section 11-23.

"Advance prostitution" means:

(1) Soliciting for a person engaged in the sex trade by performing any of the following acts when acting other than as a person engaged in the sex trade or a patron of a person engaged in the sex trade:

  (A) Soliciting another for the purpose of prostitution.

  (B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

  (C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a person engaged in the sex trade or a patron of a person engaged in the sex trade:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

"Agency". See Section 11-9.5.

“Arranges”. See Section 11-6.5.

“Bodily harm” means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

“Care and custody”. See Section 11-9.5.

“Child care institution”. See Section 11-9.3.

“Child sexual abuse material”. See Section 11-20.1.

“Child sex offender”. See Section 11-9.3.

“Community agency”. See Section 11-9.5.

“Conditional release”. See Section 11-9.2.

“Consent” means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

“Custody”. See Section 11-9.2.

“Day care center”. See Section 11-9.3.

“Depict by computer”. See Section 11-20.1.

“Depiction by computer”. See Section 11-20.1.

“Disseminate”. See Section 11-20.1.

“Distribute”. See Section 11-21.

“Family member” means a parent, grandparent, child, sibling, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. “Family member” also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 3 months.

“Force or threat of force” means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

“Harmful to minors”. See Section 11-21.

“Loiter”. See Section 9.3.

“Material”. See Section 11-21.

“Minor”. See Section 11-21.

“Nudity”. See Section 11-21.

“Obscene”. See Section 11-20.

“Part day child care facility”. See Section 11-9.3.

“Penal system”. See Section 11-9.2.

“Person responsible for the child’s welfare”. See Section 11-9.1A.

“Person with a disability”. See Section 11-9.5.

“Playground”. See Section 11-9.3.

“Probation officer”. See Section 11-9.2.

“Produce”. See Section 11-20.1.

“Profit from prostitution” means, when acting other than as a person engaged in the sex trade, to receive anything of value for personally rendered prostitution services or to receive anything of value from a person engaged in the sex trade, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

“Public park”. See Section 11-9.3.

“Public place”. See Section 11-30.

“Reproduce”. See Section 11-20.1.

“Sado-masochistic abuse”. See Section 11-21.

“School”. See Section 11-9.3.

“School official”. See Section 11-9.3.

“Sexual abuse”. See Section 11-9.1A.

“Sexual act”. See Section 11-9.1.

“Sexual conduct” means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

“Sexual excitement”. See Section 11-21.

“Sexual penetration” means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

“Solicit”. See Section 11-6.

“State-operated facility”. See Section 11-9.5.

“Supervising officer”. See Section 11-9.2.

“Surveillance agent”. See Section 11-9.2.

“Treatment and detention facility”. See Section 11-9.2.

“Unable to give knowing consent” includes, but is not limited to, when the victim was asleep, unconscious, or unaware of the nature of the act such that the victim could not give voluntary and knowing agreement to the sexual act. “Unable to give knowing consent” also includes when the accused administers any intoxicating or anesthetic substance, or any controlled

substance causing the victim to become unconscious of the nature of the act and this condition was known, or reasonably should have been known by the accused. “Unable to give knowing consent” also includes when the victim has taken an intoxicating substance or any controlled substance causing the victim to become unconscious of the nature of the act, and this condition was known or reasonably should have been known by the accused, but the accused did not provide or administer the intoxicating substance. As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets any one of the following conditions:

(1) was unconscious or asleep;

(2) was not aware, knowing, perceiving, or cognizant that the act occurred;

(3) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact; or

(4) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

It is inferred that a victim is unable to give knowing consent when the victim:

(1) is committed to the care and custody or supervision of the Illinois Department of Corrections (IDOC) and the accused is an employee or volunteer who is not married to the victim who knows or reasonably should know that the victim is committed to the care and custody or supervision of such department;

(2) is committed to or placed with the Department of Children and Family Services (DCFS) and in residential care, and the accused employee is not married to the victim, and knows or reasonably should know that the victim is committed to or placed with DCFS and in residential care;

(3) is a client or patient and the accused is a health care provider or mental health care provider and the sexual conduct or sexual penetration occurs during a treatment session, consultation, interview, or examination;

(4) is a resident or inpatient of a residential facility and the accused is an employee of the facility who is not married to such resident or inpatient who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility; or

(5) is detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official who: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody and the police officer, peace officer, or other law enforcement official is not married to such detainee.

“Victim” means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

MAJOR SEX OFFENSES

General Provisions Concerning Offenses Described in Sections 11-1.20 through 11-1.60

720 ILCS 5/11-1.10

(a) No person accused of violating Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code shall be presumed to be incapable of committing an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code because of age, physical condition or relationship to the victim. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

• • •

(e) The prosecuting State's Attorney shall seek an order from the court to compel the accused to be tested for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV), within 48 hours:

(1) after a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or

(2) after an indictment is returned charging an accused with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or

(3) after a finding that a defendant charged with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to the preliminary hearing, or

(4) after the request of the victim of the violation of Section 11-1.20, 11-1.30, or 11-1.40.

The medical tests shall be performed only by appropriately licensed medical practitioners. The testing shall consist of a test approved by the Illinois Department of Public Health to determine the presence of HIV infection, based upon recommendations of the United States Centers for Disease Control and Prevention; in the event of a positive result, a reliable supplemental test based upon recommendations of the United States Centers for Disease Control and Prevention shall be administered. The results of the tests and any follow-up tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim, to the defendant, to the State's Attorney, and to the judge who entered the order, for the judge's inspection in camera. The judge shall provide to the victim a referral to the Illinois Department of Public Health HIV/AIDS toll-free hotline for counseling and information in connection with the test result. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to

determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

(1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.

(2) An offer to the victim of testing for the presence of such controlled substances.

(3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.

(4) A statement that the test is completely voluntary.

(5) A form for written authorization for sample analysis of all controlled substances and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.

Current through P.A. 98-0761, eff. July 16, 2014.

Criminal Sexual Assault

720 ILCS 5/11-1.20

(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:

(1) uses force or threat of force;

(2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;

(3) is a family member of the victim, and the victim is under 18 years of age; or

(4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

(b) Sentence.

(1) Criminal sexual assault is a Class 1 felony, except that:

(A) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years, except that if the person is under the age of 18 years at the time of the offense, he or she shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) to apply.

(B) A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) to apply. An offender under the age of 18 years at the time of the commission of the offense covered by this subparagraph (B) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

(C) A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4) or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

Current through P.A. 99-0069, eff. Jan. 1, 2016.

Aggravated Criminal Sexual Assault

720 ILCS 5/11-1.30

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

(3) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;

(5) the victim is 60 years of age or older;

(6) the victim is a person with a physical disability;

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;

(9) the person personally discharges a firearm during the commission of the offense; or

(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and: (i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated criminal sexual assault in violation of paragraphs (1) through (10) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

(2) A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply. An offender under the age of 18 years at the time of the commission of the offense covered by this paragraph (2) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

Current through P.A. 99-0642, eff. July 28, 2016.

Predatory Criminal Sexual Assault of a Child

720 ILCS 5/11-1.40

(a) A person commits predatory criminal sexual assault of a child if that person is 17 years of age or older, and commits an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused, or an act of sexual penetration, and:

(1) the victim is under 13 years of age; or

(2) the victim is under 13 years of age and that person:

(A) is armed with a firearm;

(B) personally discharges a firearm during the commission of the offense;

(C) causes great bodily harm to the victim that:

(i) results in permanent disability; or

(ii) is life threatening; or

(D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes.

(b) Sentence.

(1) A person convicted of a violation of subsection (a)(1) commits a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A person convicted of a violation of subsection (a)(2)(A) commits a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(B) commits a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a violation of subsection (a)(2)(C) commits a Class X felony

for which the person shall be sentenced to a term of imprisonment of not less than 50 years or up to a term of natural life imprisonment. An offender under the age of 18 years at the time of the commission of predatory criminal sexual assault of a child in violation of subsections (a)(1), (a)(2)(A), (a)(2)(B), and (a)(2)(C) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

(1.1) A person convicted of a violation of subsection (a)(2)(D) commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years and not more than 60 years. An offender under the age of 18 years at the time of the commission of predatory criminal sexual assault of a child in violation of subsection (a)(2)(D) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

(1.2) A person who has attained the age of 18 years at the time of the commission of the offense and convicted of predatory criminal sexual assault of a child committed against 2 or more persons regardless of whether the offenses occurred as the result of the same act or of several related or unrelated acts shall be sentenced to a term of natural life imprisonment and an offender under the age of 18 years at the time of the commission of the offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

(2) A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of predatory criminal sexual assault of a child, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted of the offense of criminal sexual assault or the offense of aggravated criminal sexual assault, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of predatory criminal sexual assault of a child, the offense of aggravated criminal sexual assault or the offense of criminal sexual assault, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply. An offender under the age of 18 years at the time of the commission of the offense covered by this paragraph (2) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

Current through P.A. 99-0069, eff. Jan. 1, 2016.

Criminal Sexual Abuse

720 ILCS 5/11-1.50

(a) A person commits criminal sexual abuse if that person:

(1) commits an act of sexual conduct by the use of force or threat of force; or

(2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

(b) A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

(c) A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.

(d) Sentence. Criminal sexual abuse for a violation of subsection (b) or (c) of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph (1) or (2) of subsection (a) of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. For purposes of this Section it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section.

Current through P.A. 96-1551, eff. July 1, 2011.

Aggravated Criminal Sexual Abuse

720 ILCS 5/11-1.60

(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim;

(3) the victim is 60 years of age or older;

(4) the victim is a person with a physical disability;

(5) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception.

(b) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.

(c) A person commits aggravated criminal sexual abuse if:

(1) that person is 17 years of age or over and: (i) commits an act of sexual conduct with a victim who is under 13 years of age; or (ii) commits an act of sexual

conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or

(2) that person is under 17 years of age and: (i) commits an act of sexual conduct with a victim who is under 9 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.

(d) A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.

(e) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a person with a severe or profound intellectual disability.

(f) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse for a violation of subsection (a), (b), (c), (d) or (e) of this Section is a Class 2 felony. Aggravated criminal sexual abuse for a violation of subsection (f) of this Section is a Class 1 felony.

Current through P.A.102-0567, eff. Jan. 1, 2022.

Defenses with Respect to Offenses Described in Sections 11-1.20 through 11-1.60

720 ILCS 5/11-1.70

(a) It shall be a defense to any offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code where force or threat of force is an element of the offense that the victim consented.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 11-1.50 and subsection (d) of Section 11-1.60 of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

Current through P.A.102-0567, eff. Jan. 1, 2022.

Civil Liability

720 ILCS 5/11-1.80

(a) If any person has been convicted of any offense defined in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of this Act, a victim of such offense has a cause of action for damages against any person or entity who, by the manufacture, production, or wholesale distribution of any obscene material which was possessed or viewed by the person convicted of the offense, proximately caused

such person, through his or her reading or viewing of the obscene material, to commit the violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16. No victim may recover in any such action unless he or she proves by a preponderance of the evidence that: (1) the reading or viewing of the specific obscene material manufactured, produced, or distributed wholesale by the defendant proximately caused the person convicted of the violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 to commit such violation and (2) the defendant knew or had reason to know that the manufacture, production, or wholesale distribution of such material was likely to cause a violation of an offense substantially of the type enumerated.

(b) The manufacturer, producer or wholesale distributor shall be liable to the victim for:

(1) actual damages incurred by the victim, including medical costs;

(2) court costs and reasonable attorneys fees;

(3) infliction of emotional distress;

(4) pain and suffering; and

(5) loss of consortium.

(c) Every action under this Section shall be commenced within 3 years after the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-15 or 12-16 of this Code. However, if the victim was under the age of 18 years at the time of the conviction of the defendant for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code, an action under this Section shall be commenced within 3 years after the victim attains the age of 18 years.

(d) For the purposes of this Section:

(1) “obscene” has the meaning ascribed to it in subsection (b) of Section 11-20 of this Code;

(2) “wholesale distributor” means any individual, partnership, corporation, association, or other legal entity which stands between the manufacturer and the retail seller in purchases, consignments, contracts for sale or rental of the obscene material;

(3) “producer” means any individual, partnership, corporation, association, or other legal entity which finances or supervises, to any extent, the production or making of obscene material;

(4) “manufacturer” means any individual, partnership, corporation, association, or other legal entity which manufacturers, assembles or produces obscene material.

Current through P.A. 97-1109, eff. Jan. 1, 2013.

Indecent Solicitation of a Child

720 ILCS 5/11-6

(a) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person, with the intent that the offense of aggravated criminal sexual assault, criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed, knowingly solicits a child or one whom he or she believes to be a child to perform an act of sexual penetration or sexual conduct as defined in Section 11-0.1 of this Code.

(a-5) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person knowingly discusses an act of sexual conduct or sexual penetration with a child or with one whom he or she believes to be a child by means of the Internet with the intent that the offense of aggravated criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed.

(a-6) It is not a defense to subsection (a-5) that the person did not solicit the child to perform sexual conduct or sexual penetration with the person.

(b) Definitions. As used in this Section:

"Solicit" means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, or by advertisement of any kind.

"Child" means a person under 17 years of age.

"Internet" has the meaning set forth in Section 16-0.1 of this Code.

"Sexual penetration" or "sexual conduct" are defined in Section 11-0.1 of this Code.

(c) Sentence. Indecent solicitation of a child under subsection (a) is:

(1) a Class 1 felony when the act, if done, would be predatory criminal sexual assault of a child or aggravated criminal sexual assault;

(2) a Class 2 felony when the act, if done, would be criminal sexual assault;

(3) a Class 3 felony when the act, if done, would be aggravated criminal sexual abuse.

Indecent solicitation of a child under subsection (a-5) is a Class 4 felony.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Indecent Solicitation of an Adult

720 ILCS 5/11-6.5

(a) A person commits indecent solicitation of an adult if the person knowingly:

(1) Arranges for a person 17 years of age or over to commit an act of sexual penetration as defined in Section 11-0.1 with a person:

(i) Under the age of 13 years; or

(ii) Thirteen years of age or over but under the age of 17 years; or

(2) Arranges for a person 17 years of age or over to commit an act of sexual conduct as defined in Section 11-0.1 with a person:

(i) Under the age of 13 years; or

(ii) Thirteen years of age or older but under the age of 17 years.

(b) Sentence.

(1) Violation of paragraph (a)(1)(i) is a Class X felony.

(2) Violation of paragraph (a)(1)(ii) is a Class 1 felony.

(3) Violation of paragraph (a)(2)(i) is a Class 2 felony.

(4) Violation of paragraph (a)(2)(ii) is a Class A misdemeanor.

(c) For the purposes of this Section, “arranges” includes but is not limited to oral or written communication and communication by telephone, computer, or other electronic means. “Computer” has the meaning ascribed to it in Section 17-0.5 of this Code.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Solicitation to Meet a Child

720 ILCS 5/11-6.6

(a) A person of the age of 18 or more years commits the offense of solicitation to meet a child if the person while using a computer, cellular telephone, or any other device, with the intent to meet a child or one whom he or she believes to be a child, solicits, entices, induces, or arranges with the child to meet at a location without the knowledge of the child’s parent or guardian and the meeting with the child is arranged for a purpose other than a lawful purpose under Illinois law.

(b) Sentence. Solicitation to meet a child is a Class A misdemeanor. Solicitation to meet a child is a Class 4 felony when the solicitor believes he or she is 5 or more years older than the child.

(c) For purposes of this Section, “child” means any person under 17 years of age; and “computer” has the meaning ascribed to it in Section 17-0.5 of this Code.

Current through P.A. 101-0087, eff. Jan 1, 2020.

Major Sex Crimes: Overview of Criminal Charges

Victim Age	Accused Age	Sexual Activity	Offense	Penalty	Citation
Child & Teen Victims					
0 thru 8	Under 17	Sexual Penetration Sexual Conduct	ACSAs ACSAb	Class X Class 2	§11-1.30(b)(i) §11-1.60(c)(2)(i)
0 thru 12	17 or older	Sexual Penetration or Contact*	PCSAs	Class X	§11-1.40(a)
0 thru 12	17 or older	Sexual Conduct	ACSAb	Class 2	§11-1.60(c)(1)(i)
9 thru 12	Under 17	Sexual Penetration + Force	ACSAs	Class X	§11-1.30(b)(ii)
9 thru 16	Under 17	Sexual Penetration or Sexual Conduct	CSAb	Class A (M)	§11-1.50(b)
9 thru 16	Under 17	Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(c)(2)(ii)
13 thru 16	Less than 5 years older	Sexual Penetration or Sexual Conduct	CSAb	Class A (M)	§11-1.50(c)
13 thru 16	At least 5 years older	Sexual Penetration or Sexual Conduct	ACSAb	Class 2	§11-1.60(d)
13 thru 16	17 or older	Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(c)(1)(ii)
13 thru 17	17 or older, position of trust, authority, or supervision	Sexual Penetration Sexual Conduct	CSAs ACSAb	Class 1 Class 1	§11-1.20(a)(4) §11-1.60(f)
Family Members					
0 thru 17	Any family member	Sexual Penetration Sexual Conduct	CSAs ACSAb	Class 1 Class 2	§11-1.20(a)(3) §11-1.60(b)
Adult Victims					
Any age	Any age	Sexual Penetration + Force	CSAs	Class 1	§11-1.20(a)(1)
Any age	Any age	Sexual Penetration + Force or Unable to Understand or Give Consent + Aggravating Factor	ACSAs	Class X	§11-1.30(a)
Any age	Any age	Sexual Conduct + Force	CSAb	Class 4	§11-1.50(a)(1)
Any age	Any age	Sexual Conduct + Force or Unable to Understand or Give Consent + Aggravating Factor	ACSAb	Class 2	§11-1.60(a)
60 + up	Any age	Sexual Penetration + Force or Unable to Understand or Give Consent	ACSAs	Class X	§11-1.30(a)(5)
60 + up	Any age	Sexual Conduct + Force or Unable to Understand or Give Consent	ACSAb	Class 2	§11-1.60(a)(3)
Victims with a Disability or Victims Unable to Understand Act or Give Consent					
Physical disability	Any age	Sexual Penetration + Force or Unable to Understand or Give Consent	ACSAs	Class X	§11-1.30(a)(6)
Physical disability	Any age	Sexual Conduct + Force or Unable to Understand or Give Consent	ACSAb	Class 2	§11-1.60(a)(4)
Severe or profound intellectual disability	Any age	Sexual Penetration Sexual Conduct	ACSAs ACSAb	Class X Class 2	§11-1.30(c) §11-1.60(e)
Unable to understand act or give consent	Any age	Sexual Penetration Sexual Conduct	CSAs CSAb	Class 1 Class 4	§11-1.20(a)(2) §11-1.50(a)(2)

KEY: **ACSAb = Aggravated Criminal Sexual Abuse** **CSAb = Criminal Sexual Abuse**
ACSAs = Aggravated Criminal Sexual Assault **CSAs = Criminal Sexual Assault**
PCSAs = Predatory Criminal Sexual Assault **M = Misdemeanor**

Note: "Force" as used in this chart = "force or threat of force" as defined in 720 ILCS 5/11-0.1

***"Contact" as used in PCSAs = an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused

Criminal Sexual Assault Laws

Criminal Sexual Assault 720 ILCS 5/11-1.20	Aggravated Criminal Sexual Assault 720 ILCS 5/11-1.30	Predatory Criminal Sexual Assault 720 ILCS 5/11-1.40
Sexual Penetration **+** **1 of 4 circumstances:** 1. Force or threat of force 2. Victim unable to understand nature of act or give knowing consent 3. Victim under 18 years and accused is family member** 4. Victim at least 13 years but under 18 years and accused was 17 years or over and held position of trust, authority, or supervision in relation to the victim	**Criminal Sexual Assault** **+** **1 aggravating factor:** 1. Dangerous weapon 2. Bodily harm* 3. Threatened/endangered life of victim/other 4. Commission of other felony 5. Victim 60 or older 6. Victim has physical disability 7. Accused delivered any controlled substance to victim 8. Accused armed with firearm 9. Accused discharged firearm 10. Accused discharged firearm; great bodily harm, disability, disfigurement or death **OR** **Sexual Penetration +** **1 of 3 circumstances:** A. Victim = 8 or under Accused = under 17 years B. Victim = 9 thru 12 + force/threat of force Accused = under 17 years C. Victim = person w/ severe or profound intellectual disability	**Sexual Penetration or Contact (for sexual gratification or arousal)** **+** **Accused = 17 years or older** **Victim = 12 years or under** **OR** **Sexual Penetration/Contact (for sexual gratification or arousal)** **+** **Accused = 17 years or older** **Victim = 12 years or under** **+** **1 of 4 circumstances:** A. Accused armed with firearm B. Accused discharged firearm C. Accused caused great bodily harm to victim that: (i) resulted in permanent disability; or (ii) was life threatening D. Delivered any controlled substance to victim
* Bodily harm = physical harm, and includes, but is not limited to, STDs, pregnancy, and impotence ** Family member = parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle (by whole blood, half-blood, or adoption); includes step-grandparent, step-parent, or step-child, or person who resided in the household for 6 months with child under 18		
• First conviction: Class 1 felony: 4-15 years • Second or subsequent conviction: Class X felony: 6-30 years; 30-60 years; or natural life	• First conviction: Class X felony: 6-30 years • Possible enhanced penalty for #1: + 10 years; #8: + 15 years; #9: + 20 years; #10: + 25 years to natural life • Second or subsequent conviction: Class X felony: natural life	• First conviction: Class X felony: 6-60 years • Possible enhanced penalty for A: + 15 years; B: + 20 years; C: + 50 years to natural life; and D: 50-60 years; 2 or more victims = natural life • Second or subsequent conviction: Class X felony = natural life
Defenses: 1) Denial of Act; 2) Consent, if force is element; 3) Accused reasonably believed the person was 17, if age is element – 720 ILCS 5/11-1.70		
Statutes of Limitation: (Unless otherwise provided) Felony = 3 years Misdemeanor = 18 months	**Extended Statutes of Limitation:** Adult victim: Any offense involving sexual conduct or sexual penetration = No SOL (effective January 1, 2020; prior to that, 10 years if reported within 3 years) Minor victim: Felony = No SOL; Misdemeanor = until age 28	

Criminal Sexual Abuse Laws

Criminal Sexual Abuse 720 ILCS 5/11-1.50	Aggravated Criminal Sexual Abuse 720 ILCS 5/11-1.60
Sexual Conduct **+** **1 of 2 circumstances:** 1. Force or threat of force 2. Victim unable to understand nature of act or give knowing consent First conviction: Class 4 felony Probation or 1-3 years incarceration Second or subsequent conviction: Class 2 felony: Probation or 3-7 years incarceration **OR** **Sexual Conduct or Penetration** **+** **1 of 2 circumstances** 1. Victim = 9 thru 16 Accused = under 17 years 2. Victim = 13 thru 16 Accused = less than 5 years older First or subsequent conviction: Class A misdemeanor Up to 1 year incarceration	**Criminal Sexual Abuse** **+** **any of the following aggravating factors:** 1. Dangerous weapon 2. Bodily harm* 3. Victim 60 or older 4. Victim has physical disability 5. Threatening life of victim or other 6. Commission of other felony 7. Accused delivered any controlled substance to victim **OR** **Sexual Conduct + 1 of 8 circumstances** 1. Victim = 17 years or under; Accused = family member** 2. Victim = 12 years or under; Accused = 17 years or older 3. Victim = 13-16 years; Accused = 17 years or older and force or threat of force 4. Victim = 8 years or under; Accused = under 17 years 5. Victim = 9- 16; Accused = under 17 years and force or threat of force 6. Sexual conduct or sexual penetration: Victim = 13-16; Accused = at least 5 years older than victim 7. Victim = person with severe or profound intellectual disability 8. Victim = Under 18; Accused = 17 years or older and held position of trust, authority, or supervision in relation to victim All except #8 = Class 2 felony: Probation or 3-7 years incarceration For #8 = Class 1 felony: 4-15 years incarceration
* Bodily harm = physical harm, and includes, but is not limited to, STDs, pregnancy, and impotence ** Family member = parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle (by whole blood, half-blood, or adoption); includes step-grandparent, step-parent, or step-child, or resided for 6 months with child under 18	
Defenses: 1) Denial of act; 2) Consent, if force is element; 3) Accused reasonably believed the person was 17, if age is element – 720 ILCS 5/11-1.70	
Statutes of Limitation: (Unless otherwise provided) Felony = 3 years Misdemeanor = 18 months	**Extended Statutes of Limitation:** Adult victim: Any offense involving sexual conduct or sexual penetration = No SOL (effective January 1, 2020; prior to that, 10 years if reported to law enforcement within 3 years) Minor victim: Felony = No SOL; Misdemeanor = until age 28

VULNERABLE VICTIM OFFENSES

Sexual Exploitation of a Child

720 ILCS 5/11-9.1

(a) A person commits sexual exploitation of a child if in the presence or virtual presence, or both, of a child and with knowledge that a child or one whom he or she believes to be a child would view his or her acts, that person:

(1) engages in a sexual act; or

(2) exposes his or her sex organs, anus or breast for the purpose of sexual arousal or gratification of such person or the child or one whom he or she believes to be a child; or

(3) knowingly entices, coerces, or persuades a child to participate in the production of the recording or memorializing a sexual act of persons ages 18 or older.

(a-5) A person commits sexual exploitation of a child who knowingly entices, coerces, or persuades a child to remove the child's clothing for the purpose of sexual arousal or gratification of the person or the child, or both.

(b) Definitions. As used in this Section:

"Sexual act" means masturbation, sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

"Sex offense" means any violation of Article 11 of this Code.

"Child" means a person under 17 years of age.

"Virtual presence" means an environment that is created with software and presented to the user and or receiver via the Internet, in such a way that the user appears in front of the receiver on the computer monitor or screen or hand-held portable electronic device, usually through a web camming program. "Virtual presence" includes primarily experiencing through sight or sound, or both, a video image that can be explored interactively at a personal computer or hand-held communication device, or both.

"Webcam" means a video capturing device connected to a computer or computer network that is designed to take digital photographs or live or recorded video which allows for the live transmission to an end user over the Internet.

(c) Sentence.

(1) Sexual exploitation of a child is a Class A misdemeanor. A second or subsequent violation of this Section or a substantially similar law of another state is a Class 4 felony.

(2) Sexual exploitation of a child is a Class 4 felony if the person has been previously convicted of a sex offense.

(3) Sexual exploitation of a child is a Class 4 felony if the victim was under 13 years of age at the time of the commission of the offense.

(4) Sexual exploitation of a child is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

(5) A violation of paragraph (3) of subsection (a) is a Class 4 felony.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Permitting Sexual Abuse of a Child

720 ILCS 5/11-9.1A

(a) A person responsible for a child's welfare commits permitting sexual abuse of a child if the person has actual knowledge of and permits an act of sexual abuse upon the child, or permits the child to engage in prostitution as defined in Section 11-14 of this Code.

(b) In this Section:

"Actual knowledge" includes credible allegations made by the child.

"Child" means a minor under the age of 17 years.

"Person responsible for the child's welfare" means the child's parent, step-parent, legal guardian, or other person having custody of a child, who is responsible for the child's care at the time of the alleged sexual abuse.

"Prostitution" means prostitution as defined in Section 11-14 of this Code.

"Sexual abuse" includes criminal sexual abuse or criminal sexual assault as defined in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

(c) This Section does not apply to a person responsible for the child's welfare who, having reason to believe that sexual abuse has occurred, makes timely and reasonable efforts to stop the sexual abuse by reporting the sexual abuse in conformance with the Abused and Neglected Child Reporting Act or by reporting the sexual abuse, or causing a report to be made, to medical or law enforcement authorities or anyone who is a mandated reporter under Section 4 of the Abused and Neglected Child Reporting Act.

(d) Whenever a law enforcement officer has reason to believe that the child or the person responsible for the child's welfare has been abused by a family or household member as defined by the Illinois Domestic Violence Act of 1986, the officer shall immediately use all reasonable means to prevent further abuse under Section 112A-30 of the Code of Criminal Procedure of 1963.

(e) An order of protection under Section 111-8 of the Code of Criminal Procedure of 1963 shall be sought in all cases where there is reason to believe that a child has been sexually abused by a family or household member. In considering appropriate available remedies, it shall be presumed that awarding physical care or custody to the abuser is not in the child's best interest.

(f) A person may not be charged with the offense of permitting sexual abuse of a child under this Section until the person who committed the offense is charged with criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, or prostitution.

(g) A person convicted of permitting the sexual abuse of a child is guilty of a Class 1 felony. As a condition of any sentence of supervision, probation, conditional discharge, or

mandatory supervised release, any person convicted under this Section shall be ordered to undergo child sexual abuse, domestic violence, or other appropriate counseling for a specified duration with a qualified social or mental health worker.

(h) It is an affirmative defense to a charge of permitting sexual abuse of a child under this Section that the person responsible for the child's welfare had a reasonable apprehension that timely action to stop the abuse or prostitution would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Failure to Report Sexual Abuse of a Child

720 ILCS 5/11-9.1B

(a) For the purposes of this Section:

"Child" means any person under the age of 13.

"Sexual abuse" means any contact, however slight, between the sex organ or anus of the victim or the accused and an object or body part, including, but not limited to, the sex organ, mouth, or anus of the victim or the accused, or any intrusion, however slight, of any part of the body of the victim or the accused or of any animal or object into the sex organ or anus of the victim or the accused, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual abuse.

(b) A person over the age of 18 commits failure to report sexual abuse of a child when he or she personally observes sexual abuse, as defined by this Section, between a person who he or she knows is over the age of 18 and a person he or she knows is a child, and knowingly fails to report the sexual abuse to law enforcement.

(c) This Section does not apply to a person who makes timely and reasonable efforts to stop the sexual abuse by reporting the sexual abuse in conformance with the Abused and Neglected Child Reporting Act or by reporting the sexual abuse or causing a report to be made, to medical or law enforcement authorities or anyone who is a mandated reporter under Section 4 of the Abused and Neglected Child Reporting Act.

(d) A person may not be charged with the offense of failure to report sexual abuse of a child under this Section until the person who committed the offense is charged with criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse.

(e) It is an affirmative defense to a charge of failure to report sexual abuse of a child under this Section that the person who personally observed the sexual abuse had a reasonable apprehension that timely action to stop the abuse would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

(f) Sentence. A person who commits failure to report sexual abuse of a child is guilty of a Class A misdemeanor for the first violation and a Class 4 felony for a second or subsequent violation.

(g) Nothing in this Section shall be construed to allow prosecution of a person who personally observes the act of sexual abuse and assists with an investigation and any subsequent prosecution of the offender.

Current through P.A. 98-0756, eff. July 16, 2014.

Custodial Sexual Misconduct

720 ILCS 5/11-9.2

(a) A person commits custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system; (2) he or she is an employee of a treatment and detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility; or (3) he or she is an employee of a law enforcement agency and engages in sexual conduct or sexual penetration with a person who is in the custody of a law enforcement agency or employee.

(b) A probation or supervising officer, or surveillance agent, or aftercare specialist commits custodial sexual misconduct when the probation or supervising officer, surveillance agent, or aftercare specialist engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent or employee so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a law enforcement agency, a penal system, treatment and detention facility, or conditional release program.

(e) In this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act, or person in the custody of a law enforcement agency or employee shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act, or a person in the custody of a law enforcement agency or employee.

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, surveillance agent, or aftercare specialist who is lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, surveillance agent, or aftercare specialist who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(0.5) “Aftercare specialist” means any person employed by the Department of Juvenile Justice to supervise and facilitate services for persons placed on aftercare release.

(1) “Custody” means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;

(iii) parole, aftercare release, or mandatory supervised release;

(iv) electronic monitoring or home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under the Sexually Violent Persons Commitment Act; or

(vii) detained or arrest by a law enforcement agency or employee.

(2) “Penal system” means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act.

(2.1) “Treatment and detention facility” means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) “Conditional release” means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) “Employee” means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g)(2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a “treatment and detention facility” as defined in paragraph (g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code; or

(iv) an employee of a law enforcement agency.

(3.5) “Law enforcement agency” means an agency of the State or of a unit of local government charged with enforcement of State, county, or municipal laws or with

managing custody of detained persons in the State, but not including a State's Attorney.

(4) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(5) "Probation officer" means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.

(6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.

(7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act.

Current through P.A. 101-0081, eff. July 12, 2019.

Lewd Sexual Display in a Penal Institution

720 ILCS 5/11-9.2-1

(a) A person commits lewd sexual display in a penal institution when he or she is in the custody of a penal institution and knowingly engages in any of the following acts while he or she is confined in a penal institution: engages in a lewd exposure of the genitals or anus, for the purpose or effect of intimidating, harassing, or threatening one whom he or she believes to be in the presence or view of such acts. For purposes of this Section, "penal institution" does not include a facility of the Department of Juvenile Justice or a juvenile detention facility.

(b) Sentence. Lewd sexual display in a penal institution is a Class A misdemeanor. A person convicted of a second or subsequent violation for lewd sexual display in a penal institution is guilty of a Class 4 felony.

(c) A person charged with a violation of this Section shall be eligible for an evaluation for a mental health court program under the Mental Health Court Treatment Act, the provisions of Section 20 of that Act notwithstanding, and shall be given an eligibility screening and an assessment, pursuant to the provisions of Section 25 of the Mental Health Court Treatment Act, administered by a qualified mental health court professional independent of the penal institution where the individual is in custody.

(d) Notwithstanding the provisions of subsection (e) of Section 25 of the Mental Health Court Treatment Act, a person who has been charged with a violation of this Section shall not be liable for any fines, fees, costs, or restitution unless the person fails to successfully complete that person's court-ordered mental health court treatment program.

(e) All charges against a person for a violation of this Section shall be dismissed upon the court's determination that the person has successfully completed the person's court-ordered mental health court treatment program. Unwillingness to participate in a court-ordered mental health court treatment program may result in prosecution under this Section. Failure to complete a mental health treatment court program shall have the consequences prescribed by the rules and regulations of that treatment court program.

(f) A person is not guilty of a violation of this Section for engaging in the conduct prohibited by this Section, if any of the following are true:

(1) the person is under 18 years of age or not confined to a penal institution;

(2) the person suffered from a behavioral health issue at the time of the prohibited conduct and that behavioral health issue was the direct cause for the person having engaged in the prohibited conduct; or

(3) the person was not in the actual presence or view of another person.

(g) This Section is repealed on January 1, 2028.

Current through P.A. 103-0283, eff. Jan. 1, 2024.

Presence Within School Zone by Child Sex Offenders Prohibited; Approaching, Contacting, Residing with, or Communicating with a Child Within Certain Places by Child Sex Offenders Prohibited

720 ILCS 5/11-9.3

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(a-5) It is unlawful for a child sex offender to knowingly be present within 100 feet of a site posted as a pick-up or discharge stop for a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when one or more persons under the age of 18 are present at the site.

(a-10) It is unlawful for a child sex offender to knowingly be present in any public park building, a playground or recreation area within any publicly accessible privately owned building, or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with

a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(b-2) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and was purchased before July 7, 2000 (the effective date of Public Act 91-911).

(b-10) It is unlawful for a child sex offender to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before July 7, 2000. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or part day child care facility if the property is owned by the child sex offender and was purchased before June 26, 2006. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a day care home or group day care home if the property is owned by the child sex offender and was purchased before August 14, 2008 (the effective date of Public Act 95-821).

(b-15) It is unlawful for a child sex offender to knowingly reside within 500 feet of the victim of the sex offense. Nothing in this subsection (b-15) prohibits a child sex offender from residing within 500 feet of the victim if the property in which the child sex offender resides is owned by the child sex offender and was purchased before August 22, 2002.

This subsection (b-15) does not apply if the victim of the sex offense is 21 years of age or older.

(b-20) It is unlawful for a child sex offender to knowingly communicate, other than for a lawful purpose under Illinois law, using the Internet or any other digital media, with a person under 18 years of age or with a person whom he or she believes to be a person under 18 years of age, unless the offender is a parent or guardian of the person under 18 years of age.

(c) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, volunteer at, be associated with, or knowingly be present at any: (i) facility providing programs or services exclusively directed toward persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution; (v) school providing before and after school programs for children under 18 years of age; (vi) day care home; or (vii) group day care home. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered or upon which the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is located, provided the child sex offender refrains from being present on the premises for the hours during which: (1) the programs or services are being offered or (2) the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age, day care home, or group day care home is operated.

(c-2) It is unlawful for a child sex offender to participate in a holiday event involving children under 18 years of age, including but not limited to distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter. For the purposes of this subsection, child sex offender has the meaning as defined in this Section, but does not include as a sex offense under paragraph (2) of subsection (d) of this Section, the offense under subsection (c) of Section 11-1.50 of this Code. This subsection does not apply to a child sex offender who is a parent or guardian of children under 18 years of age that are present in the home and other non-familial minors are not present.

(c-5) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, or be associated with any carnival, amusement enterprise, or county or State fair when persons under the age of 18 are present.

(c-6) It is unlawful for a child sex offender who owns and resides at residential real estate to knowingly rent any residential unit within the same building in which he or she resides to a person who is the parent or guardian of a child or children under 18 years of age. This subsection shall apply only to leases or other rental arrangements entered into after January 1, 2009 (the effective date of Public Act 95-820).

(c-7) It is unlawful for a child sex offender to knowingly offer or provide any programs or services to persons under 18 years of age in his or her residence or the residence of another or in any facility for the purpose of offering or providing such programs or

services, whether such programs or services are offered or provided by contract, agreement, arrangement, or on a volunteer basis.

(c-8) It is unlawful for a child sex offender to knowingly operate, whether authorized to do so or not, any of the following vehicles: (1) a vehicle which is specifically designed, constructed or modified and equipped to be used for the retail sale of food or beverages, including but not limited to an ice cream truck; (2) an authorized emergency vehicle; or (3) a rescue vehicle.

(d) Definitions.

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Note: To view the Definitions section, please refer to www.ilga.gov.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Sexual Predator and Child Sex Offender; Presence or Loitering in or Near Public Parks Prohibited

720 ILCS 5/11-9.4-1

(a) For the purposes of this Section:

"Child sex offender" has the meaning ascribed to it in subsection (d) of Section 11-9.3 of this Code, but does not include as a sex offense under paragraph (2) of subsection (d) of Section 11-9.3, the offenses under subsections (b) and (c) of Section 11-1.50 or subsections (b) and (c) of Section 12-15 of this Code.

"Public park" includes a park, forest preserve, bikeway, trail, or conservation area under the jurisdiction of the State or a unit of local government.

"Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

"Sexual predator" has the meaning ascribed to it in subsection (E) of Section 2 of the Sex Offender Registration Act.

(b) It is unlawful for a sexual predator or a child sex offender to knowingly be present in any public park building or on real property comprising any public park.

(c) It is unlawful for a sexual predator or a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park. For the purposes of this subsection (c), the 500 feet distance shall be measured from the edge of the property comprising the public park building or the real property comprising the public park.

(d) Sentence. A person who violates this Section is guilty of a Class A misdemeanor, except that a second or subsequent violation is a Class 4 felony.

Current through P.A. 97-1109, eff. Jan. 1, 2013.

Sexual Misconduct with a Person with a Disability

720 ILCS 5/11-9.5

(a) Definitions. As used in this Section:

(1) “Person with a disability” means:

(i) a person diagnosed with a developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code; or

(ii) a person diagnosed with a mental illness as defined in Section 1-129 of the Mental Health and Developmental Disabilities Code.

(2) “State-operated facility” means:

(i) a developmental disability facility as defined in the Mental Health and Developmental Disabilities Code; or

(ii) a mental health facility as defined in the Mental Health and Developmental Disabilities Code.

(3) “Community agency” or “agency” means any community entity or program providing residential mental health or developmental disabilities services that is licensed, certified, or funded by the Department of Human Services and not licensed or certified by any other human service agency of the State such as the Departments of Public Health, Healthcare and Family Services, and Children and Family Services.

(4) “Care and custody” means admission to a State-operated facility.

(5) “Employee” means:

(i) any person employed by the Illinois Department of Human Services;

(ii) any person employed by a community agency providing services at the direction of the owner or operator of the agency on or off site; or

(iii) any person who is a contractual employee or contractual agent of the Department of Human Services or the community agency. This includes but is not limited to payroll personnel, contractors, subcontractors, and volunteers.

(6) “Sexual conduct” or “sexual penetration” means any act of sexual conduct or sexual penetration as defined in Section 11-0 of this Code.

(b) A person commits sexual misconduct with a person with a disability when:

(1) he or she is an employee and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility; or

(2) he or she is an employee of a community agency funded by the Department of Human Services and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is in a residential program operated or supervised by a community agency.

(c) For purposes of this Section, the consent of a person with a disability in custody of the Department of Human Services residing at a State-operated facility or receiving

services from a community agency shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a person with a disability and is receiving services at a State-operated facility or is a person with a disability who is in a residential program operated or supervised by a community agency.

(d) This Section does not apply to:

(1) any State employee or any community agency employee who is lawfully married to a person with a disability in custody of the Department of Human Services or receiving services from a community agency if the marriage occurred before the date of custody or the initiation of services at a community agency; or

(2) any State employee or community agency employee who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in sexual misconduct was a person with a disability in custody of the Department of Human Services or was receiving services from a community agency.

(e) Sentence. Sexual misconduct with a person with a disability is a Class 3 felony.

(f) Any person convicted of violating this Section shall immediately forfeit his or her employment with the State or the community agency.

Current through P.A. 96-1551, eff. July 1, 2011.

Sexual Relations Within Families

720 ILCS 5/11-11

(a) A person commits sexual relations within families if he or she:

(1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and

(2) The person knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half-blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

Current through P.A. 96-1551, eff. July 1, 2011.

PROSTITUTION OFFENSES

Prostitution

720 ILCS 5/11-14

(a) Any person who knowingly performs, offers or agrees to perform any act of sexual penetration as defined in Section 11-0.1 of this Code for anything of value, or any touching or fondling of the sex organs of one person by another person, for anything of value, for the purpose of sexual arousal or gratification commits an act of prostitution.

(b) Sentence. A violation of this Section is a Class A misdemeanor.

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(c-5) It is an affirmative defense to a charge under this Section that the accused engaged in or performed prostitution as a result of being a victim of involuntary servitude or trafficking in persons as defined in Section 10-9 of this Code.

(d) Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.

Current through P.A. 99-0109, eff. July 22, 2015.

Solicitation of a Sexual Act

720 ILCS 5/11-14.1

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value for that person or any other person not his or her spouse to perform any act of sexual penetration as defined in Section 11-0.1 of this Code, or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class A misdemeanor. Solicitation of a sexual act from a person who is under the age of 18 or who is a person with a severe or profound intellectual disability is a Class 4 felony. If the court imposes a fine under this subsection (b), it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

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(c) This Section does not apply to a person engaged in prostitution who is under 18 years of age.

(d) A person cannot be convicted under this Section if the practice of prostitution underlying the offense consists exclusively of the accused's own acts of prostitution under Section 11-14 of this Code.

Current through P.A. 102-0939, eff. Jan. 1, 2023.

Promoting Prostitution

720 ILCS 5/11-14.3

(a) Any person who knowingly performs any of the following acts commits promoting prostitution:

(1) advances prostitution as defined in Section 11-0.1;

(2) profits from prostitution by:

(A) compelling a person to become a person engaged in the sex trade;

(B) arranging or offering to arrange a situation in which a person may practice prostitution; or

(C) any means other than those described in subparagraph (A) or (B), including from a person who patronizes a person engaged in the sex trade. This paragraph (C) does not apply to a person engaged in prostitution who is under 18 years of age. A person cannot be convicted of promoting prostitution under this paragraph (C) if the practice of prostitution underlying the offense consists exclusively of the accused's own acts of prostitution under Section 11-14 of this Code.

(b) Sentence.

(1) A violation of subdivision (a)(1) is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony. A second or subsequent violation of subdivision (a)(1), or any combination of convictions under subdivision (a)(1), (a)(2)(A), or (a)(2)(B) and Section 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.4 (promoting commercial exploitation of a child), 11-15 (soliciting for a person engaged in the sex trrade), 11-15.1 (soliciting for a sexually exploited child), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of commercial sexual exploitation of a child), 11-18 (patronizing a person engaged in the sex trade), 11-18.1 (patronizing a sexually exploited child), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child), is a Class 3 felony.

(2) A violation of subdivision (a)(2)(A) or (a)(2)(B) is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony.

(3) A violation of subdivision (a)(2)(C) is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony. A second or subsequent violation of subdivision (a)(2)(C), or any combination of convictions under subdivision (a)(2)(C) and subdivision (a)(1), (a)(2)(A), or (a)(2)(B) of this Section (promoting prostitution), 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.4 (promoting commercial sexual

exploitation of a child), 11-15 (soliciting for a person engaged in the sex trade), 11-15.1 (soliciting for a sexually exploited child), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of commercial sexual exploitation of a child), 11-18 (patronizing a person engaged in the sex trade), 11-18.1 (patronizing a sexually exploited child), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child), is a Class 3 felony.

If the court imposes a fine under this subsection (b), it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

Current through P.A. 103-1071, eff. July 1, 2025.

Promoting Commercial Sexual Exploitation of a Child

720 ILCS 5/11-14.4

(a) Any person who knowingly performs any of the following acts commits promoting commercial sexual exploitation of a child:

(1) advances prostitution as defined in Section 11-0.1, where the minor engaged in prostitution, or any person engaged in prostitution in the place, is under 18 years of age or is a person with a severe or profound intellectual disability at the time of the offense;

(2) profits from prostitution by any means where the person engaged in the sex trade is a sexually exploited child under 18 years of age or is a person with a severe or profound intellectual disability at the time of the offense;

(3) profits from prostitution by any means where the sexually exploited child is under 13 years of age at the time of the offense;

(4) confines a child under the age of 18 or a person with a severe or profound intellectual disability against his or her will by the infliction or threat of imminent infliction of great bodily harm or permanent disability or disfigurement or by administering to the child or the person with a severe or profound intellectual disability, without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(A) compels the child or the person with a severe or profound intellectual disability to engage in prostitution;

(B) arranges a situation in which the child or the person with a severe or profound intellectual disability may practice prostitution; or

(C) profits from prostitution by the child or the person with a severe or profound intellectual disability.

(b) For purposes of this Section, administering drugs, as defined in subdivision (a)(4), or an alcoholic intoxicant to a child under the age of 13 or a person with a severe or profound intellectual disability shall be deemed to be without consent if the administering is done

without the consent of the parents or legal guardian or if the administering is performed by the parents or legal guardian for other than medical purposes.

(c) If the accused did not have a reasonable opportunity to observe the person engaged in the sex trade, it is an affirmative defense to a charge of promoting commercial sexual exploitation of a child, except for a charge under subdivision (a)(4), that the accused reasonably believed the person was of the age of 18 years or over or was not a person with a severe or profound intellectual disability at the time of the act giving rise to the charge.

(d) Sentence. A violation of subdivision (a)(1) is a Class 1 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class X felony. A violation of subdivision (a)(2) is a Class 1 felony. A violation of subdivision (a)(3) is a Class X felony. A violation of subdivision (a)(4) is a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A second or subsequent violation of subdivision (a)(1), (a)(2), or (a)(3), or any combination of convictions under subdivision (a)(1), (a)(2), or (a)(3) and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-15 (soliciting for a person engaged in the sex trade), 11-15.1 (soliciting for a sexually exploited child), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of commercial sexual exploitation of a child), 11-18 (patronizing a person engaged in the sex trade), 11-18.1 (patronizing a sexually exploited child), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is a Class X felony.

(e) Forfeiture. Any person convicted of a violation of this Section that involves promoting commercial sexual exploitation of a child by keeping a place of commercial sexual exploitation of a child or convicted of a violation of subdivision (a)(4) is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(f) For the purposes of this Section, “person engaged in the sex trade” means any person who engages in, or agrees or offers to engage in, any act of sexual penetration as defined in Section 11-0.1 of this Code for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification.

Current through P.A. 103-1071, eff. July 1, 2025.

Patronizing a Person Engaged in the Sex Trade

720 ILCS 5/11-18

(a) Any person who knowingly performs any of the following acts with a person not his or her spouse commits patronizing a person engaged in the sex trade:

(1) Engages in an act of sexual penetration as defined in Section 11-0.1 of this Code with a person engaged in the sex trade; or

(2) Enters or remains in a place of prostitution with intent to engage in an act of sexual penetration as defined in Section 11-0.1 of this Code; or

(3) Engages in any touching or fondling with a person engaged in the sex trade of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification.

(b) Sentence.

Patronizing a person engaged in the sex trade is a Class 4 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 3 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting commercial sexual exploitation of a child), 11-15 (soliciting for a person engaged in the sex trade), 11-15.1 (soliciting for a sexually exploited child), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 (keeping a place of commercial sexual exploitation of a child), 11-18.1 (patronizing a sexually exploited child), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is guilty of a Class 3 felony. If the court imposes a fine under this subsection (b), it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

(c) (Blank).

Current through P.A. 103-1071, eff. July 1, 2025.

Patronizing a Sexually Exploited Child

720 ILCS 5/11-18.1

(a) Any person who engages in an act of sexual penetration as defined in Section 11-0.1 of this Code with a person who is under 18 years of age engaged in prostitution who is under 18 years of age or is a person with a severe or profound intellectual disability commits patronizing a sexually exploited child.

(a-5) Any person who engages in any touching or fondling, with a person engaged in prostitution who either is a sexually exploited child or is a person with a severe or profound intellectual disability, of the sex organs of one person by the other person, with the intent to achieve sexual arousal or gratification, commits patronizing a sexually exploited child.

(b) It is an affirmative defense to the charge of patronizing sexually exploited child that the accused reasonably believed that the person was of the age of 18 years or over or was not a person with a severe or profound intellectual disability at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a sexually exploited child is guilty of a Class 3 felony, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 2 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14 (prostitution), 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting commercial sexual exploitation of a child), 11-15 (soliciting for a person engaged in the sex trade), 11-15.1 (soliciting for a sexually exploited child), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1

(keeping a place of commercial sexual exploitation of a child), 11-18 (patronizing a person engaged in the sex trade), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child) of this Code, is guilty of a Class 2 felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

Current through P.A. 103-1071, eff. July 1, 2025.

PORNOGRAPHY OFFENSES

Child Sexual Abuse Material

720 ILCS 5/11-20.1

(a) Recognizing the enormous negative societal impact that sexually explicit visual depictions of children engaged in sexual abuse activities have on the children who are abused, and the overarching broader impact these materials and imagery have at various levels to the public, especially when this material is disseminated, we are changing all references in Illinois statutes from “child pornography” to “child sexual abuse material”. It is important that the statutes of the State of Illinois reflect the content and realities of these materials as the sexual abuse and exploitation of children. The word “pornography” implied legality involving “consent” of which this imagery is not, as children can never “consent” to sexual abuse and sexual exploitation. This name change is not a change in meaning, definitions, statutes or application of the laws of this State and all previous references to “child pornography” are now encapsulated in “child sexual abuse materials”.

A person commits child sexual abuse material who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 18 or any person with a severe or profound intellectual disability where such child or person with a severe or profound intellectual disability is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or person with a severe or profound intellectual disability and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or person with a severe or profound intellectual disability and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or person with a severe or profound intellectual disability whom the person knows or reasonably should know to be under the age of 18 or to be a person with a severe or profound intellectual disability, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 or a person with a severe or profound intellectual disability engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 18 or a person with a severe or profound intellectual disability to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or person with a severe or profound intellectual disability is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 or a person with a severe or profound intellectual disability and who knowingly permits, induces, promotes, or arranges for such child or person with a severe or profound intellectual disability to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or person with a severe or profound intellectual disability whom the person knows or reasonably should know to be under the age of 18 or to be a person with a severe or profound intellectual disability, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces, a person to provide a child under the age of 18 or a person with a severe or profound intellectual disability to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or person with a severe or profound intellectual disability will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(a-5) The possession of each individual film, videotape, photograph, or other similar visual reproduction or depiction by computer in violation of this Section constitutes a single and separate violation. This subsection (a-5) does not apply to multiple copies of the same film, videotape, photograph, or other similar visual reproduction or depiction by computer that are identical to each other.

(b) (1) It shall be an affirmative defense to a charge of child sexual abuse material that the defendant reasonably believed, under all of the circumstances, that the child was 18 years of age or older or that the person was not a person with a severe or profound intellectual disability but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 18 years of age or older or that the person was not a person with a severe or profound intellectual disability and his or her reliance upon the information so obtained was clearly reasonable.

(1.5) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

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(3) The charge of child sexual abuse material shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers. In any criminal proceeding, any property or material that constitutes child sexual abuse material shall remain in the care, custody, and control of either the State or the court. A motion to view the evidence shall comply with subsection (e-5) of this Section.

(3.5) The charge of child pornography does not apply to the creator of a film, video, photograph, or other similar visual image or depiction in which the creator is the sole subject of the film, video, photograph, or other similar visual image or depiction.

(4) If the defendant possessed more than one of the same film, videotape or visual reproduction or depiction by computer in which child sexual abuse material is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child sexual abuse material is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class X felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class X felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(c-5) Where the child depicted is under the age of 13, a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a mandatory minimum fine of $1,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child sexual abuse material or child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Where the child depicted is under the age of 13, a person who commits a

violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child sexual abuse material or child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1,000 and a maximum fine of $100,000. The issue of whether the child depicted is under the age of 13 is an element of the offense to be resolved by the trier of fact.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 or a person with a severe or profound intellectual disability engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's Attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) “Depiction by computer” means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) “Computer”, “computer program”, and “data” have the meanings ascribed to them in Section 17.05 of this Code.

(7) For the purposes of this Section, “child sexual abuse material” includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is, or appears to be, that of a person, either in part, or in total, under the age of 18 or a person with a severe or profound intellectual disability, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such. “Child sexual abuse material” also includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is of a person under the age of 18 or a person with a severe or profound intellectual disability. “Child sexual abuse material” includes the depiction of a part of an actual child under the age of 18 who, by manipulation, creation, or modification, appears to be engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a).

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Current through P.A. 104-0245, eff. Jan. 1, 2026.

Obscene Depiction of a Purported Child

720 ILCS 5/11-20.4

(a) In this Section:

“Indistinguishable” means that the visual representation is such that an ordinary person viewing the visual representation would conclude that the visual representation is of an actual child.

“Obscene depiction” means a visual representation of any kind, including an image, video, or computer-generated image or video, whether made, produced, or altered by electronic, mechanical, or other means, that:

(i) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest;

(ii) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions, or lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks or, if such person is a female, the fully or partially developed breast of the child or other person; and

(iii) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

"Purported child" means a visual representation that depicts an individual indistinguishable from an actual child under the age of 18 but may or may not depict an actual child under the age of 18.

(b) A person commits obscene depiction of a purported child when, with knowledge of the nature or content thereof, the person:

(1) receives, obtains, or accesses in any way with the intent to view, any obscene depiction of a purported child; or

(2) reproduces, disseminates, offers to disseminate, exhibits, or possesses with intent to disseminate, any obscene depiction of a purported child.

(c) A violation of paragraph (1) of subsection (b) is a Class 3 felony, and a second or subsequent offense is a Class 2 felony. A violation of paragraph (2) of subsection (b) is a Class 1 felony, and a second or subsequent offense is a Class X felony.

(d) If the purported child depicted is indistinguishable from an actual child under the age of 13, a violation of paragraph (1) of subsection (b) is a Class 2 felony, and a second or subsequent offense is a Class 1 felony. If the purported child depicted is indistinguishable from an actual child under the age of 13, a violation of paragraph (2) of subsection (b) is a Class X felony, and a second or subsequent offense is a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years.

(e) Nothing in this Section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

(1) an interactive computer service, as defined in 47 U.S.C. 230(f)(2);

(2) a provider of public mobile services or private radio services, as defined in Section 13-214 of the Public Utilities Act; or

(3) a telecommunications network or broadband provider.

(f) A person convicted under this Section is subject to the forfeiture provisions in Article 124B of the Code of Criminal Procedure of 1963.

Current through P.A. 103-1081, eff. March 21, 2025.

Harmful Material

720 ILCS 5/11-21

(a) As used in this Section:

"Distribute" means to transfer possession of, whether with or without consideration.

"Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when, taken as a whole, it (i) predominately appeals to the prurient interest in sex of minors, (ii) is patently offensive to prevailing standards in the adult community in the State as a whole with respect to what is suitable material for minors, and (iii) lacks serious literary, artistic, political, or scientific value for minors.

"Knowingly" means having knowledge of the contents of the subject matter, or recklessly failing to exercise reasonable inspection which would have disclosed the contents.

"Material" means (i) any picture, photograph, drawing, sculpture, film, video game, computer game, video or similar visual depiction, including any such representation or image which is stored electronically, or (ii) any book, magazine, printed matter however reproduced, or recorded audio of any sort.

"Minor" means any person under the age of 18.

"Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

"Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one clothed for sexual gratification or stimulation.

"Sexual conduct" means acts of masturbation, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

"Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(b) A person is guilty of distributing harmful material to a minor when he or she:

(1) knowingly sells, lends, distributes, exhibits to, depicts to, or gives away to a minor, knowing that the minor is under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age:

(A) any material which depicts nudity, sexual conduct or sado-masochistic abuse, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, and which taken as a whole is harmful to minors;

(B) a motion picture, show, or other presentation which depicts nudity, sexual conduct or sado-masochistic abuse and is harmful to minors; or

(C) an admission ticket or pass to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation; or

(2) admits a minor to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation, knowing that the minor is a person under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age.

(c) In any prosecution arising under this Section, it is an affirmative defense:

(1) that the minor as to whom the offense is alleged to have been committed exhibited to the accused a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that the minor was 18 years of age or older, which was relied upon by the accused;

(2) that the defendant was in a parental or guardianship relationship with the minor or that the minor was accompanied by a parent or legal guardian;

(3) that the defendant was a bona fide school, museum, or public library, or was a person acting in the course of his or her employment as an employee or official of such organization or retail outlet affiliated with and serving the educational purpose of such organization;

(4) that the act charged was committed in aid of legitimate scientific or educational purposes; or

(5) that an advertisement of harmful material as defined in this Section culminated in the sale or distribution of such harmful material to a child under circumstances where there was no personal confrontation of the child by the defendant, his or her employees, or agents, as where the order or request for such harmful material was transmitted by mail, telephone, Internet or similar means of communication, and delivery of such harmful material to the child was by mail, freight, Internet or similar means of transport, which advertisement contained the following statement, or a substantially similar statement, and that the defendant required the purchaser to certify that he or she was not under the age of 18 and that the purchaser falsely stated that he or she was not under the age of 18: "NOTICE: It is unlawful for any person under the age of 18 to purchase the matter advertised. Any person under the age of 18 that falsely states that he or she is not under the age of 18 for the purpose of obtaining the material advertised is guilty of a Class B misdemeanor under the laws of the State."

(d) The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was sold, lent, distributed or given, unless it appears from the nature of the matter or the circumstances of its dissemination or distribution that it is designed for specially susceptible groups, in which case the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

(e) Distribution of harmful material in violation of this Section is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

(f) Any person under the age of 18 who falsely states, either orally or in writing, that he or she is not under the age of 18, or who presents or offers to any person any evidence of age and identity that is false or not actually his or her own with the intent of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful material is guilty of a Class B misdemeanor.

(g) A person over the age of 18 who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes to, or sends, or causes to be sent, or exhibits to, or offers to distribute, or exhibits any harmful material to a person that he or she believes is a minor is guilty of a Class A misdemeanor. If that person utilized a computer web camera, cellular telephone, or any other type of device to manufacture the harmful material, then each offense is a Class 4 felony.

(h) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic

communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

Current through P.A. 99-0642, eff. July 28, 2016.

Non-Consensual Dissemination of Private Sexual Images

720 ILCS 5/11-23.5

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

"Computer", "computer program", and "data" have the meanings ascribed to them in Section 17-0.5 of this Code.

"Image" includes a photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body.

"Intimate parts" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area, anus, or if the person is female, a partially or fully exposed nipple, including exposure through transparent clothing.

"Personal identifying information" has the meaning ascribed to the term in Section 16–0.1.

"Sexual act" means sexual penetration, masturbation, or sexual activity.

"Sexual activity" means any:

(1) knowing touching or fondling by the victim or another person or animal, either directly or through clothing, of the sex organs, anus, or breast of the victim or another person or animal for the purpose of sexual gratification or arousal; or

(2) any transfer or transmission of semen upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or another; or

(3) an act of urination within a sexual context; or

(4) any bondage, fetter, or sadism masochism; or

(5) sadomasochism abuse in any sexual context.

(b) A person commits non-consensual dissemination of private sexual images when he or she:

(1) intentionally disseminates an image of another person:

(A) (blank); and

(B) who is identifiable from the image itself, or whose personal identifying information is displayed or disseminated in connection with the image, or whose identity is known to the person who disseminated the image; and

(C) who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and

(2) obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(3) knows or should have known that the person in the image has not consented to the dissemination.

(c) The following activities are exempt from the provisions of this Section:

(1) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination is made for the purpose of a criminal investigation that is otherwise lawful.

(2) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct.

(3) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the images involve voluntary exposure in public or commercial settings.

(4) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination serves a lawful public purpose.

(d) Nothing in this Section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

(1) an interactive computer service, as defined in 47 U.S.C. 230(f)(2);

(2) a provider of public mobile services or private radio services, as defined in Section 13-214 of the Public Utilities Act; or

(3) a telecommunications network or broadband provider.

(e) A person convicted under this Section is subject to the forfeiture provisions in Article 124B of the Code of Criminal Procedure of 1963.

(f) Sentence. Non-consensual dissemination of private sexual images is a Class 4 felony.

Current through P.A. 103-0825, eff. Jan. 1, 2025.

Non-Consensual Dissemination of Sexually Explicit Digitized Depictions

720 ILCS 5/11-23.7

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

"Intimate parts" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area, anus, or if the person is female, a partially or fully exposed nipple, including exposure through transparent clothing.

"Personal identifying information" has the meaning ascribed to it in Section 16-0.1.

"Sexual activity" means:

(1) any knowing touching or fondling of the victim or another person or animal, either directly or through clothing, of the sex organs, anus, or breast of the victim or another person or animal for the purpose of sexual gratification or arousal;

(2) any transfer or transmission of semen upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or another;

(3) an act of urination within a sexual context;

(4) any bondage, fetter, or sadism masochism; or

(5) sadomasochism abuse in any sexual context.

"Sexually explicit digitized depiction" means any image, photograph, film, video, digital recording, or other depiction or portrayal that has been created, altered, or otherwise modified to realistically depict either:

(1) the intimate parts of another human being as the intimate parts of the depicted individual or computer-generated intimate parts as the intimate parts of the depicted individual; or

(2) the depicted individual engaging in sexual activity in which the depicted individual did not engage.

(b) A person commits non-consensual dissemination of sexually explicit digitized depictions when the person:

(1) intentionally disseminates a sexually explicit digitized depiction of another person who is identifiable from the image itself, or whose personal identifying information is displayed or disseminated in connection with the image, or whose identity is known to the person who disseminates the image; and

(2) knows or should have known that the person in the image has not consented to the dissemination.

(c) The following activities are exempt from the provisions of this Section:

(1) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination is made for the purpose of a criminal investigation that is otherwise lawful.

(2) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct.

(3) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the images involve voluntary exposure in public or commercial settings.

(4) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when the dissemination serves a lawful public purpose.

(d) Nothing in this Section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

(1) an interactive computer service, as defined in 47 U.S.C. 230(f)(2);

(2) a provider of public mobile services or private radio services, as defined in Section 13-214 of the Public Utilities Act; or

(3) a telecommunications network or broadband provider.

(e) A person convicted under this Section is subject to the forfeiture provisions in Article 124B of the Code of Criminal Procedure of 1963.

(f) Sentence. Non-consensual dissemination of sexually explicit digitized depictions is a Class 4 felony.

Current through P.A. 104-0417, eff. Aug. 15, 2025.

Child Photography by Sex Offender

720 ILCS 5/11-24

(a) In this Section:

"Child" means a person under 18 years of age.

"Child sex offender" has the meaning ascribed to it in Section 11-0.1 of this Code.

(b) It is unlawful for a child sex offender to knowingly:

(1) conduct or operate any type of business in which he or she photographs, videotapes, or takes a digital image of a child; or

(2) conduct or operate any type of business in which he or she instructs or directs another person to photograph, videotape, or take a digital image of a child; or

(3) photograph, videotape, or take a digital image of a child, or instruct or direct another person to photograph, videotape, or take a digital image of a child without the consent of the parent or guardian.

(c) Sentence. A violation of this Section is a Class 2 felony. A person who violates this Section at a playground, park facility, school, forest preserve, day care facility, or at a facility providing programs or services directed to persons under 17 years of age is guilty of a Class 1 felony.

Current through P.A. 96-1551, eff. July 1, 2011.

OTHER OFFENSES

Grooming

720 ILCS 5/11-25

(a) A person commits grooming when, being 5 years or more older than a child, or holding a position of trust, authority, or supervision in relation to the child at the time of the offense, he or she knowingly:

(1) uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, performs an act in person or by conduct through a third party, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child's guardian, or another person believed by the person to be a child

or a child's guardian, to commit any sex offense, to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or

(2) engages in a pattern of conduct that seduces, solicits, lures, or entices, or attempts to seduce, solicit, lure, or entice, a child to engage or participate in unlawful sexual conduct that is for the purpose of sexual gratification or arousal of the victim, the accused, or another.

(a-5) As used in this Section:

"Child" means a person under 17 years of age.

"Pattern" means 2 or more instances of conduct.

"Sex offense" means any violation of Article 11 of this Code.

"Sexual conduct" means masturbation, sexual conduct, or sexual penetration as defined in Section 11-0.1 of this Code.

(a-6) Illinois has a compelling interest in effective education and "grooming" does not include conduct that serves a legitimate educational purpose pursuant to Section 27-9.1a of the School Code.

(b) Sentence. Grooming is a Class 4 felony.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Traveling to Meet a Child

720 ILCS 5/11-26

(a) A person commits traveling to meet a child when he or she travels any distance either within this State, to this State, or from this State by any means, attempts to do so, or causes another to do so or attempt to do so for the purpose of engaging in any sex offense as defined in Section 2 of the Sex Offender Registration Act, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or to attempt to seduce, solicit, lure, or entice, a child or a child's guardian, or another person believed by the person to be a child or a child's guardian, for such purpose. As used in this Section, "child" means a person under 17 years of age.

(b) Sentence. Traveling to meet a child is a Class 3 felony.

Current through P.A. 100-0428, eff. Jan. 1, 2018.

Public Indecency

720 ILCS 5/11-30

(a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:

(1) An act of sexual penetration or sexual conduct; or

(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.

(b) "Public place" for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) Sentence.

Public indecency is a Class A misdemeanor. A person convicted of a third or subsequent violation for public indecency is guilty of a Class 4 felony. Public indecency is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

Current through P.A. 96-1551, eff. July 1, 2011.

Article 10: Kidnapping and Related Offenses

720 ILCS 5/10-1 to 5/10-10

Kidnapping

720 ILCS 5/10-1

(a) A person commits the offense of kidnapping when he or she knowingly:

(1) and secretly confines another against his or her will;

(2) by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will; or

(3) by deceit or enticement induces another to go from one place to another with intent secretly to confine that other person against his or her will.

(b) Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian.

(c) Sentence. Kidnapping is a Class 2 felony.

Current through P.A. 99-0143, eff. July 27, 2015.

Luring of a Minor

720 ILCS 5/10-5.1

(a) A person commits the offense of luring of a minor when the offender is 21 years of age or older and knowingly contacts or communicates electronically to the minor:

(1) knowing the minor is under 15 years of age;

(2) with the intent to persuade, lure or transport the minor away from his or her home, or other location known by the minor's parent or legal guardian to be the place where the minor is to be located;

(3) for an unlawful purpose;

(4) without the express consent of the person's parent or legal guardian;

(5) with the intent to avoid the express consent of the person's parent or legal guardian;

(6) after so communicating, commits any act in furtherance of the intent described in clause (a)(2); and

(7) is a stranger to the parents or legal guardian of the minor.

(b) A person commits the offense of luring of a minor when the offender is at least 18 years of age but under 21 years of age and knowingly contacts or communicates electronically to the minor:

(1) knowing the minor is under 15 years of age;

(2) with the intent to persuade, lure, or transport the minor away from his or her home or other location known by the minor's parent or legal guardian, to be the place where the minor is to be located;

(3) for an unlawful purpose;

(4) without the express consent of the person's parent or legal guardian;

(5) with the intent to avoid the express consent of the person's parent or legal guardian;

(6) after so communicating, commits any act in furtherance of the intent described in clause (b)(2); and

(7) is a stranger to the parents or legal guardian of the minor.

(c) Definitions. For purposes of this Section:

(1) "Emergency situation" means a situation in which the minor is threatened with imminent bodily harm, emotional harm or psychological harm.

(2) "Express consent" means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(3) "Contacts or communicates electronically" includes but is not limited to, any attempt to make contact or communicate telephonically or through the Internet or text messages.

(4) "Luring" shall mean any knowing act to solicit, entice, tempt, or attempt to attract the minor.

(5) "Minor" shall mean any person under the age of 15.

(6) "Stranger" shall have its common and ordinary meaning, including but not limited to, a person that is either not known by the parents of the minor or does not have any association with the parents of the minor.

(7) "Unlawful purpose" shall mean any misdemeanor or felony violation of State law or a similar federal or sister state law or local ordinance.

(d) This Section may not be interpreted to criminalize an act or person contacting a minor within the scope and course of his employment, or status as a volunteer of a recognized civic, charitable or youth organization.

(e) This Section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

(f) Affirmative defenses.

(1) It shall be an affirmative defense to any offense under this Section 10-5.1 that the accused reasonably believed that the minor was over the age of 15.

(2) It shall be an affirmative defense to any offense under this Section 10-5.1 that the accused is assisting the minor in an emergency situation.

(3) It shall not be a defense to the prosecution of any offense under this Section 10-5.1 if the person who is contacted by the offender is posing as a minor and is in actuality an adult law enforcement officer.

(g) Penalties.

(1) A first offense of luring of a minor under subsection (a) shall be a Class 4 felony. A person convicted of luring of a minor under subsection (a) shall undergo a sex offender evaluation prior to a sentence being imposed. An offense of luring of a minor under subsection (a) when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is guilty of a Class 2 felony.

(2) A first offense of luring of a minor under subsection (b) is a Class B misdemeanor.

(3) A second or subsequent offense of luring of a minor under subsection (a) is a Class 3 felony. A second or subsequent offense of luring of a minor under subsection (b) is a Class 4 felony. A second or subsequent offense when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is a Class 1 felony. A defendant convicted a second time of an offense under subsection (a) or (b) shall register as a sexual predator of children pursuant to the Sex Offender Registration Act.

(4) A third or subsequent offense is a Class 1 felony. A third or subsequent offense when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is a Class X felony.

(h) For violations of subsection (a), jurisdiction shall be established if the transmission that constitutes the offense either originates in this State or is received in this State and does not apply to emergency situations. For violations of subsection (b), jurisdiction shall be established in any county where the act in furtherance of the commission of the offense is committed, in the county where the minor resides, or in the county where the offender resides.

Current through P.A. 95-0625, eff. June 1, 2008.

Trafficking in Persons, Involuntary Servitude, and Related Offenses

720 ILCS 5/10-9

(a) Definitions. In this Section:

(1) “Intimidation” has the meaning prescribed in Section 12-6.

(2) “Commercial sexual activity“ means any sex act on account of which anything of value is given, promised to, or received by any person.

(2.5) “Company” means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

(3) “Financial harm” includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.

(4) (Blank).

(5) “Labor” means work of economic or financial value.

(6) “Maintain” means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform that type of service.

(7) “Obtain” means, in relation to labor or services, to secure performance thereof.

(7.5) “Serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(8) “Services” means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of activities that are “services” under this Section. Nothing in this definition may be construed to legitimize or legalize prostitution.

(9) “Sexually-explicit performance” means a live, recorded, broadcast (including over the Internet), or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

(10) “Trafficking victim“ means a person subjected to the practices set forth in subsection (b), (c), or (d).

(b) Involuntary servitude. A person commits involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to labor or services obtained or maintained through any of the following means, or any combination of these means:

(1) causes or threatens to cause physical harm to any person;

(2) physically restrains or threatens to physically restrain another person;

(3) abuses or threatens to abuse the law or legal process;

(4) attempts to or knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(5) uses intimidation, abuses a position of trust, authority, or supervision in relation to the victim, through the use or deprivation of any alcoholic intoxicant, a drug as defined or used in the Illinois Controlled Substances Act or the Cannabis Control Act, or methamphetamine as defined in the Methamphetamine Control and Community Protection Act, or exerts financial control over any person; or

(6) uses any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform the labor or services, that person or another person would suffer serious harm or physical restraint.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (b)(1) is a Class X felony, (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4) is a Class 3 felony, (b)(5) and (b)(6) is a Class 4 felony.

(c) Involuntary sexual servitude of a minor. A person commits involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and:

(1) there is no overt force or threat and the minor is between the ages of 17 and 18 years;

(2) there is no overt force or threat and the minor is under the age of 17 years; or

(3) there is overt force or threat.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (c)(1) is a Class 1 felony, (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

(d) Trafficking in persons. A person commits trafficking in persons when he or she knowingly: (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or (2) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of this subsection is a Class 1 felony. A violation of this subsection by a company is a business offense for which a fine of up to $100,000 may be imposed.

(e) Aggravating factors. A violation of this Section involving kidnapping or an attempt to kidnap, aggravated criminal sexual assault or an attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder is a Class X felony.

(f) Sentencing considerations.

(1) Bodily injury. If, pursuant to a violation of this Section, a victim suffered bodily injury, the defendant may be sentenced to an extended-term sentence under Section 5-8-2 of the Unified Code of Corrections. The sentencing court must take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.

(2) Number of victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially increased sentences in cases involving more than 10 victims.

(3) Age of victim. In determining sentences, the sentencing court shall take into account the age of the victim or victims.

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

(g-5) Fine distribution. If the court imposes a fine under subsection (b), (c), or (d) of this Section, it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund in accordance with Section 5-9-1.21 of the Unified Code of Corrections.

(h) Trafficking victim services. Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses defined in this Section.

(i) Certification. The Attorney General, a State's Attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Section has begun and the individual who is a likely victim of a crime described in this Section is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this Section who are under 18 years of age. This certification shall be made available to the victim and his or her designated legal representative.

(j) A person who commits involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons under subsection (b), (c), or (d) of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

Current through P.A. 104-0159, eff. Jan. 1, 2026.

Article 12: Bodily Harm

720 ILCS 5/12-0.1 to 5/12-38

Stalking

720 ILCS 5/12-7.3

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

(1) follows that same person or places that same person under surveillance; and

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

(a-7) A person commits stalking when he or she knowingly makes threats that are a part of a course of conduct and is aware of the threatening nature of his or her speech.

(b) Sentence. Stalking is a Class 4 felony; a second or subsequent conviction is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) “Course of conduct” means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person’s property or pet. A course of conduct may include contact via electronic communications.

(2) “Electronic communication” means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. “Electronic communication” includes transmissions by a computer through the Internet to another computer.

(3) “Emotional distress” means significant mental suffering, anxiety or alarm.

(4) “Family member” means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. “Family member” also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) “Follows another person” means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. “Follows another person” does not include a following within the residence of the defendant.

(6) “Non-consensual contact” means any contact with the victim that is initiated or continued without the victim’s consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) “Places a person under surveillance” means: (1) remaining present outside the person’s school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person’s property.

(8) “Reasonable person” means a person in the victim’s situation.

(9) “Transmits a threat” means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(d-10) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

Current through P.A. 102-0547, eff. Jan. 1, 2022.

Aggravated Stalking

720 ILCS 5/12-7.4

(a) A person commits aggravated stalking when he or she commits stalking and:

(1) causes bodily harm to the victim;

(2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(a-1) A person commits aggravated stalking when he or she is required to register under the Sex Offender Registration Act or has been previously required to register under that Act and commits the offense of stalking when the victim of the stalking is also the victim of the offense for which the sex offender is required to register under the Sex Offender Registration Act or a family member of the victim.

(b) Sentence. Aggravated stalking is a Class 3 felony; a second or subsequent conviction is a Class 2 felony.

(c) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this

Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

Current through P.A. 97-1109, eff. Jan. 1, 2013.

Cyberstalking

720 ILCS 5/12-7.5

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a–4) A person commits cyberstalking when he or she knowingly, surreptitiously, and without lawful justification, installs or otherwise places electronic monitoring software or spyware on an electronic communication device as a means to harass another person and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person;

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

For purposes of this Section, an installation or placement is not surreptitious if:

(1) with respect to electronic software, hardware, or computer applications, clear notice regarding the use of the specific type of tracking software or spyware is provided by the installer in advance to the owners and primary users of the electronic software, hardware, or computer application; or

(2) written or electronic consent of all owners and primary users of the electronic software, hardware, or computer application on which the tracking software or spyware will be installed has been sought and obtained through a mechanism that does not seek to obtain any other approvals or acknowledgement from the owners and primary users.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(b) Sentence. Cyberstalking is a Class 4 felony; a second or subsequent conviction is a Class 3 felony.

(c) For purposes of this Section:

(0.5) “Anxiety” means excessive worry and apprehensive expectations, occurring more days than not for at least 6 months, about a number of events or activities, such as work or school performance and is associated with 3 or more of the following 6 symptoms with at least some symptoms present for more days than not for the past 6 months:

(1) restlessness or feeling keyed up or on edge:

(2) easily fatigued;

(3) difficulty concentrating or mind going blank;

(4) irritability;

(5) muscle tension; and sleep disturbance such as difficulty falling or staying asleep, or restless and unsatisfying sleep.

(6) sleep disturbance such as difficulty falling or staying asleep, or restless and unsatisfying sleep.

The anxiety, worry, or physical symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.

(1) “Course of conduct” means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person’s property or pet. The incarceration in a

penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.

(2.1) "Electronic communication device" means an electronic device, including, but not limited to, a wireless telephone, personal digital assistant, or a portable or mobile computer.

(2.2) "Electronic monitoring software or spyware" means software or an application that surreptitiously tracks computer activity on a device and records and transmits the information to third parties with the intent to cause injury or harm. For the purposes of this paragraph (2.2), "intent to cause injury or harm" does not include activities carried out in furtherance of the prevention of fraud or crime or of protecting the security of networks, online services, applications, software, other computer programs, users, or electronic communication devices or similar devices.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

(7) "Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(e) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(f) It is not a violation of this Section to:

(1) provide, protect, maintain, update, or upgrade networks, online services, applications, software, other computer programs, electronic communication devices, or similar devices under the terms of use applicable to those networks, services, applications, software, programs, or devices;

(2) interfere with or prohibit terms or conditions in a contract or license related to networks, online services, applications, software, other computer programs, electronic communication devices, or similar devices; or

(3) create any liability by reason of terms or conditions adopted, or technical measures implemented, to prevent the transmission of unsolicited electronic mail or communications.

Current through P.A. 103-0183, eff. Jan. 1, 2024.

Parent or Guardian Leaving Custody or Control of Child with Child Sex Offender

720 ILCS 5/12-21.6-5

(a) For the purposes of this Section, “minor” means a person under 18 years of age; and “child sex offender“ means a sex offender who is required to register under the Sex Offender Registration Act and is a child sex offender as defined in Sections 11-9.3 and 11-9.4 of this Code.

(b) It is unlawful for a parent or guardian of a minor to knowingly leave that minor in the custody or control of a child sex offender, or allow the child sex offender unsupervised access to the minor.

(c) This Section does not apply to leaving the minor in the custody or control of, or allowing unsupervised access to the minor by:

(1) a child sex offender who is the parent of the minor;

(2) a person convicted of a violation of subsection (c) of Section 12-15 of this Code; or

(3) a child sex offender who is married to and living in the same household with the parent or guardian of the minor.

This subsection (c) shall not be construed to allow a child sex offender to knowingly reside within 500 feet of the minor victim of the sex offense if prohibited by subsection (b-6) of Section 11-9.4 of this Code.

(d) Sentence. A person who violates this Section is guilty of a Class A misdemeanor.

(e) Nothing in this Section shall prohibit the filing of a petition or the instituting of any proceeding under Article II of the Juvenile Court Act of 1987 relating to abused minors.

Current through P.A. 96-1094, eff. Jan. 1, 2011.

Ritual Mutilation

720 ILCS 5/12-32

(a) A person commits ritual mutilation when he or she knowingly mutilates, dismembers or tortures another person as part of a ceremony, rite, initiation, observance, performance or practice, and the victim did not consent or under such circumstances that the defendant knew or should have known that the victim was unable to render effective consent.

(b) Ritual mutilation does not include the practice of male circumcision or a ceremony, rite, initiation, observance, or performance related thereto.

(c) Sentence. Ritual mutilation is a Class 2 felony.

Current through P.A. 96-1551, eff. July, 1, 2011.

Ritualized Abuse of a Child

720 ILCS 5/12-33

(a) A person commits ritualized abuse of a child when he or she knowingly commits any of the following acts with, upon, or in the presence of a child as part of a ceremony, rite or any similar observance:

(1) actually or in simulation, tortures, mutilates, or sacrifices any warm-blooded animal or human being;

(2) forces ingestion, injection or other application of any narcotic, drug, hallucinogen or anaesthetic for the purpose of dulling sensitivity, cognition, recollection of, or resistance to any criminal activity;

(3) forces ingestion, or external application, of human or animal urine, feces, flesh, blood, bones, body secretions, nonprescribed drugs or chemical compounds;

(4) involves the child in a mock, unauthorized or unlawful marriage ceremony with another person or representation of any force or deity, followed by sexual contact with the child;

(5) places a living child into a coffin or open grave containing a human corpse or remains;

(6) threatens death or serious harm to a child, his or her parents, family, pets, or friends that instills a well-founded fear in the child that the threat will be carried out; or

(7) unlawfully dissects, mutilates, or incinerates a human corpse.

(b) The provisions of this Section shall not be construed to apply to:

(1) lawful agricultural, animal husbandry, food preparation, or wild game hunting and fishing practices and specifically the branding or identification of livestock;

(2) the lawful medical practice of male circumcision or any ceremony related to male circumcision;

(3) any state or federally approved, licensed, or funded research project; or

(4) the ingestion of animal flesh or blood in the performance of a religious service or ceremony.

(b-5) For the purposes of this Section, “child” means any person under 18 years of age.

(c) Ritualized abuse of a child is a Class 1 felony for a first offense. A second or subsequent conviction for ritualized abuse of a child is a Class X felony for which an offender who has attained the age of 18 years at the time of the commission of the offense may be sentenced to a term of natural life imprisonment and an offender under the age of 18 years at the time of the commission of the offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

Current through P.A. 99-0069, eff. Jan. 1, 2016.

Female Genital Mutilation

720 ILCS 5/12-34

(a) Except as otherwise permitted in subsection (b), whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another commits female genital mutilation. Consent to the procedure by a minor on whom it is performed or by the minor’s parent or guardian is not a defense to a violation of this Section.

(a-5) A parent, guardian, or other person having physical custody or control of a child who knowingly facilitates or permits the circumcision, excision, or infibulation, in whole or in part, of the labia majora, labia minora, or clitoris of the child commits female genital mutilation.

(b) A surgical procedure is not a violation of subsection (a) if the procedure is performed by a physician licensed to practice medicine in all its branches and:

(1) is necessary to the health of the person on whom it is performed; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

(c) Sentence. Female genital mutilation as described in subsection (a) is a Class X felony. Female genital mutilation as described in subsection (a-5) is a Class 1 felony.

Current through P.A. 101-0285, eff. Jan. 1, 2020.

Article 26: Disorderly Conduct

720 ILCS 5/26-1 to 26/7

Interference with Emergency Communication

720 ILCS 5/26-2

(a) A person commits interference with emergency communication when he or she knowingly, intentionally and without lawful justification interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a citizens band radio channel, the purpose of which communication is to inform or inquire about an emergency.

(b) For the purpose of this Section, “emergency” means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting the communication to be in imminent danger of serious bodily injury or in which property is or is reasonably believed by the person transmitting the communication to be in imminent danger of damage or destruction.

(c) Sentence.

(1) Interference with emergency communication is a Class B misdemeanor, except as otherwise provided in paragraph (2).

(2) Interference with emergency communication, where serious bodily injury or property loss in excess of $1,000 results, is a Class A misdemeanor.

Current through P.A. 97-1108, eff. Jan. 1, 2013

Unauthorized Video Recording and Live Video Transmission

720 ILCS 5/26-4

(a) It is unlawful for any person to knowingly make a video record or transmit live video of another person without that person’s consent in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom.

(a-5) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person’s residence without that person’s consent.

(a-6) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person’s residence without that person’s consent when the recording or transmission is made outside that person’s residence by use of an audio or video device that records or transmits from a remote location.

(a-10) It is unlawful for any person to knowingly make a video record or transmit live video of another person’s intimate parts for the purpose of viewing the body of or the undergarments worn by that other person without that person’s consent. For the purposes of this subsection (a-10), “intimate parts” means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, anus, or if the person is female, a partially or fully exposed nipple, including exposure through transparent clothing.

(a-15) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video in a restroom, tanning bed, tanning salon, locker room,

changing room, or hotel bedroom with the intent to make a video record or transmit live video of another person without that person's consent.

(a-20) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video with the intent to make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-25) It is unlawful for any person to, by any means, knowingly disseminate, or permit to be disseminated, a video record or live video that he or she knows to have been made or transmitted in violation of (a), (a-5), (a-6), (a-10), (a-15), or (a-20).

(b) Exemptions. The following activities shall be exempt from the provisions of this Section:

(1) The making of a video record or transmission of live video by law enforcement officers pursuant to a criminal investigation, which is otherwise lawful;

(2) The making of a video record or transmission of live video by correctional officials for security reasons or for investigation of alleged misconduct involving a person committed to the Department of Corrections; and

(3) The making of a video record or transmission of live video in a locker room by a reporter or news medium, as those terms are defined in Section 8-902 of the Code of Civil Procedure, where the reporter or news medium has been granted access to the locker room by an appropriate authority for the purpose of conducting interviews.

(c) The provisions of this Section do not apply to any sound recording or transmission of an oral conversation made as the result of the making of a video record or transmission of live video, and to which Article 14 of this Code applies.

(d) Sentence.

(1) A violation of subsection (a-15) or (a-20) is a Class A misdemeanor.

(2) A violation of subsection (a), (a-5), or (a-6), or (a-10) is a Class 4 felony.

(3) A violation of subsection (a-25) is a Class 3 felony.

(4) A violation of subsection (a), (a-5), (a-6), (a-10), (a-15) or (a-20) is a Class 3 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(5) A violation of subsection (a-25) is a Class 2 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(e) For purposes of this Section:

(1) "Residence" includes a rental dwelling, but does not include stairwells, corridors, laundry facilities, or additional areas in which the general public has access.

(2) "Video record" means and includes any videotape, photograph, film, or other electronic or digital recording of a still or moving visual image; and "live video" means and includes any real-time or contemporaneous electronic or digital transmission of a still or moving visual image.

Current through P.A. 102-0567, eff. Jan. 1, 2022.

Article 26.5: Harassing and Obscene Communications

720 ILCS 5/26.5-0.1 to 5/26.5-5

Definitions

720 ILCS 5/26.5-0.1

As used in this Article:

“Electronic communication” means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. “Electronic communication” includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.

“Family or household member” includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

“Harass” or “harassing” means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

Current through P.A. 97-1108, eff. Jan. 1, 2013.

Transmission of Obscene Messages

720 ILCS 5/26.5-1

(a) A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or wires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.

(b) The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

Current through P.A. 97-1108, eff. Jan. 1, 2013.

Harassment by Telephone

720 ILCS 5/26.5-2

(a) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:

(1) Making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;

(2) Making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;

(3) Making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;

(4) Making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;

(5) Making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense; or

(6) Knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

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Current through P.A. 97-1108, eff. Jan. 1, 2013.

Harassment Through Electronic Communications

720 ILCS 5/26.5-3

(a) A person commits harassment through electronic communications when he or she uses electronic communication for any of the following purposes:

(1) Making any comment, request, suggestion or proposal which is obscene with an intent to offend;

(2) Interrupting, with the intent to harass, the telephone service or the electronic communication service of any person;

(3) Transmitting to any person, with the intent to harass and regardless of whether the communication is read in its entirety or at all, any file, document, or other communication which prevents that person from using his or her telephone service or electronic communications device;

(4) Transmitting an electronic communication or knowingly inducing a person to transmit an electronic communication for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense;

(5) Threatening injury to the person or to the property of the person to whom an electronic communication is directed or to any of his or her family or household members; or

(6) Knowingly permitting any electronic communications device to be used for any of the purposes mentioned in this subsection (a).

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Current through P.A. 97-1108, eff. Jan. 1, 2013.

II. CRIME VICTIMS' RIGHTS

CONSTITUTION OF THE STATE OF ILLINOIS
Article I: 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.

Amendment adopted general election Nov. 4, 2014, eff. Nov. 4, 2014.

Chapter 725: Criminal Procedure
Article 115: Bill of Rights for Children

725 ILCS 115/1

Purposes

725 ILCS 115/2

The purpose of this Act is to ensure the fair and compassionate treatment of children involved in the criminal justice system by affording certain basic rights and considerations to these children.

Current through P.A. 86-0862, eff. Jan. 1, 1990.

Rights to Present Child Impact Statement

725 ILCS 115/3

(a) In any case where a defendant has been convicted of a violent crime involving a child or a juvenile has been adjudicated a delinquent for any offense defined in Sections 11-6, 11-20.1, 11-20.1B, and 11-20.3 and in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, except those in which both parties have agreed to the imposition of a specific sentence, and a parent or legal guardian of the child involved is present in the courtroom at the time of the sentencing or the disposition hearing, the parent or legal guardian upon his or her request shall have the right to address the court regarding the impact which the defendant's criminal conduct or the juvenile's delinquent conduct has had upon the child. If the parent or legal guardian chooses to exercise this right, the 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 at the sentencing hearing. The court shall consider any statements made by the parent or legal guardian, 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.

(c) This Section shall apply to any child victims of any offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal

Code of 2012 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.

Current through P.A. 103-1081, eff. March 21, 2025.

Right to Forensic Interview with Children's Advocacy Center

725 ILCS 115/3.5

Every child reported to the Department of Children and Family Services or law enforcement to be a victim of sexual assault or sexual abuse whose case is accepted by either agency for investigation has the right to have that child's forensic interview conducted by a forensic interviewer from a children's advocacy center accredited according to the Children's Advocacy Center Act and serving the child's area or jurisdiction where the incident(s) occurred, when such service is accessible based on the CAC's available resources. This right may be asserted by the child or the child's parent or guardian informing the investigating personnel at the Department of Children and Family Services or the law enforcement agency that the parent or guardian wants the child to have the child's interview conducted by the children's advocacy center. Each local CAC protocol will outline a process to address situations in which it is deemed not possible for a forensic interview to occur, to ensure a trauma-informed response with follow up services from the CAC.

Current through P.A. 102-0477, eff. Jan. 1, 2022.

Scope of Act

725 ILCS 115/4

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. Nothing in this Act creates 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.

Current through P.A. 88-0489, eff. Jan. 1, 1994.

Article 120: Rights of Crime Victims and Witnesses Act

725 ILCS 120/1

Purpose

725 ILCS 120/2

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 witnesses of crime who are essential to prosecution.

Current through P.A. 99-0413, eff. Aug. 20, 2015.

Definitions

725 ILCS 120/3

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 Code1 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-6) "DNA database" means a collection of DNA profiles from forensic casework or specimens from anonymous, identified, and unidentified sources that is created to search DNA records against each other to develop investigative leads among forensic cases.

(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 pretrial release, 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.

Current through P.A. 104-0173, eff. July. 1, 2026.

Rights of Crime Victims

725 ILCS 120/4

(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.

(1.6) Except as otherwise provided in Section 9.5 of the Criminal Identification Act or Section 3-3013 of the Counties Code, whenever a person's DNA profile is collected due to the person being a victim of a crime, as identified by law enforcement, that specific profile collected in conjunction with that criminal investigation shall not be entered into any DNA database. Nothing in this paragraph (1.6) shall be interpreted to contradict rules and regulations developed by the Federal Bureau of Investigation relating to the National DNA Index System or Combined DNA Index System.

(2) The right to timely notification of all court proceedings. Timely notification shall include 7 days' notice 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.

Current through P.A.104-0173, eff. Jan. 1, 2026.

Procedures to Implement the Rights of Crime Victims

725 ILCS 120/4.5

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.

(a-6) The Prisoner Review Board shall publish on its official public website and provide to registered victims information regarding how to submit a victim impact statement. The Prisoner Review Board shall consider victim impact statements from any registered victims. Any registered victim, including a person who has had a final, plenary, non-emergency, or emergency protective order granted against the petitioner or parole candidate under Article 112A of the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, the Stalking No Contact Order Act, or the Civil No Contact Order Act, may present victim statements that the Prisoner Review Board shall consider in its deliberations.

(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 7 days' 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. For preliminary hearings and hearings regarding pretrial release or that alter the conditions of pretrial release only, if giving the victim 7 days' notice is impossible, fewer days may be timely, so long as the notice is provided as soon as practicable and in advance of the proceeding. 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 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 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.

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(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.

(1.5) The Prisoner Review Board shall notify a victim of a prisoner's pardon, commutation of sentence, release on furlough, or early release from State custody, if the victim has previously requested that notification. The notification shall be based upon the most recent information available to the Board as to the victim's residence or other location. The notification requirement under this paragraph (1.5) is in addition to any notification requirements under any other statewide victim notification systems. The Board shall document its efforts to provide the required notification if a victim alleges lack of notification under this paragraph (1.5).

(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. The notification requirement under this paragraph (3) is in addition to any notification requirements under any other statewide victim notification systems. The Board shall document its efforts to provide the required notification if a victim alleges lack of notification under this paragraph (3).

(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, including any person who has had a final, plenary, non-emergency, or emergency protective order granted against the petitioner or parole candidate under Article 112A of the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, the Stalking No Contact Order Act, or the Civil No Contact Order Act, has the right to submit a victim statement, in

support or opposition, 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, including any person who has had a final, plenary, non-emergency, or emergency protective order granted against the petitioner or parole candidate under Article 112A of the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, the Stalking No Contact Order Act, or the Civil No Contact Order Act, has the right to submit a victim statement, in support or opposition, 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). The Prisoner Review Board shall provide registered and identified victims with the contact information for the State victim assistance hotline as part of its process to obtain a victim witness statement and as part of its notification.

(g) The Prisoner Review Board shall publish on its official website, and provide to registered victims, procedural information on how to submit victim statements.

Current through P.A. 104-0173, eff. Jan. 1, 2026.

Advocates; Support Person

725 ILCS 120/4.6

(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.

Current through P.A. 100-1087, eff. Jan. 1, 2019.

Rights of Witnesses

725 ILCS 120/5

(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;

(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, including any person who has had a final, plenary, non-emergency, or emergency protective order granted against the petitioner or parole candidate under Article 112A of the Code of Criminal Procedure of 1963, the Illinois Domestic Violence Act of 1986, the Stalking No Contact Order Act, or the Civil No Contact Order Act, has the right to submit a victim statement, in support or opposition, 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.

Current through P.A.104-0011, eff. June 20, 2025.

Right to be Heard at Sentencing

725 ILCS 120/6

(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.

Current through P.A.101-0288, eff. Jan. 1, 2020.

Responsibilities of Victims and Witnesses

725 ILCS 120/7

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.

(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.

Current through P.A. 102-0022, eff. June 25, 2021.

Privately Operated Crime Victim and Witness Notification Service

725 ILCS 120/8

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.

Current through P.A. 90-0744, eff. Jan. 1, 1999.

Statewide Victim and Witness Notification System

725 ILCS 120/8.5

(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 victims 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.

(i) The Attorney General shall conduct an internal review of the witness notification system to review timely notice to victims and witnesses throughout the State and shall make recommendations to the General Assembly for improvements in the procedures and technologies used in the system. The Attorney General shall submit the recommendations to the General Assembly on or before July 1, 2026.

Current through P.A. 104-0011, eff. June 20, 2025.

Scope of Act

725 ILCS 120/9

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.

Current through P.A. 102-0022, eff. June 25, 2021.

III. VICTIM-RELATED STATUTES

Chapter 55: Counties
Act 80: Children's Advocacy Center Act
55 ILCS 80/1, *et seq.*

Note: To view the text of the Children's Advocacy Center Act, please refer to www.ilga.gov.

Chapter 105: Schools; Act 5: School Code
Article 26A: Children and Students Who Are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence (Ensuring Success In School Law – "ESSL")
105 ILCS 5/26A

Scope of the Article
105 ILCS 5/26A-1

This Article applies to all school districts and schools governed by this Code, including schools operating under Article 13, 13A, 13B, 27A, 32, 33, or 34. However, this Article does not apply to the Department of Juvenile Justice School District.

Current through P.A. 102-0466, eff. July 1, 2025.

Definitions
105 ILCS 5/26A-10

In this Article:

"Confidential" means information or facts expected and intended to be kept private or protected by an existing privilege in the Code of Civil Procedure. Confidential information may be disclosed by a school or school district if such disclosure is required by State or federal law or is necessary to complete proceedings relevant to this Article. Designation of student information as confidential applies to the school and school district and does not limit a student's right to speak about the student's experiences.

"Consent" includes, at a minimum, a recognition that (i) consent is a freely given agreement to sexual activity, (ii) an individual's lack of verbal or physical resistance or submission resulting from the use of threat of force does not constitute consent, (iii) an individual's manner of dress does not constitute consent, (iv) an individual's consent to past sexual activity does not constitute consent to future sexual activity, (v) an individual's consent to engage in one type of sexual activity with one person does not constitute consent to engage in any other type of sexual activity or sexual activity with another person, (vi) an individual can withdraw consent at any time, and (vii) an individual cannot consent to sexual activity if that individual is unable to understand the nature of the activity or give knowing consent due to the circumstances that include, but are not limited to, all the following:

(1) The individual is incapacitated due to the use or influence of alcohol or drugs.

(2) The individual is asleep or unconscious.

(3) The individual is under the age of consent.

(4) The individual is incapacitated due to a mental disability.

“Domestic or sexual violence” means domestic violence, gender-based harassment, sexual activity without consent, sexual assault, sexual violence, or stalking. Domestic or sexual violence may occur through electronic communication. Domestic or sexual violence exists regardless of when or where the violence occurred, whether or not the violence is the subject of a criminal investigation or the perpetrator has been criminally charged or convicted of a crime, whether or not an order of protection or a no-contact order is pending before or has been issued by a court, or whether or not any domestic or sexual violence took place on school grounds, during regular school hours, or during a school-sponsored event.

“Domestic or sexual violence organization” means a nonprofit, nongovernmental organization that provides assistance to victims of domestic or sexual violence or advocates for those victims, including an organization carrying out a domestic or sexual violence program, an organization operating a shelter or a rape crisis center or providing counseling services, an accredited children’s advocacy center, an organization that provides services to or advocates on behalf of children and students who are gay, lesbian, bisexual, transgender, or gender nonconforming, an organization that provides services to or advocates on behalf of children and students who are parents or expectant parents, or an organization seeking to eliminate domestic or sexual violence or to address the consequences of that violence for its victims through legislative advocacy or policy change, public education, or service collaboration.

“Domestic violence” means abuse, as defined in the Illinois Domestic Violence Act of 1986, by family or household members, as defined in the Illinois Domestic Violence Act of 1986.

“Electronic communication” includes communications via telephone, mobile phone, computer, email, video recorder, fax machine, telex, pager, apps or applications, or any other electronic communication or cyberstalking under Section 12-7.5 of the Criminal Code of 2012.

“Expectant parent” means a student who (i) is pregnant and (ii) has not yet received a diploma for completion of a secondary education, as defined in Section 22-22.

“Gender-based harassment” means any harassment or discrimination on the basis of an individual’s actual or perceived sex or gender, including unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct of a sexual nature, or unwelcome conduct, including verbal, nonverbal, or physical conduct that is not sexual in nature but is related to a student’s status as a parent, expectant parent, or victim of domestic or sexual violence.

“Harassment” means any unwelcome conduct on the basis of a student’s actual or perceived race, gender, color, religion, national origin, ancestry, sex, marital status, order of protection status, disability, sexual orientation, gender identity, pregnancy, or citizenship status that has the purpose or effect of substantially interfering with the individual’s academic performance or creating an intimidating, hostile, or offensive learning environment.

“Perpetrator” means an individual who commits or is alleged to have committed any act of domestic or sexual violence. The term “perpetrator” must be used with caution when applied to children, particularly young children.

“Poor academic performance” means a student who has (i) scored in the 50th percentile or below on a school district-administered standardized test, (ii) received a score on a State assessment that does not meet standards in one or more of the fundamental learning areas

under Section 27-1, as applicable for the student's grade level, or (iii) not met grade-level expectations on a school district-designated assessment.

"Representative" means an adult who is authorized to act on behalf of a student during a proceeding, including an attorney, parent, or guardian.

"School" means a school district or school governed by this Code, including a school operating under Article 13, 13A, 13B, 27A, 32, 33, or 34, other than the Department of Juvenile Justice School District. "School" includes any other entity responsible for administering public schools, such as cooperatives, joint agreements, charter schools, special charter districts, regional offices of education, local agencies, or the Department of Human Services, and nonpublic schools recognized by the State Board of Education.

"Sexual activity" means any knowingly touching or fondling by one person, either directly or through clothing, of the sex organs, anus, mouth, or breast of another person for the purpose of sexual gratification or arousal.

"Sexual assault" or "sexual violence" means any conduct of an adult or minor child proscribed in Article 11 of the Criminal Code of 2012, except for Sections 11-35, 11-40, and 11-45 of the Criminal Code of 2012, including conduct committed by a perpetrator who is a stranger to the victim and conduct by a perpetrator who is known or related by blood or marriage to the victim.

"Stalking" means any conduct proscribed in Section 12-7.3, 12-7.4, or 12-7.5 of the Criminal Code of 2012, including stalking committed by a perpetrator who is a stranger to the victim and stalking committed by a perpetrator who is known or related by blood or marriage to the victim.

"Student" or "pupil" means any child who has not yet received a diploma for completion of a secondary education. "Student" includes, but is not limited to, an unaccompanied minor not in the physical custody of a parent or guardian.

"Student at risk of academic failure" means a student who is at risk of failing to meet the Illinois Learning Standards or failing to graduate from elementary or high school and who demonstrates a need for educational support or social services beyond those provided by the regular school program.

"Student parent" means a student who is a custodial or noncustodial parent taking an active role in the care and supervision of a child and who has not yet received a diploma for completion of a secondary education.

"Support person" means any person whom the victim has chosen to include in proceedings for emotional support or safety. A support person does not participate in proceedings but is permitted to observe and support the victim with parent or guardian approval. "Support person" may include, but is not limited to, an advocate, clergy, a counselor, and a parent or guardian. If a student is age 18 years or older, the student has the right to choose a support person without parent or guardian approval.

"Survivor-centered" means a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner, (ii) ensures an understanding of how trauma affects survivor behavior, (iii) maintains survivor safety, privacy, and, if possible, confidentiality, and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

"Trauma-informed response" means a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on

the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

“Victim” means an individual who has been subjected to one or more acts of domestic or sexual violence.

Current through P.A. 102-0466, eff. July 1, 2025.

Review and Revision of Policy and Procedures

105 ILCS 5/26A-20

(a) No later than July 1, 2024 and every 2 years thereafter, each school district must review all existing policies and procedures and must revise any existing policies and procedures that may act as a barrier to the immediate enrollment and re-enrollment, attendance, graduation, and success in school of any student who is a student parent, expectant student parent, or victim of domestic or sexual violence or any policies or procedures that may compromise a criminal investigation relating to domestic or sexual violence or may re-victimize students. A school district must adopt new policies and procedures, as needed, to implement this Section and to ensure that immediate and effective steps are taken to respond to students who are student parents, expectant parents, or victims of domestic or sexual violence.

(b) A school district’s policy must be consistent with the model policy and procedures adopted by the State Board of Education and under Public Act 101-531.

(c) A school district’s policy on the procedures that a student or his or her parent or guardian may follow if he or she chooses to report an incident of alleged domestic or sexual violence must, at a minimum, include all of the following:

  (1) The name and contact information for domestic or sexual violence and parenting resource personnel, the Title IX coordinator, school and school district resource officers or security, and a community-based domestic or sexual violence organization.

  (2) The name, title, and contact information for confidential resources and a description of what confidential reporting means.

  (3) An option for the student or the student’s parent or guardian to electronically, anonymously, and confidentially report the incident.

  (4) An option for reports by third parties and bystanders.

  (5) Information regarding the various individuals, departments, or organizations to whom a student may report an incident of domestic or sexual violence, specifying for each individual or entity (i) the extent of the individual’s or entity’s reporting obligation to the school’s or school district’s administration, Title IX coordinator, or other personnel or entity, (ii) the individual’s or entity’s ability to protect the student’s privacy, and (iii) the extent of the individual’s or entity’s ability to have confidential communications with the student or his or her parent or guardian.

  (6) The adoption of a complaint resolution procedure as provided in Section 26A-25.

(d) A school district must post its revised policies and procedures on its website, distribute them at the beginning of each school year to each student, and make copies available

to each student and his or her parent or guardian for inspection and copying at no cost to the student or parent or guardian at each school within a school district.

Current through P.A. 102-0466, eff. July 1, 2025.

Complaint Resolution Procedure

105 ILCS 5/26A-25

(a) On or before July 1, 2024, each school district must adopt one procedure to resolve complaints of violations of this amendatory Act of the 102nd General Assembly. The respondent must be one or more of the following: the school, school district, or school personnel. These procedures shall comply with the confidentiality provisions of Sections 26A-20 and 26A-30. The procedures must include, at minimum, all of the following:

(1) The opportunity to consider the most appropriate means to execute the procedure considering school safety, the developmental level of students, methods to reduce trauma during the procedure, and how to avoid multiple communications with students involved with an alleged incident of domestic or sexual violence.

(2) Any proceeding, meeting, or hearing held to resolve complaints of any violation of this amendatory Act of the 102nd General Assembly must protect the privacy of the participating parties and witnesses. A school, school district, or school personnel may not disclose the identity of parties or witnesses, except as necessary to resolve the complaint or to implement interim protective measures and reasonable support services or when required by State or federal law.

(3) Complainants alleging violations of this amendatory Act of the 102nd General Assembly must have the opportunity to request that the complaint resolution procedure begin promptly and proceed in a timely manner.

(b) A school district must determine the individuals who will resolve complaints of violations of this amendatory Act of the 102nd General Assembly.

(1) All individuals whose duties include resolution of complaints of violations of this amendatory Act of the 102nd General Assembly must complete training on issues related to domestic and sexual violence and how to conduct the school's complaint resolution procedure, which may include the in-service training required under subsection (d) of Section 10-22.39, before commencement of those duties, and must receive such training annually thereafter. This training must be conducted by an individual or individuals with expertise in domestic or sexual violence in youth and expertise in developmentally appropriate communications with elementary and secondary school students regarding topics of a sexual, violent, or sensitive nature.

(2) Each school must have a sufficient number of individuals trained to resolve complaints so that (i) a substitution can occur in the case of a conflict of interest or recusal, (ii) an individual with no prior involvement in the initial determination or finding may hear any appeal brought by a party, and (iii) the complaint resolution procedure proceeds in a timely manner.

(3) The complainant and any witnesses shall (i) receive notice of the name of the individual with authority to make a finding or approve an accommodation in the

proceeding before the individual may initiate contact with the complainant and any witnesses and (ii) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or approve an accommodation poses a conflict of interest.

(c) When the alleged violation of this amendatory Act of the 102nd General Assembly involves making a determination or finding of responsibility of causing harm:

(1) The individual making the finding must use a preponderance of evidence standard to determine whether the incident occurred.

(2) The complainant and respondent and any witnesses may not directly or through a representative question one another. At the discretion of the individual resolving the complaint, the complainant and the respondent may suggest questions to be posed by the individual resolving the complaint and if the individual resolving the complaint decides to pose such questions.

(3) A live hearing is not required. If the complaint resolution procedure includes a hearing, no student who is a witness, including the complainant, may be compelled to testify in the presence of a party or other witness. If a witness invokes this right to testify outside the presence of the other party or other witnesses, then the school district must provide an option by which each party may, at a minimum, hear such witnesses' testimony.

(d) Each party and witness may request and must be allowed to have a representative or support persons of their choice accompany them to any meeting or proceeding related to the alleged violence or violation of this amendatory Act of the 102nd General Assembly if the involvement of the representative or support persons does not result in undue delay of the meeting or proceeding. This representative or support persons must comply with any rules of the school district's complaint resolution procedure. If the representative or support persons violate the rules or engage in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual resolving the complaint, the representative or support person may be prohibited from further participation in the meeting or proceeding.

(e) The complainant, regardless of the level of involvement in the complaint resolution procedure, and the respondent must have the opportunity to provide or present evidence and witnesses on their behalf during the complaint resolution procedure.

(f) The complainant and respondent and any named perpetrator directly impacted by the results of the complaint resolution procedure, are entitled to simultaneous written notification of the results of the complaint resolution procedure, including information regarding appeals rights and procedures, within 10 business days after a decision or sooner if required by State or federal law or district policy.

(1) The complainant, respondents, and named perpetrator if directly impacted by the results of the complaint resolution procedure must, at a minimum, have the right to timely appeal the complaint resolution procedure's findings or remedies if a party alleges (i) a procedural error occurred, (ii) new information exists that would substantially change the outcome of the proceeding, (iii) the remedy is not sufficiently related to the finding, or (iv) the decision is against the weight of the evidence.

(2) An individual reviewing the findings or remedies may not have previously participated in the complaint resolution procedure and may not have a conflict of interest with either party.

(3) The complainant and respondent and any perpetrators directly impacted by the results of the complaint resolution procedure must receive the appeal decision, in writing, within 10 business days, but never more than 15 business days, after the conclusion of the review of findings or remedies or sooner if required by State or federal law.

(g) Each school district must have a procedure to determine interim protective measures and support services available pending the resolution of the complaint including the implementation of court orders.

Current through P.A. 104-0391, eff. Aug. 15, 2025.

Confidentiality

105 ILCS 5/26A-30

(a) Each school district must adopt and ensure that it has and implements a policy to ensure that all information concerning a student's status and related experiences as a parent, expectant parent, or victim of domestic or sexual violence, or a student who is a named perpetrator of domestic or sexual violence, provided to or otherwise obtained by the school district or its employees or agents pursuant to this Code or otherwise, including a statement of the student or any other documentation, record, or corroborating evidence that the student has requested or obtained assistance, support, or services pursuant to this Code, shall be retained in the strictest of confidence by the school district or its employees or agents and may not be disclosed to any other individual outside of the district, including any other employee, except if such disclosure is (i) permitted by the Illinois School Student Records Act, the federal Family Educational Rights and Privacy Act of 1974, or other applicable State or federal laws, or (ii) requested or consented to, in writing, by the student or the student's parent or guardian if it is safe to obtain written consent from the student's parent or guardian.

(b) Prior to disclosing information about a student's status as a parent, expectant parent, or victim of domestic or sexual violence, a school must notify the student and discuss and address any safety concerns related to the disclosure, including instances in which the student indicates or the school or school district or its employees or agents are otherwise aware that the student's health or safety may be at risk if his or her status is disclosed to the student's parent or guardian, except as otherwise permitted by applicable State or federal law, including the Abused and Neglected Child Reporting Act, the Illinois School Student Records Act, the federal Family Educational Rights and Privacy Act of 1974, and professional ethics policies that govern professional school personnel.

(c) No student may be required to testify publicly concerning his or her status as a victim of domestic or sexual violence, allegations of domestic or sexual violence, his or her status as a parent or expectant parent, or the student's efforts to enforce any of his or her rights under provisions of this Code relating to students who are parents, expectant parents, or victims of domestic or sexual violence.

(d) In the case of domestic or sexual violence, except as permitted under State or federal law, or to the extent that a school official determines that the school official has an obligation to do so based on safety concerns or threats to the community, including the victim, a school district must not contact the person named to be the perpetrator, the perpetrator's family, or any other person named by the student or named by the student's parent or guardian to be unsafe to contact to verify the violence. A school district must not contact the perpetrator, the perpetrator's family, or any other person named by the student or the student's parent or guardian to be unsafe for any other reason without providing prior written notice to the student's parent or guardian. Nothing in this Section prohibits the school or school district from taking other steps to investigate the violence or from contacting persons not named by the student or the student's parent or guardian as unsafe to contact. Nothing in this Section prohibits the school or school district from taking reasonable steps to protect students. If the reasonable steps taken to protect students involve conduct that is prohibited under this subsection, the school must provide notice to the reporting student, in writing and in a developmentally appropriate communication format, of its intent to contact the parties named to be unsafe.

(e) This Section shall not apply to notification of parents or guardians if the perpetrator of the alleged sexual misconduct is an employee, agent, or contractor of a school district, charter school, or nonpublic school with direct contact with children or students.

Current through P.A. 102-0702, eff. July 1, 2023.

Domestic or Sexual Violence and Parenting Resource Personnel

105 ILCS 5/26A-35

(a) Each school district shall designate or appoint at least one staff person at each school in the district who is employed at least part time at the school and who is a school social worker, school psychologist, school counselor, school nurse, or school administrator trained to address, in a survivor-centered, trauma responsive, culturally responsive, confidential, and sensitive manner, the needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The designated or appointed staff person must have all of the following duties:

(1) To connect students who are parents, expectant parents, or victims of domestic or sexual violence to appropriate in-school services or other agencies, programs, or services as needed.

(2) To coordinate the implementation of the school's and school district's policies, procedures, and protocols in cases involving student allegations of domestic or sexual violence.

(3) To coordinate the implementation of the school's and school district's policies and procedures as set forth in provisions of this Code concerning students who are parents, expectant parents, or victims of domestic or sexual violence.

(4) To assist students described in paragraph (1) in their efforts to exercise and preserve their rights as set forth in provisions of this Code concerning students who are parents, expectant parents, or victims of domestic or sexual violence.

(5) To assist in providing staff development to establish a positive and sensitive learning environment for students described in paragraph (1).

(b) A member of staff who is designated or appointed under subsection (a) must (i) be trained to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence, including the theories and dynamics of domestic and sexual violence, the necessity for confidentiality and the law, policy, procedures, and protocols implementing confidentiality, and the notification of the student's parent or guardian regarding the student's status as a parent, expectant parent, or victim of domestic or sexual violence or the enforcement of the student's rights under this Code if the notice of the student's status or the involvement of the student's parent or guardian may put the health or safety of the student at risk, including the rights of minors to consent to counseling services and psychotherapy under the Mental Health and Developmental Disabilities Code, or (ii) at a minimum, have participated in an in-service training program under subsection (d) of Section 10-22.39 that includes training on the rights of minors to consent to counseling services and psychotherapy under the Mental Health and Developmental Disabilities Code within 12 months prior to his or her designation or appointment.

(c) A school district must designate or appoint and train all domestic or sexual violence and parenting resource personnel, and the personnel must assist in implementing the duties as described in this Section no later than June 30, 2024, except in those school districts in which there exists a collective bargaining agreement on the effective date of this amendatory Act of the 102nd General Assembly and the implementation of this Section would be a violation of that collective bargaining agreement. If implementation of some activities required under this Section is prevented by an existing collective bargaining agreement, a school district must comply with this Section to the fullest extent allowed by the existing collective bargaining agreement no later than June 30, 2024. In those instances in which a collective bargaining agreement that either fully or partially prevents full implementation of this Section expires after June 30, 2024, a school district must designate or appoint and train all domestic and sexual violence and parenting resource personnel, who shall implement the duties described in this Section no later than the effective date of the new collective bargaining agreement that immediately succeeds the collective bargaining agreement in effect on the effective date of this amendatory Act of the 102nd General Assembly.

Current through P.A. 102-0466, eff. July 1, 2025.

Support and Services

105 ILCS 5/26A-40

(a) To facilitate the full participation of students who are parents, expectant parents, or victims of domestic or sexual violence, each school district must provide those students with in-school support services and information regarding nonschool-based support services, and the ability to make up work missed on account of circumstances related to the student's status as a parent, expectant parent, or victim of domestic or sexual violence. Victims of domestic or sexual violence must have access to those supports and services regardless of when or where the violence for which they are seeking supports and services occurred. All supports and services must be offered for as long

as necessary to maintain the mental and physical well-being and safety of the student. Schools may periodically check on students receiving supports and services to determine whether each support and service continues to be necessary to maintain the mental and physical well-being and safety of the student or whether termination is appropriate.

(b) Supports provided under subsection (a) shall include, but are not limited to (i) the provision of sufficiently private settings to ensure confidentiality and time off from class for meetings with counselors or other service providers, (ii) assisting the student with a student success plan, (iii) transferring a victim of domestic or sexual violence or the student perpetrator to a different classroom or school, if available, (iv) changing a seating assignment, (v) implementing in-school, school grounds, and bus safety procedures, (vi) honoring court orders, including orders of protection and no-contact orders to the fullest extent possible, and (vii) providing any other supports that may facilitate the full participation in the regular education program of students who are parents, expectant parents, or victims of domestic or sexual violence.

(c) If a student who is a parent, expectant parent, or victim of domestic or sexual violence is a student at risk of academic failure or displays poor academic performance, the student or the student's parent or guardian may request that the school district provide the student with or refer the student to education and support services designed to assist the student in meeting State learning standards. A school district may either provide education or support services directly or may collaborate with public or private State, local, or community-based organizations or agencies that provide these services. A school district must also inform those students about support services of nonschool-based organizations and agencies from which those students typically receive services in the community.

(d) Any student who is unable, because of circumstances related to the student's status as a parent, expectant parent, or victim of domestic or sexual violence, to participate in classes on a particular day or days or at the particular time of day must be excused in accordance with the procedures set forth in this Code. Upon student or parent or guardian's request, the teachers and of the school administrative personnel and officials shall make available to each student who is unable to participate because of circumstances related to the student's status as a parent, expectant parent, or victim of domestic or sexual violence a meaningful opportunity to make up any examination, study, or work requirement that the student has missed because of the inability to participate on any particular day or days or at any particular time of day. For a student receiving homebound instruction, it is the responsibility of the student and parent to work with the school or school district to meet academic standards for matriculation, as defined by school district policy. Costs assessed by the school district on the student for participation in those activities shall be considered waivable fees for any student whose parent or guardian is unable to afford them, consistent with Section 10-20.13. Each school district must adopt written policies for waiver of those fees in accordance with rules adopted by the State Board of Education.

(e) If a school or school district employee or agent becomes aware of or suspects a student's status as a parent, expectant parent, or victim of domestic or sexual violence, it is the responsibility of the employee or agent of the school or school district to refer the student to the school district's domestic or sexual violence and parenting resource personnel set forth in Section 26A-35. A school district must make respecting a

student's privacy, confidentiality, mental and physical health, and safety a paramount concern.

(f) Each school must honor a student's and a parent's or guardian's decision to obtain education and support services and nonschool-based support services, to terminate the receipt of those education and support services, or nonschool-based support services, or to decline participation in those education and support services, or nonschool-based support services. No student is obligated to use education and support services, or nonschool-based support services. In developing educational support services, the privacy, mental and physical health, and safety of the student shall be of paramount concern. No adverse or prejudicial effects may result to any student because of the student's availing of or declining the provisions of this Section as long as the student is working with the school to meet academic standards for matriculation as defined by school district policy.

(g) Any support services must be available in any school or by home or hospital instruction to the highest quality and fullest extent possible for the individual setting.

(h) School-based counseling services, if available, must be offered to students who are parents, expectant parents, or victims of domestic or sexual violence consistent with the Mental Health and Developmental Disabilities Code. At least once every school year, each school district must inform, in writing, all school personnel and all students 12 years of age or older of the availability of counseling without parental or guardian consent under Section 3-550 of the Mental Health and Developmental Disabilities Code. This information must also be provided to students immediately after any school personnel becomes aware that a student is a parent, expectant parent, or victim of domestic or sexual violence.

(i) All domestic or sexual violence organizations and their staff and any other nonschool organization and its staff shall maintain confidentiality under federal and State laws and their professional ethics policies regardless of when or where information, advice, counseling, or any other interaction with students takes place. A school or school district may not request or require those organizations or individuals to breach confidentiality.

Current through P.A. 103-0605, eff. July 1, 2024.

Verification

105 ILCS 5/26A-45

(a) For purposes of students asserting their rights under provisions relating to domestic or sexual violence in Sections 10-21.3a, 10-22.6, 10-22.6a, 26-2a, 26A-40, and 34-18.24, a school district may require verification of the claim. The student or the student's parents or guardians shall choose which form of verification to submit to the school district. A school district may only require one form of verification, unless the student is requesting a transfer to another school, in which case the school district may require 2 forms of verification. All forms of verification received by a school district under this subsection (a) must be kept in a confidential temporary file, in accordance with the Illinois School Student Records Act. Any one of the following shall be an acceptable form of verification of a student's claim of domestic or sexual violence:

(1) A written statement from the student or anyone who has knowledge of the circumstances that support the student's claim. This may be in the form of a complaint.

(2) A police report, governmental agency record, or court record.

(3) A statement or other documentation from a domestic or sexual violence organization or any other organization from which the student sought services or advice.

(4) Documentation from a lawyer, clergy person, medical professional, or other professional from whom the student sought services or advice related to domestic or sexual violence.

(5) Any other evidence, such as physical evidence of violence, which supports the claim.

(b) A student or a student's parent or guardian who has provided acceptable verification that the student is or has been a victim of domestic or sexual violence may not be required to provide any additional verification if the student's efforts to assert rights under this Code stem from a claim involving the same perpetrator or the same incident of violence. No school or school district shall request or require additional documentation.

(c) The person named to be the perpetrator, the perpetrator's family, or any other person named by the student or the student's parent or guardian to be unsafe to contact may not be contacted to verify the violence, except to the extent that the district determines that it has an obligation to do so based on federal or State law or safety concerns for the school community, including such concerns for the victim. Prior to making contact, a school must notify the student and his or his parent or guardian in writing and in a developmentally appropriate manner, and discuss and address any safety concerns related to making such contact.

Current through P.A. 102-0466, eff. July 1, 2025.

Prohibited Practices

105 ILCS 5/26A-50

No school or school district may take any adverse action against a student who is a parent, expectant parent, or victim of domestic or sexual violence because the student or his or her parent or guardian (i) exercises or attempts to exercise his or her rights under this amendatory Act of the 102nd General Assembly, (ii) opposes practices that the student or his or her parent or guardian believes to be in violation of this amendatory Act of the 102nd General Assembly, or (iii) supports the exercise of the rights of another under this amendatory Act of the 102nd General Assembly. Exercising rights under this amendatory Act of the 102nd General Assembly includes, but is not limited to, filing a complaint with the school district as set forth in this Code or in any manner requesting, availing himself or herself of, or declining any of the provisions of this Code, including, but not limited to, supports and services.

Current through P.A. 102-0466, eff. July 1, 2025.

Chapter 110: Higher Education

Act 155: Preventing Sexual Violence in Higher Education Act

110 ILCS 155/1

Definitions

110 ILCS 155/5

In this Act:

“Awareness programming” means institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

“Bystander intervention” includes without limitation the act of challenging the social norms that support, condone, or permit sexual violence.

“Complainant” means a student who files a complaint alleging violation of the comprehensive policy through the higher education institution’s complaint resolution procedure.

“Comprehensive policy” means a policy created and implemented by a higher education institution to address student allegations of sexual violence, domestic violence, dating violence, and stalking.

“Confidential advisor” means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of this Act.

“Higher education institution” means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

“Primary prevention programming” means institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

“Respondent” means a student involved in the complaint resolution procedure who has been accused of violating a higher education institution’s comprehensive policy.

“Sexual violence” means physical sexual acts attempted or perpetrated against a person’s will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

“Survivor” means a student who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled at a higher education institution.

“Survivor-centered” means a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; (ii) ensures an understanding of how trauma affects survivor behavior; (iii) maintains survivor safety, privacy, and, if possible, confidentiality; and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

“Trauma-informed response” means a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Comprehensive Policy

110 ILCS 155/10

Comprehensive policy. On or before August 1, 2016, all higher education institutions shall adopt a comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking consistent with governing federal and State law. The higher education institution’s comprehensive policy shall include, at a minimum, all of the following components:

(1) A definition of consent that, at a minimum, recognizes that (i) consent is a freely given agreement to sexual activity, (ii) a person’s lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent, (iii) a person’s manner of dress does not constitute consent, (iv) a person’s consent to past sexual activity does not constitute consent to future sexual activity, (v) a person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another, (vi) a person can withdraw consent at any time, and (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:

(A) the person is incapacitated due to the use or influence of alcohol or drugs;

(B) the person is asleep or unconscious;

(C) the person is under age; or

(D) the person is incapacitated due to a mental disability.

Nothing in this Section prevents a higher education institution from defining consent in a more demanding manner.

(2) Procedures that students of the higher education institution may follow if they choose to report an alleged violation of the comprehensive policy, regardless of where the incident of sexual violence, domestic violence, dating violence, or stalking occurred, including all of the following:

(A) Name and contact information for the Title IX coordinator, campus law enforcement or security, local law enforcement, and the community-based sexual assault crisis center.

(B) The name, title, and contact information for confidential advisors and other confidential resources and a description of what confidential reporting means.

(C) Information regarding the various individuals, departments, or organizations to whom a student may report a violation of the comprehensive policy, specifying for each individual and entity (i) the extent of the individual’s or entity’s reporting obligation, (ii) the extent of the individual’s or entity’s ability to protect the

student's privacy, and (iii) the extent of the individual's or entity's ability to have confidential communications with the student.

(D) An option for students to electronically report.

(E) An option for students to anonymously report.

(F) An option for students to confidentially report.

(G) An option for reports by third parties and bystanders.

(3) The higher education institution's procedure for responding to a report of an alleged incident of sexual violence, domestic violence, dating violence, or stalking, including without limitation (i) assisting and interviewing the survivor, (ii) identifying and locating witnesses, (iii) contacting and interviewing the respondent, (iv) contacting and cooperating with law enforcement, when applicable, and (v) providing information regarding the importance of preserving physical evidence of the sexual violence and the availability of a medical forensic examination at no charge to the survivor.

(4) A statement of the higher education institution's obligation to provide survivors with concise information, written in plain language, concerning the survivor's rights and options, upon receiving a report of an alleged violation of the comprehensive policy, as described in Section 15 of this Act.

(5) The name, address, and telephone number of the medical facility nearest to each campus of the higher education institution where a survivor may have a medical forensic examination completed at no cost to the survivor, pursuant to the Sexual Assault Survivors Emergency Treatment Act.

(6) The name, telephone number, address, and website URL, if available, of community-based, State, and national sexual assault crisis centers.

(7) A statement notifying survivors of the interim protective measures and accommodations reasonably available from the higher education institution that a survivor may request in response to an alleged violation of the comprehensive policy, including without limitation changes to academic, living, dining, transportation, and working situations, obtaining and enforcing campus no contact orders, and honoring an order of protection or no contact order entered by a State civil or criminal court.

(8) The higher education institution's complaint resolution procedures if a student alleges violation of the comprehensive violence policy, including, at a minimum, the guidelines set forth in Section 25 of this Act.

(9) A statement of the range of sanctions the higher education institution may impose following the implementation of its complaint resolution procedures in response to an alleged violation of the comprehensive policy. Sanctions may include, but are not limited to, suspension, expulsion, or removal of the student found, after complaint resolution procedures, to be in violation of the comprehensive policy of the higher education institution.

(10) A statement of the higher education institution's obligation to include an amnesty provision that provides immunity to any student who reports, in good faith, an alleged violation of the higher education institution's comprehensive policy to a responsible employee, as defined by federal law, so that the reporting student will not receive a disciplinary sanction by the institution for a student conduct violation, such as underage drinking or possession or use of a controlled substance, that is revealed in the course of

such a report, unless the institution determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

(11) A statement of the higher education institution's prohibition on retaliation against those who, in good faith, report or disclose an alleged violation of the comprehensive policy, file a complaint, or otherwise participate in the complaint resolution procedure and available sanctions for individuals who engage in retaliatory conduct.

Current through P.A. 100-1087, eff. Jan. 1, 2019.

Student Notification of Rights and Options

110 ILCS 155/15

(a) On or before August 1, 2016, upon being notified of an alleged violation of the comprehensive policy by or on behalf of a student, each higher education institution shall, at a minimum, provide the survivor, when identified, with a concise notification, written in plain language, of the survivor's rights and options, including without limitation:

(1) the survivor's right to report or not report the alleged incident to the higher education institution, law enforcement, or both, including information about the survivor's right to privacy and which reporting methods are confidential;

(2) the contact information for the higher education institution's Title IX coordinator or coordinators, confidential advisors, a community-based sexual assault crisis center, campus law enforcement, and local law enforcement;

(3) the survivor's right to request and receive assistance from campus authorities in notifying law enforcement;

(4) the survivor's ability to request interim protective measures and accommodations for survivors, including without limitation changes to academic, living, dining, working, and transportation situations, obtaining and enforcing a campus-issued order of protection or no contact order, if such protective measures and accommodations are reasonably available, and an order of protection or no contact order in State court;

(5) the higher education institution's ability to provide assistance, upon the survivor's request, in accessing and navigating campus and local health and mental health services, counseling, and advocacy services; and

(6) a summary of the higher education institution's complaint resolution procedures, under Section 25 of this Act, if the survivor reports a violation of the comprehensive policy.

(b) Within 12 hours after receiving an electronic report, the higher education institution shall respond to the electronic reporter and, at a minimum, provide the information described in subdivisions (1) through (6) of subsection (a) of this Section and a list of available resources. The higher education institution may choose the manner in which it responds including, but not limited to, through verbal or electronic communication. Nothing in this subsection (b) limits a higher education institution's obligations under subsection (a) of this Section.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Confidential Advisor

110 ILCS 155/20

(a) Each higher education institution shall provide students with access to confidential advisors to provide emergency and ongoing support to survivors of sexual violence.

(b) The confidential advisors may not be individuals on campus who are designated as responsible employees under Title IX of the federal Education Amendments of 1972. Nothing in this Section precludes a higher education institution from partnering with a community-based sexual assault crisis center to provide confidential advisors.

(c) All confidential advisors shall receive 40 hours of training on sexual violence, if they have not already completed this 40-hour training, before being designated a confidential advisor and shall attend a minimum of 6 hours of ongoing education training annually on issues related to sexual violence to remain a confidential advisor. Confidential advisors shall also receive periodic training on the campus administrative processes, interim protective measures and accommodations, and complaint resolution procedures.

(d) In the course of working with a survivor, each confidential advisor shall, at a minimum, do all of the following:

(1) Inform the survivor of the survivor's choice of possible next steps regarding the survivor's reporting options and possible outcomes, including without limitation reporting pursuant to the higher education institution's comprehensive policy and notifying local law enforcement.

(2) Notify the survivor of resources and services for survivors of sexual violence, including, but not limited to, student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services.

(3) Inform the survivor of the survivor's rights and the higher education institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by the higher education institution or a criminal or civil court.

(4) Provide confidential services to and have privileged, confidential communications with survivors of sexual violence in accordance with Section 8-804 of the Code of Civil Procedure.

(5) Upon the survivor's request and as appropriate, liaise with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the survivor with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.

(6) Upon the survivor's request, liaise with the necessary campus authorities to secure interim protective measures and accommodations for the survivor.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Complaint Resolution Procedures

110 ILCS 155/25

(a) On or before August 1, 2016, each campus of a higher education institution shall adopt one procedure to resolve complaints of alleged student violations of the comprehensive policy.

(b) For each campus, a higher education institution's complaint resolution procedures for allegations of student violation of the comprehensive policy shall provide, at a minimum, all of the following:

(1) Complainants alleging student violation of the comprehensive policy shall have the opportunity to request that the complaint resolution procedure begin promptly and proceed in a timely manner.

(2) The higher education institution shall determine the individuals who will resolve complaints of alleged student violations of the comprehensive policy.

(3) All individuals whose duties include resolution of complaints of student violations of the comprehensive policy shall receive a minimum of 8 to 10 hours of annual training on issues related to sexual violence, domestic violence, dating violence, and stalking and how to conduct the higher education institution's complaint resolution procedures, in addition to the annual training required for employees as provided in subsection (c) of Section 30 of this Act.

(4) The higher education institution shall have a sufficient number of individuals trained to resolve complaints so that (i) a substitution can occur in the case of a conflict of interest or recusal and (ii) an individual or individuals with no prior involvement in the initial determination or finding hear any appeal brought by a party.

(5) The individual or individuals resolving a complaint shall use a preponderance of the evidence standard to determine whether the alleged violation of the comprehensive policy occurred.

(6) The complainant and respondent shall (i) receive notice of the individual or individuals with authority to make a finding or impose a sanction in their proceeding before the individual or individuals initiate contact with either party and (ii) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.

(7) The higher education institution shall have a procedure to determine interim protective measures and accommodations available pending the resolution of the complaint.

(8) Any proceeding, meeting, or hearing held to resolve complaints of alleged student violations of the comprehensive policy shall protect the privacy of the participating parties and witnesses.

(9) The complainant, regardless of this person's level of involvement in the complaint resolution procedure, and the respondent shall have the opportunity to provide or present evidence and witnesses on their behalf during the complaint resolution procedure.

(10) The complainant and the respondent may not directly cross examine one another, but may, at the discretion and direction of the individual or individuals resolving the complaint, suggest questions to be posed by the individual or individuals resolving the complaint and respond to the other party.

(11) Both parties may request and must be allowed to have an advisor of their choice accompany them to any meeting or proceeding related to an alleged violation of the comprehensive policy, provided that the involvement of the advisor does not result in undue delay of the meeting or proceeding. The advisor must comply with any rules in the higher education institution's complaint resolution procedure regarding the advisor's role. If the advisor violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual resolving the complaint, that advisor may be prohibited from further participation.

(12) The complainant and the respondent may not be compelled to testify, if the complaint resolution procedure involves a hearing, in the presence of the other party. If a party invokes this right, the higher education institution shall provide a procedure by which each party can, at a minimum, hear the other party's testimony.

(13) The complainant and the respondent are entitled to simultaneous, written notification of the results of the complaint resolution procedure, including information regarding appeal rights, within 7 days of a decision or sooner if required by State or federal law.

(14) The complainant and the respondent shall, at a minimum, have the right to timely appeal the complaint resolution procedure's findings or imposed sanctions if the party alleges (i) a procedural error occurred, (ii) new information exists that would substantially change the outcome of the finding, or (iii) the sanction is disproportionate with the violation. The individual or individuals reviewing the findings or imposed sanctions shall not have participated previously in the complaint resolution procedure and shall not have a conflict of interest with either party. The complainant and the respondent shall receive the appeal decision in writing within 7 days after the conclusion of the review of findings or sanctions or sooner if required by federal or State law.

(15) The higher education institution shall not disclose the identity of the survivor or the respondent, except as necessary to resolve the complaint or to implement interim protective measures and accommodations or when provided by State or federal law.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Campus Training, Education and Awareness

110 ILCS 155/30

(a) On or before August 1, 2016, a higher education institution shall prominently publish, timely update, and have easily available on its Internet website all of the following information:

(1) The higher education institution's comprehensive policy, as well as options and resources available to survivors.

(2) The higher education institution's student notification of rights and options described in Section 15 of this Act.

(3) The name and contact information for all of the higher education institution's Title IX coordinators.

(4) An explanation of the role of (i) Title IX coordinators, including deputy or assistant Title IX coordinators, under Title IX of the federal Education Amendments of 1972, (ii) responsible employees under Title IX of the federal Education Amendments of 1972, (iii) campus security authorities under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and (iv) mandated reporters under the Abused and Neglected Child Reporting Act and the reporting obligations of each, as well as the level of confidentiality each is allowed to provide to reporting students under relevant federal and State law.

(5) The name, title, and contact information for all confidential advisors, counseling services, and confidential resources that can provide a confidential response to a report and a description of what confidential reporting means.

(6) The telephone number and website URL for community-based, State, and national hotlines providing information to sexual violence survivors.

(b) Beginning with the 2016-2017 academic year, each higher education institution shall provide sexual violence primary prevention and awareness programming for all students who attend one or more classes on campus, which shall include, at a minimum, annual training as described in this subsection (b). Nothing in this Section shall be construed to limit the higher education institution's ability to conduct additional ongoing sexual violence primary prevention and awareness programming.

Each higher education institution's annual training shall, at a minimum, provide each student who attends one or more classes on campus information regarding the higher education institution's comprehensive policy, including without limitation the following:

(1) the institution's definitions of consent, inability to consent, and retaliation as they relate to sexual violence;

(2) reporting to the higher education institution, campus law enforcement, and local law enforcement;

(3) reporting to the confidential advisor or other confidential resources;

(4) available survivor services; and

(5) strategies for bystander intervention and risk reduction.

At the beginning of each academic year, each higher education institution shall provide each student of the higher education institution with an electronic copy or hard copy of its comprehensive policy, procedures, and related protocols.

(c) Beginning in the 2016-2017 academic year, a higher education institution shall provide annual survivor-centered and trauma-informed response training to any employee of the higher education institution who is involved in (i) the receipt of a student report of an alleged incident of sexual violence, domestic violence, dating violence, or stalking, (ii) the referral or provision of services to a survivor, or (iii) any campus complaint resolution procedure that results from an alleged incident of sexual violence, domestic violence,

dating violence, or stalking. Employees falling under this description include without limitation the Title IX coordinator, members of the higher education institution's campus law enforcement, and campus security. An enrolled student at or a contracted service provider of the higher education institution with the employee responsibilities outlined in clauses (i) through (iii) of this paragraph shall also receive annual survivor-centered and trauma-informed response training.

The higher education institution shall design the training to improve the trainee's ability to understand (i) the higher education institution's comprehensive policy; (ii) the relevant federal and State law concerning survivors of sexual violence, domestic violence, dating violence, and stalking at higher education institutions; (iii) the roles of the higher education institution, medical providers, law enforcement, and community agencies in ensuring a coordinated response to a reported incident of sexual violence; (iv) the effects of trauma on a survivor; (v) the types of conduct that constitute sexual violence, domestic violence, dating violence, and stalking, including same-sex violence; and (vi) consent and the role drugs and alcohol use can have on the ability to consent. The training shall also seek to improve the trainee's ability to respond with cultural sensitivity; provide services to or assist in locating services for a survivor, as appropriate; and communicate sensitively and compassionately with a survivor of sexual violence, domestic violence, dating violence, or stalking.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Sexual Misconduct Climate Survey

110 ILCS 155/35

Note: To view the text of this section, please refer to www.ilga.gov.

Chapter 215: Insurance

Act 5. Illinois Insurance Code

Article XX. Accident and Health Insurance

215 ILCS 5/352 to 370e

Claim-Related Information; Alternative Means of Communication

215 ILCS 5/355b

(a) For the purposes of this Section, "claim-related information" means all claim or billing information relating specifically to an insured, subscriber, or person covered by an individual or group policy of accident and health insurance issued, delivered, amended, or renewed by a company doing business in this State.

(b) A company that issues, delivers, amends, or renews an individual or group policy of accident and health insurance on or after the effective date of this amendatory Act of the 98th General Assembly shall accommodate a reasonable request by a person covered by a policy issued by the company to receive communications of claim-related information from the company by alternative means or at alternative locations if the person clearly states that disclosure of all or part of the information could endanger the person.

(c) If a child is covered by a policy issued by a company, then the child's parent or guardian may make a request to the company pursuant to subsection (b) of this Section.

(d) A company may require (1) a person making a request pursuant to subsection (b) of this Section to do so in writing, (2) the request to contain a statement that disclosure of all or part of the claim-related information to which the request pertains could endanger the person or child, and (3) the specification of an alternative address, telephone number, or other method of contact.

(e) Except with the express consent of the person making a request pursuant to subsection (b) of this Section, a company may not disclose to the policyholder (1) the address, telephone number, or any other personally identifying information of the person who made the request or child for whose benefit a request was made, (2) the nature of the health care services provided, or (3) the name or address of the provider of the health care services.

(f) A company that makes reasonable and good faith efforts to comply with this Section shall not be subject to civil or criminal liability on the grounds of noncompliance with this Section.

(g) The Director shall adopt rules to guide companies in guarding against the disclosure of the information protected pursuant to this Section.

(h) Nothing in this Section shall prevent, hinder, or otherwise affect the entry of an appropriate order made in the best interests of a child by a court of competent jurisdiction adjudicating disputed issues of child welfare or custody.

Current through P.A. 98-0189, eff. Jan. 1, 2014.

Chapter 320: Aging
Act 20: Adult Protective Services Act

320 ILCS 20/1

Definitions

320 ILCS 20/2

(a) "Abandonment" means the desertion or willful forsaking of an eligible adult by an individual responsible for the care and custody of that eligible adult under circumstances in which a reasonable person would continue to provide care and custody. Nothing in this Act shall be construed to mean that an eligible adult is a victim of abandonment because of health care services provided or not provided by licensed health care professionals.

(a-1) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources, and abandonment or subjecting an eligible adult to an environment which creates a likelihood of harm to the eligible adult's health, physical and emotional well-being, or welfare.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, abandonment, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse in cases of criminal activity by strangers, telemarketing scams, consumer fraud, internet fraud, home repair disputes, complaints against a homeowners' association, or complaints between landlords and tenants.

(a-5) "Abuser" means a person who is a family member, caregiver, or another person who has a continuing relationship with the eligible adult and abuses, abandons, neglects, or financially exploits an eligible adult.

(a-6) "Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose disability as defined in subsection (c-5) impairs his or her ability to seek or obtain protection from abuse, abandonment, neglect, or exploitation.

(a-7) "Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(c-5) "Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer's Disease Assistance Act.

(d) "Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(1.5) A facility licensed under the ID/DD Community Care Act;

(1.6) A facility licensed under the MC/DD Act;

(1.7) A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013;

(2) A "life care facility" as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the

maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the Community Living Facilities Licensing Act;

(6) (Blank);

(7) A “community-integrated living arrangement” as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a “community residential alternative” as licensed under that Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act; or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) “Eligible adult” means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, abandoned, neglected, or financially exploited by another individual or who neglects himself or herself. “Eligible adult” also includes an adult who resides in any of the facilities that are excluded from the definition of “domestic living situation” under paragraphs (1) through (9) of subsection (d), if either: (i) the alleged abuse, abandonment, or neglect occurs outside of the facility and not under facility supervision and the alleged abuser is a family member, caregiver, or another person who has a continuing relationship with the adult; or (ii) the alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult, but who is not an employee of the facility where the adult resides.

(f) “Emergency” means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-1) “Financial exploitation” means the use of an eligible adult’s resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

(f-3) “Investment advisor” means any person required to register as an investment adviser or investment adviser representative under Section 8 of the Illinois Securities Law of 1953, which for purposes of this Act excludes any bank, trust company, savings bank, or credit union, or their respective employees.

(f-5) “Mandated reporter” means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional’s delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Behavior Analyst Licensing Act, the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietitian Nutritionist Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, the Illinois Speech-Language

Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(1.5) an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, except the State Long Term Care Ombudsman and any of his or her representatives or volunteers where prohibited from making such a report pursuant to 45 CFR 1324.11(e)(3)(iv);

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or medical examiner;

(9) a person who performs the duties of a paramedic or an emergency medical technician; or

(10) a person who performs the duties of an investment advisor.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, abandonment, neglect, or financial exploitation. A provider agency is also referenced as a "designated agency" in this Act.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth

in subsection (b) of Section 3 of this Act. The Department shall designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, abandonment, neglect, or financial exploitation has occurred.

(k) "Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, abandonment, neglect, or financial exploitation.

Current through P.A. 103-0626, eff. Jan. 1, 2025.

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Reports of Abuse, Abandonment, or Neglect

320 ILCS 20/4

(a) Any person who suspects the abuse, abandonment, neglect, financial exploitation, or self-neglect of an eligible adult may report this suspicion or information about the suspicious death of an eligible adult to an agency designated to receive such reports under this Act or to the Department.

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of a disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, abandonment, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. The agency designated to receive such reports under this Act or the Department may establish a manner in which a mandated reporter can make the required report through an Internet reporting tool. Information sent and received through the Internet reporting tool is subject to the same rules in this Act as other types of confidential reporting established by the designated agency or the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive

such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, abandoned, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-6) If a mandated reporter has reason to believe that the death of an eligible adult may be the result of abuse or neglect, the matter shall be reported to an agency designated to receive such reports under this Act or to the Department for subsequent referral to the appropriate law enforcement agency and the coroner or medical examiner in accordance with subsection (c-5) of Section 3 of this Act.

(a-7) A person making a report under this Act in the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

(a-9) Law enforcement officers shall continue to report incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse, abandonment, or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse, abandonment, neglect, financial exploitation, or self-neglect or a report concerning information about the suspicious death of an eligible adult under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order, but is otherwise confidential.

(d) The Department shall by rule establish a system for filing and compiling reports made under this Act.

(e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A)(22) of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for possible disciplinary action. Any optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. Any other mandated reporter required by this Act to report suspected abuse, abandonment, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

Current through P.A. 103-0626, eff. Jan. 1, 2025.

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Testimony by Mandated Reporter and Investigator

320 ILCS 20/4.2

Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, abandonment, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of or a suspicious death due to abuse, abandonment, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse, abandonment, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under this Act and the person making or investigating the report.

Current through P.A. 103-0329, eff. Jan. 1, 2024

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Chapter 325: Children

Act 5: Abused and Neglected Child Reporting Act

325 ILCS 5/1

Protective Services; Application of Act

325 ILCS 5/2

(a) The Illinois Department of Children and Family Services shall, upon receiving reports made under this Act, protect the health, safety, and best interests of the child in all situations in which the child is vulnerable to child abuse or neglect, offer protective services in order to prevent any further harm to the child and to other children in the same environment or family, stabilize the home environment, and preserve family life whenever possible. Recognizing that children also can be abused and neglected while living in public or private residential agencies or institutions meant to serve them, while

attending day care centers, schools, or religious activities, or when in contact with adults who are responsible for the welfare of the child at that time, this Act also provides for the reporting and investigation of child abuse and neglect in such instances. In performing any of these duties, the Department may utilize such protective services of voluntary agencies as are available.

(b) The Department shall be responsible for receiving and investigating reports of adult resident abuse or neglect under the provisions of this Act.

Current through P.A. 96-1446, eff. Aug. 20, 2010.

Persons Eligible to Use Services and Facilities; Referral

325 ILCS 5/2.1

Any person or family seeking assistance in meeting child care responsibilities may use the services and facilities established by this Act which may assist in meeting such responsibilities. Whether or not the problem presented constitutes child abuse or neglect, such persons or families shall be referred to appropriate resources or agencies. No person seeking assistance under this Section shall be required to give the person's name or any other identifying information.

Current through P.A. 0103-0022, eff. Aug. 8, 2023.

Definitions

325 ILCS 5/3

As used in this Act unless the context otherwise requires:

"Adult resident" means any person between 18 and 22 years of age who resides in any facility licensed by the Department under the Child Care Act of 1969. For purposes of this Act, the criteria set forth in the definitions of "abused child" and "neglected child" shall be used in determining whether an adult resident is abused or neglected.

"Agency" means a child care facility licensed under Section 2.05 or Section 2.06 of the Child Care Act of 1969 and includes a transitional living program that accepts children and adult residents for placement who are in the guardianship of the Department.

"Blatant disregard" means an incident where the real, significant, and imminent risk of harm would be so obvious to a reasonable parent or caretaker that it is unlikely that a reasonable parent or caretaker would have exposed the child to the danger without exercising precautionary measures to protect the child from harm. With respect to a person working at an agency in the person's professional capacity with a child or adult resident, "blatant disregard" includes a failure by the person to perform job responsibilities intended to protect the child's or adult resident's health, physical well-being, or welfare, and, when viewed in light of the surrounding circumstances, evidence exists that would cause a reasonable person to believe that the child was neglected. With respect to an agency, "blatant disregard" includes a failure to implement practices that ensure the health, physical well-being, or welfare of the children and adult residents residing in the facility.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Department" means Department of Children and Family Services.

“Local law enforcement agency” means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois State Police.

“Abused child” means a child whose parent or immediate family member, or any person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of the child’s parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 2012 or in the Wrongs to Children Act, and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon such child;

(e) inflicts excessive corporal punishment or, in the case of a person working for an agency who is prohibited from using corporal punishment, inflicts corporal punishment upon a child or adult resident with whom the person is working in the person’s professional capacity;

(f) commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 2012, against the child;

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act, except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription;

(h) commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons as defined in Section 10-9 of the Criminal Code of 2012 against the child; or

(i) commits the offense of grooming, as defined in Section 11-25 of the Criminal Code of 2012, against the child.

A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

“Neglected child” means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child’s well-being, or other care necessary for the child’s well-being, including adequate food, clothing and shelter; or who is subjected to an environment which is injurious insofar as (i) the child’s environment creates a likelihood of harm to the child’s health, physical well-being,

or welfare and (ii) the likely harm to the child is the result of a blatant disregard of parent, caretaker, person responsible for the child's welfare, or agency responsibilities; or who is abandoned by the child's parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the person who gave birth or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for the child's welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for the child's welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of this Act. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code, as amended.

"Child Protective Service Unit" means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act.

"Near fatality" means an act that, as certified by a physician, places the child in serious or critical condition, including acts of great bodily harm inflicted upon children under 13 years of age, and as otherwise defined by Department rule.

"Great bodily harm" includes bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.

"Person responsible for the child's welfare" means the child's parent; guardian; foster parent; relative caregiver; any person responsible for the child's welfare in a public or private residential agency or institution; any person responsible for the child's welfare within a public or private profit or not for profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, including any person who commits or allows to be committed, against the child, the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services, as provided in Section 10-9 of the Criminal Code of 2012, including, but not limited to, the custodian of the minor, or any person who came to know the child through an official capacity or position of trust, including, but not limited to, health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the

Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

“An unfounded report” means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.

“An indicated report” means a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists.

“An undetermined report” means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

“Subject of report” means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act as an alleged victim of child abuse or neglect and the parent or guardian of the alleged victim or other person responsible for the alleged victim’s welfare who is named in the report or added to the report as an alleged perpetrator of child abuse or neglect.

“Perpetrator” means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

“Member of the clergy” means a clergyperson or practitioner of any religious denomination accredited by the religious body to which the clergyperson or practitioner belongs.

Current through P.A. 103-0022, eff. Aug 8, 2023.

Persons Required to Report; Privileged Communications; Transmitting False Report

325 ILCS 5/4

(a) The following persons are required to immediately report to the Department when they have reasonable cause to believe that a child known to them in their professional or official capacities may be an abused child or a neglected child:

(1) Medical personnel, including any: physician licensed to practice medicine in any of its branches (medical doctor or doctor of osteopathy); resident; intern; medical administrator or personnel engaged in the examination, care, and treatment of persons; psychiatrist; surgeon; dentist; dental hygienist; chiropractic physician; podiatric physician; physician assistant; emergency medical technician; physical therapist; physical therapy assistant; occupational therapist; occupational therapy assistant; acupuncturist; registered nurse; licensed practical nurse; advanced practice registered nurse; genetic counselor; respiratory care practitioner; home health aide; or certified nursing assistant.

(2) Social services and mental health personnel, including any: licensed professional counselor; licensed clinical professional counselor; licensed social worker; licensed clinical social worker; licensed psychologist or assistant working under the direct supervision of a psychologist; associate licensed marriage and family therapist; licensed marriage and family therapist; field personnel of the Departments of Healthcare and Family Services, Public Health, Human Services, Human Rights, or Children and Family Services; supervisor or administrator of the General Assistance program established under Article VI of the Illinois Public Aid Code; social services administrator; or substance abuse treatment personnel.

(3) Crisis intervention personnel, including any: crisis line or hotline personnel; or domestic violence program personnel.

(4) Education personnel, including any: school personnel (including administrators and certified and non-certified school employees); personnel of institutions of higher education; educational advocate assigned to a child in accordance with the School Code; member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required under subsection (d)); or truant officer.

(5) Recreation or athletic program or facility personnel; or an athletic trainer.

(6) Child care personnel, including any: early intervention provider as defined in the Early Intervention Services System Act; director or staff assistant of a nursery school or a child day care center; or foster parent, homemaker, or child care worker.

(7) Law enforcement personnel, including any: law enforcement officer; field personnel of the Department of Juvenile Justice; field personnel of the Department of Corrections; probation officer; or animal control officer or field investigator of the Department of Agriculture's Bureau of Animal Health and Welfare.

(8) Any funeral home director; funeral home director and embalmer; funeral home employee; coroner; or medical examiner.

(9) Any member of the clergy.

(10) Any physician, physician assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, licensed social worker, licensed clinical social worker, or licensed professional counselor of any office, clinic, licensed behavior analyst, licensed assistant behavior analyst, or any other physical location that provides abortions, abortion referrals, or contraceptives.

(b) When 2 or more persons who work within the same workplace and are required to report under this Act share a reasonable cause to believe that a child may be an abused or neglected child, one of those reporters may be designated to make a single report. The report shall include the names and contact information for the other mandated reporters sharing the reasonable cause to believe that a child may be an abused or neglected child. The designated reporter must provide written confirmation of the report to those mandated reporters within 48 hours. If confirmation is not provided, those mandated reporters are individually responsible for immediately ensuring a report is made. Nothing in this Section precludes or may be used to preclude any person from reporting child abuse or child neglect.

(c) (1) As used in this Section, "a child known to them in their professional or official capacities" means:

(A) the mandated reporter comes into contact with the child in the course of the reporter's employment or practice of a profession, or through a regularly scheduled program, activity, or service;

(B) the mandated reporter is affiliated with an agency, institution, organization, school, school district, regularly established church or religious

organization, or other entity that is directly responsible for the care, supervision, guidance, or training of the child; or

(C) a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse or child neglect, and the disclosure happens while the mandated reporter is engaged in the reporter's employment or practice of a profession, or in a regularly scheduled program, activity, or service.

(2) Nothing in this Section requires a child to come before the mandated reporter in order for the reporter to make a report of suspected child abuse or child neglect.

(d) If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which the person is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in that board member's individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because the current or former employee is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during the employee's employment with the school district must be informed by that school district that if the employee applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

(e) Whenever such person is required to report under this Act in the person's capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, the person shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or designated agent of the person in charge that such report has been made. Under no circumstances shall any person in charge of such

institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or designated agent of the person in charge to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

(f) In addition to the persons required to report suspected cases of child abuse or child neglect under this Section, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

(g) The privileged quality of communication between any professional person required to report and the professional person's patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

The reporting requirements of this Act shall not apply to the contents of a privileged communication between an attorney and the attorney's client or to confidential information within the meaning of Rule 1.6 of the Illinois Rules of Professional Conduct relating to the legal representation of an individual client.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

(h) Any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives shall provide to all office personnel copies of written information and training materials about abuse and neglect and the requirements of this Act that are provided to employees of the office, clinic, or physical location who are required to make reports to the Department under this Act, and instruct such office personnel to bring to the attention of an employee of the office, clinic, or physical location who is required to make reports to the Department under this Act any reasonable suspicion that a child known to office personnel in their professional or official capacity may be an abused child or a neglected child.

(i) Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. On and after January 1, 2019, the statement shall also include information about available mandated reporter training provided by the Department. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

(j) Persons required to report child abuse or child neglect as provided under this Section must complete an initial mandated reporter training, including a section on implicit bias, within 3 months of their date of engagement in a professional or official capacity as a mandated reporter, or within the time frame of any other applicable State law that governs training requirements for a specific profession, and at least every 3 years thereafter. The initial requirement only applies to the first time they engage in their professional or official capacity. In lieu of training every 3 years, medical personnel, as

listed in paragraph (1) of subsection (a), must meet the requirements described in subsection (k).

The mandated reporter trainings shall be in-person or web-based, and shall include, at a minimum, information on the following topics: (i) indicators for recognizing child abuse and child neglect, as defined under this Act; (ii) the process for reporting suspected child abuse and child neglect in Illinois as required by this Act and the required documentation; (iii) responding to a child in a trauma-informed manner; and (iv) understanding the response of child protective services and the role of the reporter after a call has been made. Child-serving organizations are encouraged to provide in-person annual trainings.

The implicit bias section shall be in-person or web-based, and shall include, at a minimum, information on the following topics: (i) implicit bias and (ii) racial and ethnic sensitivity. As used in this subsection, “implicit bias” means the attitudes or internalized stereotypes that affect people’s perceptions, actions, and decisions in an unconscious manner and that exist and often contribute to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, and other characteristics. The implicit bias section shall provide tools to adjust automatic patterns of thinking and ultimately eliminate discriminatory behaviors. During these trainings mandated reporters shall complete the following: (1) a pretest to assess baseline implicit bias levels; (2) an implicit bias training task; and (3) a posttest to reevaluate bias levels after training. The implicit bias curriculum for mandated reporters shall be developed within one year after January 1, 2022 (the effective date of Public Act 102-604) and shall be created in consultation with organizations demonstrating expertise and or experience in the areas of implicit bias, youth and adolescent developmental issues, prevention of child abuse, exploitation, and neglect, culturally diverse family systems, and the child welfare system.

The mandated reporter training, including a section on implicit bias, shall be provided through the Department, through an entity authorized to provide continuing education for professionals licensed through the Department of Financial and Professional Regulation, the State Board of Education, the Illinois Law Enforcement Training Standards Board, or the Illinois State Police, or through an organization approved by the Department to provide mandated reporter training, including a section on implicit bias. The Department must make available a free web-based training for reporters.

Each mandated reporter shall report to the mandated reporter’s employer and, when applicable, to the mandated reporter’s licensing or certification board that the mandated reporter received the mandated reporter training. The mandated reporter shall maintain records of completion.

Beginning January 1, 2021, if a mandated reporter receives licensure from the Department of Financial and Professional Regulation or the State Board of Education, and the mandated reporter’s profession has continuing education requirements, the training mandated under this Section shall count toward meeting the licensee’s required continuing education hours.

(k) (1) Medical personnel, as listed in paragraph (1) of subsection (a), who work with children in their professional or official capacity, must complete mandated reporter training at least every 6 years. Such medical personnel, if licensed, must attest at each time of licensure renewal on their renewal form that they understand they are a mandated reporter of child abuse and neglect, that they are aware of the process for making a report, that they know how to respond to a child in a trauma-informed manner, and that they are aware of the role of child protective services and the role of a reporter after a call has been made.

(2) In lieu of repeated training, medical personnel, as listed in paragraph (1) of subsection (a), who do not work with children in their professional or official capacity, may instead attest each time at licensure renewal on their renewal form that they understand they are a mandated reporter of child abuse and neglect, that they are aware of the process for making a report, that they know how to respond to a child in a trauma-informed manner, and that they are aware of the role of child protective services and the role of a reporter after a call has been made. Nothing in this paragraph precludes medical personnel from completing mandated reporter training and receiving continuing education credits for that training.

(l) The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

(m) Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

(n) A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that the child's parent, guardian or custodian accepts and practices such beliefs.

(o) A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended.

(p) Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

(q) A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(r) For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

Current through P.A. 103-0022, eff. Aug. 8, 2023.

Failure to Report Suspected Abuse or Neglect

325 ILCS 5/4.02

Any physician who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with paragraph 22 of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other person required by this Act to report suspected child abuse and neglect who willfully fails to report such is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation.

Current through P.A. 92-0801, eff. Aug. 16, 2002.

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Time and Manner of Making Reports

325 ILCS 5/7

All reports of suspected child abuse or neglect made under this Act shall be made immediately by telephone to the central register established under Section 7.7 on the single, State-wide, toll-free telephone number established in Section 7.6, or in person or by telephone through the nearest Department office. The Department shall, in cooperation with school officials, distribute appropriate materials in school buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act. The Department may, in cooperation with appropriate members of the clergy, distribute appropriate materials in churches, synagogues, temples, mosques, or other religious buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act.

Wherever the Statewide number is posted, there shall also be posted the following notice:

"Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this subsection is a Class 4 felony."

The report required by this Act shall include, if known, the name and address of the child and the child's parents or other persons having the child's custody; the child's age; the nature of the child's condition, including any evidence of previous injuries or disabilities; and any other information that the person filing the report believes might be helpful in establishing the cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect. Reports made to the central register through the State-wide, toll-free telephone number shall be immediately transmitted by the Department to the appropriate Child Protective

Service Unit. All such reports alleging the death of a child, serious injury to a child, including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age 12 and under, shall also be immediately transmitted by the Department to the appropriate local law enforcement agency. The Department shall within 24 hours orally notify local law enforcement personnel and the office of the State's Attorney of the involved county of the receipt of any report alleging the death of a child, serious injury to a child, including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age 12 and under. All oral reports made by the Department to local law enforcement personnel and the office of the State's Attorney of the involved county shall be confirmed in writing within 24 hours of the oral report.

Any report received by the Department alleging the abuse or neglect of a child by a person who is not the child's parent, a member of the child's immediate family, a person responsible for the child's welfare, an individual residing in the same home as the child, or a paramour of the child's parent shall immediately be referred to the appropriate local law enforcement agency for consideration of criminal investigation or other action.

Written confirmation reports from persons not required to report by this Act may be made to the appropriate Child Protective Service Unit. Written reports from persons required by this Act to report shall be admissible in evidence in any judicial proceeding or administrative hearing relating to child abuse or neglect. Reports involving known or suspected child abuse or neglect in public or private residential agencies or institutions shall be made and received in the same manner as all other reports made under this Act.

For purposes of this Section, "child" includes an adult resident as defined in this Act.

Current through P.A. 103-0624, eff. Jan. 1, 2025.

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Testimony by Person Making Report

325 ILCS 5/10

Any person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding or administrative hearing resulting from such report, as to any evidence of abuse or neglect, or the cause thereof. Any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report under this Act and any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act or the person making or investigating the report.

Current through P.A. 97-0387, eff. Aug. 15, 2011.

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Disclosure to Mandated Reporting Source

325 ILCS 5/11.2

Disclosure to mandated reporting source. A mandated reporting source as provided in Section 4 of this Act may receive appropriate information about the findings and actions taken by the Child Protective Service Unit in response to its report. The information shall include the actions taken by the Child Protective Service Unit to ensure a child's safety.

Current through P.A. 92-0319, eff. Jan. 1, 2002.

Disclosure to Extended Family Member

325 ILCS 5/11.2a

Upon request, an extended family member interviewed for relevant information in the course of an investigation by the Child Protective Service Unit may receive appropriate information about the findings and actions taken by the Child Protective Service Unit to ensure the safety of the child or children who were the subjects of the investigation.

Current through P.A. 92-0319, eff. Jan. 1, 2002.

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MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE (SELECTED SECTIONS)

405 ILCS 5/1-100

Counseling Services; Consent; Costs (Adult Under Guardianship)

405 ILCS 5/2-101.1

(a) Any adult under guardianship may request and receive counseling services or psychotherapy. The consent of the guardian shall not be necessary to authorize counseling or psychotherapy. The adult's guardian shall not be informed, without the consent of the adult, of such counseling or psychotherapy unless the counselor or therapist believes such disclosure is necessary. If the counselor or therapist intends to disclose the fact of counseling or psychotherapy, the adult shall be so informed. However, until the consent of the adult's guardian has been obtained, counseling or psychotherapy provided to an adult under guardianship shall be limited to not more than 12 sessions, a session lasting not more than 60 minutes.

(b) The adult's guardian shall not be liable for the costs of counseling or psychotherapy which is received by the adult without the consent of the adult's guardian.

Current through P.A. 101-0059, eff. July 12, 2019

Minors 12 Years of Age or Older Request to Receive Counseling Services or Psychotherapy on an Outpatient Basis

405 ILCS 5/3-550

(a) Any minor 12 years of age or older may request and receive counseling services or psychotherapy on an outpatient basis. The consent of the minor's parent, guardian, or

person in loco parentis shall not be necessary to authorize outpatient counseling services or psychotherapy. However, until the consent of the minor's parent, guardian, or person in loco parentis has been obtained, outpatient counseling services or psychotherapy provided to a minor under the age of 17 shall be initially limited to not more than 8 90-minute sessions. The service provider shall consider the factors contained in subsection (a-1) of this Section throughout the therapeutic process to determine, through consultation with the minor, whether attempting to obtain the consent of a parent, guardian, or person in loco parentis would be detrimental to the minor's well-being. No later than the eighth session, the service provider shall determine and share with the minor the service provider's decision as described below:

(1) If the service provider finds that attempting to obtain consent would not be detrimental to the minor's well-being, the provider shall notify the minor that the consent of a parent, guardian, or person in loco parentis is required to continue counseling services or psychotherapy.

(2) If the minor does not permit the service provider to notify the parent, guardian, or person in loco parentis for the purpose of consent after the eighth session the service provider shall discontinue counseling services or psychotherapy and shall not notify the parent, guardian, or person in loco parentis about the counseling services or psychotherapy.

(3) If the minor permits the service provider to notify the parent, guardian, or person in loco parentis for the purpose of consent, without discontinuing counseling services or psychotherapy, the service provider shall make reasonable attempts to obtain consent. The service provider shall document each attempt to obtain consent in the minor's clinical record. The service provider may continue to provide counseling services or psychotherapy without the consent of the minor's parent, guardian, or person in loco parentis if:

    (A) the service provider has made at least 2 unsuccessful attempts to contact the minor's parent, guardian, or person in loco parentis to obtain consent; and

    (B) the service provider has obtained the minor's written consent.

(4) If, after the eighth session, the service provider of counseling services or psychotherapy determines that obtaining consent would be detrimental to the minor's well-being, the service provider shall consult with his or her supervisor when possible to review and authorize the determination under subsection (a) of this Section. The service provider shall document the basis for the determination in the minor's clinical record and may then accept the minor's written consent to continue to provide counseling services or psychotherapy without also obtaining the consent of a parent, guardian, or person in loco parentis.

(5) If the minor continues to receive counseling services or psychotherapy without the consent of a parent, guardian, or person in loco parentis beyond 8 sessions, the service provider shall evaluate, in consultation with his or her supervisor when possible, his or her determination under this subsection (a), and review the determination every 60 days until counseling services or psychotherapy ends or the minor reaches age 17. If it is determined appropriate to notify the parent, guardian, or person in loco parentis and the minor consents, the service provider shall proceed under paragraph (3) of subsection (a) of this Section.

(6) When counseling services or psychotherapy are related to allegations of neglect, sexual abuse, or mental or physical abuse by the minor's parent, guardian, or person in loco parentis, obtaining consent of that parent, guardian, or person in loco parentis shall be presumed to be detrimental to the minor's well-being.

(a-1) Each of the following factors must be present in order for the service provider to find that obtaining the consent of a parent, guardian, or person in loco parentis would be detrimental to the minor's well-being:

(1) requiring the consent or notification of a parent, guardian, or person in loco parentis would cause the minor to reject the counseling services or psychotherapy;

(2) the failure to provide the counseling services or psychotherapy would be detrimental to the minor's well-being;

(3) the minor has knowingly and voluntarily sought the counseling services or psychotherapy; and

(4) in the opinion of the service provider, the minor is mature enough to participate in counseling services or psychotherapy productively.

(a-2) The minor's parent, guardian, or person in loco parentis shall not be informed of the counseling services or psychotherapy without the written consent of the minor unless the service provider believes the disclosure is necessary under subsection (a) of this Section. If the facility director or service provider intends to disclose the fact of counseling services or psychotherapy, the minor shall be so informed and if the minor chooses to discontinue counseling services or psychotherapy after being informed of the decision of the facility director or service provider to disclose the fact of counseling services or psychotherapy to the parent, guardian, or person in loco parentis, then the parent, guardian, or person in loco parentis shall not be notified. Under the Mental Health and Developmental Disabilities Confidentiality Act, the facility director, his or her designee, or the service provider shall not allow the minor's parent, guardian, or person in loco parentis, upon request, to inspect or copy the minor's record or any part of the record if the service provider finds that there are compelling reasons for denying the access. Nothing in this Section shall be interpreted to limit a minor's privacy and confidentiality protections under State law.

(b) The minor's parent, guardian, or person in loco parentis shall not be liable for the costs of outpatient counseling services or psychotherapy which is received by the minor without the consent of the minor's parent, guardian, or person in loco parentis.

(c) Counseling services or psychotherapy provided under this Section shall be provided in compliance with the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, the Clinical Social Work and Social Work Practice Act, or the Clinical Psychologist Licensing Act.

Current through P.A. 102-0558, eff. Aug. 20, 2021.

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT ACT

410 ILCS 70/1

Definitions

410 ILCS 70/1a

(a) In this Act:

"Acute sexual assault" means a sexual assault that has recently occurred. For patients under the age of 13, "acute sexual assault" means a sexual assault that has occurred within the past 72 hours. For patients 13 years old or older, "acute sexual assault" means a sexual assault that has occurred within the past 168 hours.

"Advanced practice registered nurse" has the meaning provided in Section 50–10 of the Nurse Practice Act.

"Ambulance provider" means an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients.

"Approved pediatric health care facility" means a health care facility, other than a hospital, with a sexual assault treatment plan approved by the Department to provide medical forensic examinations to sexual assault survivors under the age of 18 who present with a complaint of acute sexual assault.

"Areawide sexual assault treatment plan" means a plan, developed by hospitals or by hospitals and approved pediatric health care facilities in a community or area to be served, which provides for medical forensic examinations to acute sexual assault survivors that shall be made available by each of the participating hospitals and approved pediatric health care facilities.

"Assent" means the expressed willingness to participate in an activity or give permission.

"Board-certified child abuse pediatrician" means a physician certified by the American Board of Pediatrics in child abuse pediatrics.

"Board-eligible child abuse pediatrician" means a physician who has completed the requirements set forth by the American Board of Pediatrics to take the examination for certification in child abuse pediatrics.

"Department" means the Department of Public Health.

"Emergency contraception" means medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up healthcare" means healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 180 days of the initial visit as a result of the sexual assault.

"Health care professional" means a physician, a physician assistant, a sexual assault forensic examiner, an advanced practice registered nurse, a registered professional nurse, a licensed practical nurse, or a sexual assault nurse examiner.

“Hospital” means a hospital licensed under the Hospital Licensing Act or operated under the University of Illinois Hospital Act, any outpatient center included in the hospital’s sexual assault treatment plan where hospital employees provide medical forensic examinations, and an out-of-state hospital that has consented to the jurisdiction of the Department under Section 2.06.

“Illinois State Police Sexual Assault Evidence Collection Kit” means a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit.

“Law enforcement agency having jurisdiction” means the law enforcement agency in the jurisdiction where an alleged sexual assault or sexual abuse occurred.

“Licensed practical nurse” has the meaning provided in Section 50–10 of the Nurse Practice Act.

“Medical forensic examination” means health care delivered to patients in the care of a qualified medical provider working at a treatment hospital, treatment hospital with approved pediatric transfer, or an approved pediatric health care facility. “Medical forensic examination ” includes, but is not limited to, taking a medical history, performing photo documentation, performing a physical and anogenital examination, assessing the patient for evidence collection, collecting evidence in accordance with a statewide sexual assault evidence collection program administered by the Illinois State Police using the Illinois State Police Sexual Assault Evidence Collection Kit, if appropriate, assessing the patient for drug-facilitated or alcohol-facilitated sexual assault, providing an evaluation of and care for sexually transmitted infection and human immunodeficiency virus (HIV), pregnancy risk evaluation and care, and discharge and follow-up healthcare planning.

“Pediatric health care facility” means a clinic or physician’s office that provides medical services to patients under the age of 18.

“Pediatric sexual assault survivor” means a person under the age of 13 who presents for a medical forensic examination in relation to injuries or trauma resulting from a sexual assault.

“Photo documentation” means digital photographs or colposcope videos stored and backed up securely in the original file format.

“Physician” means a person licensed to practice medicine in all its branches.

“Physician assistant” has the meaning provided in Section 4 of the Physician Assistant Practice Act of 1987.

“Qualified medical provider” means a board-certified child abuse pediatrician, board-eligible child abuse pediatrician, a sexual assault forensic examiner, or a sexual assault nurse examiner who has access to photo documentation tools, and who participates in peer review.

“Registered Professional Nurse” has the meaning provided in Section 50–10 of the Nurse Practice Act.

“Sexual assault” means:

(1) an act of sexual conduct; as used in this paragraph, “sexual conduct” has the meaning provided under Section 11–0.1 of the Criminal Code of 2012; or

(2) any act of sexual penetration; as used in this paragraph, “sexual penetration” has the meaning provided under Section 11–0.1 of the Criminal Code of 2012 and includes, without limitation, acts prohibited under Sections 11–1.20 through 11–1.60 of the Criminal Code of 2012.

“Sexual assault forensic examiner” means a physician or physician assistant who has completed training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.

“Sexual assault nurse examiner” means an advanced practice registered nurse or registered professional nurse who is designated as Adult/Adolescent, Pediatric/Adolescent, or both, according to the population of survivors the nurse is qualified to treat and:

(1) is certified as a Sexual Assault Nurse Examiner by the International Association of Forensic Nurses; or

(2) has completed training that meets the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses and is approved by the Sexual Assault Nurse Examiner Program Coordinator.

“Sexual Assault Nurse Examiner Program Coordinator” means an advanced practice registered nurse or a registered professional nurse that is a qualified medical provider, and who is the employee at Attorney General’s Office who oversees the Sexual Assault Nurse Examiner Program.

“Sexual assault services voucher” means a document generated by a hospital or approved pediatric health care facility where the sexual assault survivor first presents and that may be used to seek payment for any ambulance services, a medical forensic examination, medical care and treatment as defined by 77 Ill. Adm. Code Part 545, laboratory services, pharmacy services, and follow-up healthcare provided as a result of the sexual assault.

“Sexual assault survivor” means a person who presents for a medical forensic examination or medical care and treatment in relation to injuries or trauma resulting from a sexual assault.

“Sexual assault transfer plan” means a written plan developed by a hospital and approved by the Department, which describes the hospital’s procedures for transferring acute sexual assault survivors to another hospital, and an approved pediatric health care facility, if applicable, in order to receive medical forensic examinations performed by qualified medical providers.

“Sexual assault treatment plan” means a written plan that describes the procedures and protocols for providing medical forensic examinations to acute sexual assault survivors who present themselves for such services performed by qualified medical providers, either directly or through transfer from a hospital or an approved pediatric health care facility.

“Transfer hospital” means a hospital with a sexual assault transfer plan approved by the Department.

“Transfer services” means the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to another hospital or an approved pediatric health care facility pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.

“Treatment hospital” means a hospital with a sexual assault treatment plan approved by the Department to provide medical forensic examinations to acute sexual assault survivors.

“Treatment hospital with approved pediatric transfer” means a hospital with a treatment plan approved by the Department to provide medical forensic examinations to sexual assault survivors 13 years old or older who present with a complaint of acute sexual assault.

(b) This Section is effective on and after January 1, 2024

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Hospital and Approved Pediatric Health Care Facility Requirements for Sexual Assault Plans

410 ILCS 70/2

(a) Every hospital required to be licensed by the Department pursuant to the Hospital Licensing Act, or operated under the University of Illinois Hospital Act that provides general medical and surgical hospital services shall provide either (i) transfer services to all acute sexual assault survivors, (ii) medical forensic examinations to all acute sexual assault survivors, or (iii) transfer services to pediatric acute sexual assault survivors and medical forensic examinations to acute sexual assault survivors 13 years old or older, in accordance with rules adopted by the Department.

In addition, every such hospital, regardless of whether or not a request is made for reimbursement, shall submit to the Department a plan to provide either (i) transfer services to all acute sexual assault survivors, (ii) medical forensic examinations to all acute sexual assault survivors, or (iii) transfer services to pediatric acute sexual assault survivors and medical forensic examinations to acute sexual assault survivors 13 years old or older within the time frame established by the Department. The Department shall approve such plan for either (i) transfer services to all acute sexual assault survivors, (ii) medical forensic examinations to all acute sexual assault survivors, or (iii) transfer services to pediatric acute sexual assault survivors and medical forensic examinations to acute sexual assault survivors 13 years old or older, if it finds that the implementation of the proposed plan would provide (i) transfer services or (ii) medical forensic examinations for acute sexual assault survivors in accordance with the requirements of this Act and provide sufficient protections from the risk of pregnancy to acute sexual assault survivors. Notwithstanding anything to the contrary in this paragraph, the Department may approve a sexual assault transfer plan for the provision of medical forensic examinations if:

(1) a treatment hospital with approved pediatric transfer has agreed, as part of an areawide treatment plan, to accept acute sexual assault survivors 13 years of age or older from the proposed transfer hospital, if the treatment hospital with

approved pediatric transfer is geographically closer to the transfer hospital than a treatment hospital or another treatment hospital with approved pediatric transfer and such transfer is not unduly burdensome on the sexual assault survivor; and

(2) a treatment hospital has agreed, as a part of an areawide treatment plan, to accept acute sexual assault survivors under 13 years of age from the proposed transfer hospital and transfer to the treatment hospital would not unduly burden the sexual assault survivor.

The Department may not approve a sexual assault transfer plan unless a treatment hospital has agreed, as a part of an areawide treatment plan, to accept acute sexual assault survivors from the proposed transfer hospital and a transfer to the treatment hospital would not unduly burden the sexual assault survivor.

In determining whether to approve a sexual assault transfer plan under this subsection, the Department shall evaluate whether the proposed plan would result in unduly burdensome patient transfers. To avoid unduly burdensome patient transfers, the Department shall consider the following factors in approving or denying the proposed sexual assault transfer plan:

(1) geographic proximity to the treatment hospital or treatment hospital with approved pediatric transfer, with priority given to sexual assault transfer plans which transfer acute sexual assault survivors to the geographically closest treatment hospital or treatment hospital with approved pediatric transfer that has the capacity to provide ease of transfer to and accept acute sexual assault survivors from the proposed transfer hospital and is willing to provide them medical forensic examinations;

(2) the existence of an areawide treatment plan to provide medical forensic examinations to acute sexual assault survivors in the region;

(3) the average daily, monthly, and annual number of sexual assault survivors who presented and received medical forensic examinations;

(4) the number of qualified medical providers employed at the hospital;

(5) the existence of other agreements between transfer hospitals and other acute care hospitals related to patient referral and transfer, communication, patient medical records, and emergency and non-emergency patient transportation;

(6) the number of transfer hospitals with which a treatment hospital has a transfer agreement and its capacity to enter into additional transfer agreements, for which special consideration shall be given to treatment hospitals currently providing medical forensic examinations to acute sexual assault survivors; and

(7) the provisions in the plan for initial transportation to the treatment hospital or treatment hospital with approved pediatric transfer, as well as appropriate return transportation, which should include hospital-facilitated and survivor-facilitated options to attempt to minimize survivor wait times while also taking into consideration extenuating factors outside the hospital’s control, including which facility is responsible for arranging transportation, transportation options, and hospital-specific factors influencing survivor wait time, including, but not limited to, discharge planning and arranging hospital-facilitated transportation in a

manner that minimizes the amount of time a survivor waits for transportation under the proposed plan.

In approving or denying the proposed sexual assault transfer plan, the Department may also consider other factors, including, but not limited to, hospital capacity, emergency department patient volume, communication, and transportation capacity.

Hospitals located in counties with a population of less than 1,000,000 and within a 20–mile radius of a 4–year public university shall submit an areawide sexual assault treatment plan that is approved by the Department. The approved areawide plan shall include at least one treatment hospital or treatment hospital with approved pediatric transfer within the 20–mile radius of the 4–year public university.

A transfer must be in accordance with federal and State laws and local ordinances.

A treatment hospital with approved pediatric transfer must submit an areawide treatment plan under Section 3 of this Act that includes a written agreement with a treatment hospital stating that the treatment hospital will provide medical forensic examinations to pediatric sexual assault survivors transferred from the treatment hospital with approved pediatric transfer. The areawide treatment plan may also include an approved pediatric health care facility.

A transfer hospital must submit an areawide treatment plan under Section 3 of this Act that includes a written agreement with a treatment hospital stating that the treatment hospital will provide medical forensic examinations to all sexual assault survivors transferred from the transfer hospital. The areawide treatment plan may also include an approved pediatric health care facility. Notwithstanding anything to the contrary in this paragraph, the areawide treatment plan may include a written agreement with a treatment hospital with approved pediatric transfer that is geographically closer than other hospitals providing medical forensic examinations to sexual assault survivors 13 years of age or older stating that the treatment hospital with approved pediatric transfer will provide medical forensic examinations to sexual assault survivors 13 years of age or older who are transferred from the transfer hospital. If the areawide treatment plan includes a written agreement with a treatment hospital with approved pediatric transfer, it must also include a written agreement with a treatment hospital stating that the treatment hospital will provide medical forensic examinations to sexual assault survivors under 13 years of age who are transferred from the transfer hospital.

Beginning January 1, 2019, each treatment hospital and treatment hospital with approved pediatric transfer shall ensure that emergency department attending physicians, physician assistants, advanced practice registered nurses, and registered professional nurses providing clinical services, who do not meet the definition of a qualified medical provider in Section 1a of this Act, receive a minimum of 2 hours of sexual assault training by July 1, 2020 or until the treatment hospital or treatment hospital with approved pediatric transfer certifies to the Department, in a form and manner prescribed by the Department, that it employs or contracts with a qualified medical provider in accordance with subsection (a–7) of Section 5, whichever occurs first.

After July 1, 2020 or once a treatment hospital or a treatment hospital with approved pediatric transfer certifies compliance with subsection (a–7) of Section 5, whichever occurs first, each treatment hospital and treatment hospital with approved pediatric transfer shall ensure that emergency department attending physicians, physician

assistants, advanced practice registered nurses, and registered professional nurses providing clinical services, who do not meet the definition of a qualified medical provider in Section 1a of this Act, receive a minimum of 2 hours of continuing education on responding to acute sexual assault survivors every 2 years. Protocols for training shall be included in the hospital's sexual assault treatment plan.

Sexual assault training provided under this subsection may be provided in person or online and shall include, but not be limited to:

(1) information provided on the provision of a medical forensic examination;

(2) information on the use of the Illinois State Police Sexual Assault Evidence Collection Kit;

(3) information on sexual assault epidemiology, neurobiology of trauma, drug-facilitated sexual assault, child sexual abuse, and Illinois sexual assault-related laws; and

(4) information on the hospital's sexual assault-related policies and procedures.

The online training made available by the Office of the Attorney General under subsection (b) of Section 10 may be used to comply with this subsection.

(a–5) A hospital must submit a plan to provide either (i) transfer services to all acute sexual assault survivors, (ii) medical forensic examinations to all acute sexual assault survivors, or (iii) transfer services to pediatric acute sexual assault survivors and medical forensic examinations to sexual assault survivors 13 years old or older as required in subsection (a) of this Section within 60 days of the Department's request. Failure to submit a plan as described in this subsection shall subject a hospital to the imposition of a fine by the Department. The Department may impose a fine of up to $500 per day until the hospital submits a plan as described in this subsection.

(a–10) Upon receipt of a plan as described in subsection (a–5), the Department shall notify the hospital whether or not the plan is acceptable. If the Department determines that the plan is unacceptable, the hospital must submit a modified plan within 10 days of service of the notification. If the Department determines that the modified plan is unacceptable, or if the hospital fails to submit a modified plan within 10 days, the Department may impose a fine of up to $500 per day until an acceptable plan has been submitted, as determined by the Department.

(b) An approved pediatric health care facility may provide medical forensic examinations, in accordance with rules adopted by the Department, to acute sexual assault survivors under the age of 18 who present for medical forensic examinations in relation to injuries or trauma resulting from a sexual assault. These services shall be provided by a qualified medical provider.

A pediatric health care facility must participate in or submit an areawide treatment plan under Section 3 of this Act that includes a treatment hospital. If a pediatric health care facility does not provide certain medical or surgical services that are provided by hospitals, the areawide sexual assault treatment plan must include a procedure for ensuring a sexual assault survivor in need of such medical or surgical services receives the services at the treatment hospital. The areawide treatment plan may also include a treatment hospital with approved pediatric transfer.

The Department shall review a proposed sexual assault treatment plan submitted by a pediatric health care facility within 60 days after receipt of the plan. If the Department finds that the proposed plan meets the minimum requirements set forth in Section 5 of this Act and that implementation of the proposed plan would provide medical forensic examinations for acute sexual assault survivors under the age of 18, then the Department shall approve the plan. If the Department does not approve a plan, then the Department shall notify the pediatric health care facility that the proposed plan has not been approved. The pediatric health care facility shall have 30 days to submit a revised plan. The Department shall review the revised plan within 30 days after receipt of the plan and notify the pediatric health care facility whether the revised plan is approved or rejected. A pediatric health care facility may not provide medical forensic examinations to sexual assault survivors under the age of 18 who present with a complaint of acute sexual assault until the Department has approved a treatment plan.

If an approved pediatric health care facility is not open 24 hours a day, 7 days a week, it shall post signage at each public entrance to its facility that:

(1) is at least 14 inches by 14 inches in size

(2) directs those seeking services as follows: “If closed, call 911 for services or go to the closest hospital emergency department, (insert name) located at (insert address).”;

(3) lists the approved pediatric health care facility’s hours of operation;

(4) lists the street address of the building;

(5) has a black background with white bold capital lettering in a clear and easy to read font that is at least 72–point type, and with “call 911” in at least 125–point type;

(6) is posted clearly and conspicuously on or adjacent to the door at each entrance and, if building materials allow, is posted internally for viewing through glass; if posted externally, the sign shall be made of weather-resistant and theft-resistant materials, non-removable, and adhered permanently to the building; and

(7) has lighting that is part of the sign itself or is lit with a dedicated light that fully illuminates the sign.

A copy of the proposed sign must be submitted to the Department and approved as part of the approved pediatric health care facility’s sexual assault treatment plan.

(c) Each treatment hospital, treatment hospital with approved pediatric transfer, and approved pediatric health care facility must enter into a memorandum of understanding with a rape crisis center for medical advocacy services, if these services are available to the treatment hospital, treatment hospital with approved pediatric transfer, or approved pediatric health care facility. With the consent of the sexual assault survivor, a rape crisis counselor shall remain in the exam room during the collection for forensic evidence.

(d) Every hospital and approved pediatric health care facility’s sexual assault treatment plan or sexual assault transfer plan shall include procedures for complying with mandatory reporting requirements pursuant to (1) the Abused and Neglected Child Reporting Act; (2) the Abused and Neglected Long Term Care Facility Residents

Reporting Act; (3) the Adult Protective Services Act; and (iv) the Criminal Identification Act.

(e) Each treatment hospital, treatment hospital with approved pediatric transfer, and approved pediatric health care facility shall submit to the Department every 6 months, in a manner prescribed by the Department, the following information:

(1) The total number of patients who presented with a complaint of sexual assault.

(2) The total number of Illinois State Police Sexual Assault Evidence Collection Kits:

(A) offered to (i) all acute sexual assault survivors and (ii) pediatric acute sexual assault survivors pursuant to paragraph (1.5) of subsection (a–5) of Section 5;

(B) completed for (i) all acute sexual assault survivors and (ii) pediatric acute sexual assault survivors; and

(C) declined by (i) all acute sexual assault survivors and (ii) pediatric acute sexual assault survivors.

This information shall be made available on the Department's website.

(f) This Section is effective on and after January 1, 2026.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Department Requirements and Consent to Jurisdiction

Note: To view the text of the following sections, please refer to www.ilga.gov:

Department Requirements 410 ILCS 70/2.05

Consent to Jurisdiction 410 ILCS 70/2.06

Emergency Contraception

410 ILCS 70/2.2

(a) The General Assembly finds:

(1) Crimes of sexual assault and sexual abuse cause significant physical, emotional, and psychological trauma to the victims. This trauma is compounded by a victim's fear of becoming pregnant and bearing a child as a result of the sexual assault.

(2) Each year over 32,000 women become pregnant in the United States as the result of rape and approximately 50% of these pregnancies end in abortion.

(3) As approved for use by the Federal Food and Drug Administration (FDA), emergency contraception can significantly reduce the risk of pregnancy if taken within 72 hours after the sexual assault.

(4) By providing emergency contraception to rape victims in a timely manner, the trauma of rape can be significantly reduced.

(b) Every hospital or approved pediatric health care facility providing services to sexual assault survivors in accordance with a plan approved under Section 2 must develop a protocol that ensures that each survivor of acute sexual assault will receive medically and factually accurate and written and oral information about emergency contraception;

the indications and contraindications and risks associated with the use of emergency contraception; and a description of how and when victims may be provided emergency contraception at no cost upon the written order of a physician licensed to practice medicine in all its branches, a licensed advanced practice registered nurse, or a licensed physician assistant. The Department shall approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of acute sexual assault.

The hospital or approved pediatric health care facility shall implement the protocol upon approval by the Department. The Department shall adopt rules and regulations establishing one or more safe harbor protocols and setting minimum acceptable protocol standards that hospitals may develop and implement. The Department shall approve any protocol that meets those standards. The Department may provide a sample acceptable protocol upon request.

(c) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Areawide Sexual Assault Treatment Plans; Submission

410 ILCS 70/3

Note: To view the text of this section, please refer to www.ilga.gov.

Minimum Requirements for Medical Forensic Examinations Provided to Sexual Assault Survivors by Hospitals and Approved Pediatric Health Care Facilities

410 ILCS 70/5

(a) Every hospital and approved pediatric health care facility providing medical forensic examinations to acute sexual assault survivors under this Act shall, as minimum requirements for such services, provide the services set forth in subsection (a–5).

A qualified medical provider must provide the services set forth in subsection (a–5) as ordered by the attending physician, an advanced practice registered nurse, or a physician assistant.

(a–5) A treatment hospital, a treatment hospital with approved pediatric transfer, or an approved pediatric health care facility shall provide the following services in accordance with subsections (a) and (b):

(1) Appropriate medical forensic examinations without delay, in a private, age-appropriate or developmentally-appropriate space, required to ensure the health, safety, and welfare of a sexual assault survivor and which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, in a proceeding under the Juvenile Court Act of 1987, or in an investigation under the Abused and Neglected Child Reporting Act.

Records of medical forensic examinations, including results of examinations and tests, the Illinois State Police Medical Forensic Documentation Forms, the Illinois State Police Patient Discharge Materials, and the Illinois State Police Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form, shall be

maintained by the hospital or approved pediatric health care facility as part of the patient's electronic medical record.

Records of medical forensic examinations of sexual assault survivors under the age of 18 shall be retained by the hospital for a period of 60 years after the sexual assault survivor reaches the age of 18. Records of medical forensic examinations of sexual assault survivors 18 years of age or older shall be retained by the hospital for a period of 20 years after the date the record was created.

Records of medical forensic examinations may only be disseminated in accordance with Section 6.5 of this Act and other State and federal law.

(1.5) An offer to complete the Illinois State Police Sexual Assault Evidence Collection Kit for any acute sexual assault survivor. If the offer to complete the Illinois State Police Sexual Assault Evidence Collection Kit is accepted by the survivor, then evidence collection shall be completed based on the qualified medical provider's clinical discretion, best practices for evidence collection, and information provided by the sexual assault survivor. A patient may decline any portion of the Illinois State Police Sexual Assault Evidence Kit, but if any evidence is collected, then that shall constitute evidence collection being completed for the purposes of this Section and subsection (e) of Section 2. Nothing in this Section is intended to prohibit a qualified medical provider from offering, on the provider's own accord or in response to a survivor request, an Illinois State Police Sexual Assault Evidence Collection Kit to a sexual assault survivor who presents at a treatment hospital, treatment hospital with approved pediatric transfer, or approved pediatric health care facility with a nonacute complaint of sexual assault according to the qualified medical provider's clinical discretion based on best practices for indications for evidence collection.

(A) Appropriate oral and written information concerning evidence-based guidelines for the appropriateness of evidence collection depending on the sexual development of the sexual assault survivor, the type of sexual assault, and the timing of the sexual assault shall be provided to the sexual assault survivor.

The information required under this subparagraph shall be provided to the sexual assault survivor by a qualified medical provider either in person or via a virtual or telephone consultation.

The written information provided shall be the information created in accordance with Section 10 of this Act.

(B) A sexual assault nurse examiner conducting an examination using the Illinois State Police Sexual Assault Evidence Collection Kit may do so without the presence or participation of a physician.

(2) Appropriate oral and written information concerning the possibility of infection, sexually transmitted infection, including an evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from sexual assault, and pregnancy resulting from sexual assault.

(3) Appropriate oral and written information concerning accepted medical procedures, laboratory tests, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault.

(3.5) After a medical evidentiary or physical examination, access to a shower at no cost, unless showering facilities are unavailable.

(4) An amount of medication, including HIV prophylaxis, for treatment at the hospital or approved pediatric health care facility and after discharge as is deemed appropriate by the attending physician, an advanced practice registered nurse, or a physician assistant in accordance with the Centers for Disease Control and Prevention guidelines and consistent with the hospital's or approved pediatric health care facility's current approved protocol for sexual assault survivors.

(5) Photo documentation of the sexual assault survivor's injuries, anatomy involved in the assault, or other visible evidence on the sexual assault survivor's body to supplement the medical forensic history and written documentation of physical findings and evidence beginning July 1, 2019. Photo documentation does not replace written documentation of the injury.

(6) Written and oral instructions indicating the need for follow-up examinations and laboratory tests after the sexual assault to determine the presence or absence of sexually transmitted infection.

(7) Referral by hospital or approved pediatric health care facility personnel for appropriate counseling.

(8) Medical advocacy services provided by a rape crisis counselor whose communications are protected under Section 8–802.1 of the Code of Civil Procedure, if there is a memorandum of understanding between the hospital or approved pediatric health care facility and a rape crisis center. With the consent of the sexual assault survivor, a rape crisis counselor shall remain in the exam room during the medical forensic examination.

(9) Written information regarding services provided by a Children's Advocacy Center and rape crisis center, if applicable.

(10) A treatment hospital, a treatment hospital with approved pediatric transfer, an out-of-state hospital as defined in Section 5.4, or an approved pediatric health care facility shall comply with the rules relating to the collection and tracking of sexual assault evidence adopted by the Illinois State Police under Section 50 of the Sexual Assault Evidence Submission Act.

(11) Written information regarding the Illinois State Police sexual assault evidence tracking system.

(a–7) Every hospital with a treatment plan approved by the Department and every approved pediatric health care facility shall employ or contract with a qualified medical provider to initiate a medical forensic examination to a sexual assault survivor within 90 minutes of a concern arising at the hospital or facility of acute sexual assault. The provision of a medical forensic examination by a qualified medical provider shall not delay the provision of life-saving medical care.

(b) Before a medical forensic examination is provided, consent must be obtained in accordance with this Section. Evidence collection shall not be completed without first obtaining consent.

(1) Any person able to consent who is a sexual assault survivor who seeks a medical forensic examination or follow-up healthcare under this Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent.

(2) If a minor sexual assault survivor under the age of 18 is unable to consent to a medical forensic examination, the examination may be provided with the consent of the survivor's parent, guardian, or health care power of attorney and with the assent of the sexual assault survivor.

(3) If an adult sexual assault survivor is unable to consent to a medical forensic examination, the examination may be provided with the consent of the survivor's guardian or health care power of attorney and with the assent of the sexual assault survivor.

(b–5) Every hospital or approved pediatric health care facility providing medical forensic examinations to acute sexual assault survivors shall issue a voucher to any sexual assault survivor who is eligible to receive one in accordance with Section 5.2 of this Act. The hospital or approved pediatric health care facility shall make a copy of the voucher and place it in the medical record of the sexual assault survivor. The hospital or approved pediatric health care facility shall provide a copy of the voucher to the sexual assault survivor after discharge upon request.

(c) Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital or approved pediatric health care facility.

(d) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Storage, Retention, and Dissemination of Photo Documentation Relating to Medical Forensic Examinations

410 ILCS 70/5.1

(a) Photo documentation taken during a medical forensic examination shall be maintained by the hospital or approved pediatric health care facility as part of the patient's medical record.

Photo documentation shall be stored and backed up securely in its original file format in accordance with facility protocol. The facility protocol shall require limited access to the images and be included in the sexual assault treatment plan submitted to the Department.

Photo documentation of a sexual assault survivor under the age of 18 shall be retained for a period of 60 years after the sexual assault survivor reaches the age of 18. Photo documentation of a sexual assault survivor 18 years of age or older shall be retained for a period of 20 years after the record was created.

Photo documentation of the sexual assault survivor's injuries, anatomy involved in the assault, or other visible evidence on the sexual assault survivor's body may be used for

peer review, expert second opinion, or in a criminal proceeding against a person accused of sexual assault, a proceeding under the Juvenile Court Act of 1987, or in an investigation under the Abused and Neglected Child Reporting Act. Any dissemination of photo documentation, including for peer review, an expert second opinion, or in any court or administrative proceeding or investigation, must be in accordance with State and federal law.

(b) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Sexual Assault Services Voucher

410 ILCS 70/5.2

(a) A sexual assault services voucher shall be issued by the hospital or approved pediatric health care facility where a sexual assault survivor first presents seeking a medical forensic examination or medical care and treatment.

(b) Each hospital and approved pediatric health care facility must include in its sexual assault treatment plan or sexual assault transfer plan submitted to the Department in accordance with Section 2 of this Act a protocol for issuing sexual assault services vouchers. The protocol shall, at a minimum, include the following:

(1) Identification of employee positions responsible for issuing sexual assault services vouchers.

(2) Identification of employee positions with access to the Medical Electronic Data Interchange or successor system.

(3) A statement to be signed by each employee of an approved pediatric health care facility with access to the Medical Electronic Data Interchange or successor system affirming that the Medical Electronic Data Interchange or successor system will only be used for the purpose of issuing sexual assault services vouchers.

Every transfer hospital providing medical care and treatment to sexual assault survivors shall issue a voucher to any sexual assault survivor who is eligible to receive one. The transfer hospital shall make a copy of the voucher and place it in the medical record of the sexual assault survivor. The hospital shall provide a copy of the voucher to the sexual assault survivor prior to transfer, or after discharge upon request.

(c) A sexual assault services voucher may be used to seek payment for any ambulance services, medical forensic examination, medical care and treatment as defined by 77 Ill. Adm. Code Part 545, laboratory services, pharmacy services, and follow-up healthcare provided as a result of the sexual assault.

(c-5) Beginning January 1, 2026, after services are provided to a survivor as a result of a sexual assault, a sexual assault services voucher may be used to seek payment for transportation to the hospital the survivor initially presented at, the survivor's residence, or a survivor services shelter by taxi or rideshare services, if available. A hospital may obtain written consent of the survivor to use taxi or rideshare services arranged by the hospital.

(d) Any treatment hospital, treatment hospital with approved pediatric transfer, approved pediatric health care facility, health care professional, ambulance provider, laboratory,

or pharmacy may submit a bill for services provided to a sexual assault survivor as a result of a sexual assault to the Department of Healthcare and Family Services Sexual Assault Emergency Treatment Program. The bill shall include:

(1) the name and date of birth of the sexual assault survivor;

(2) the service provided;

(3) the charge of service;

(4) the date the service was provided; and

(5) the recipient identification number, if known.

A health care professional, ambulance provider, laboratory, or pharmacy is not required to submit a copy of the sexual assault services voucher.

The Department of Healthcare and Family Services Sexual Assault Emergency Treatment Program shall electronically verify, using the Medical Electronic Data Interchange or a successor system, that a sexual assault services voucher was issued to a sexual assault survivor prior to issuing payment for the services.

If a sexual assault services voucher was not issued to a sexual assault survivor by the hospital or approved pediatric health care facility, then a health care professional, ambulance provider, laboratory, or pharmacy may submit a request to the Department of Healthcare and Family Services Sexual Assault Emergency Treatment Program to issue a sexual assault services voucher.

(e) This Section is effective on and after January 1, 2026.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Pediatric Sexual Assault Care

410 ILCS 70/5.3

(a) The General Assembly finds:

(1) Pediatric sexual assault survivors can suffer from a wide range of health problems across their life span. In addition to immediate health issues, such as sexually transmitted infections, physical injuries, and psychological trauma, child sexual abuse victims are at greater risk for a plethora of adverse psychological and somatic problems into adulthood in contrast to those who were not sexually abused.

(2) Sexual abuse against the pediatric population is distinct, particularly due to their dependence on their caregivers and the ability of perpetrators to manipulate and silence them (especially when the perpetrators are family members or other adults trusted by, or with power over, children). Sexual abuse is often hidden by perpetrators, unwitnessed by others, and may leave no obvious physical signs on child victims.

(3) Pediatric sexual assault survivors throughout the State should have access to qualified medical providers who have received specialized training regarding the care of pediatric sexual assault survivors within a reasonable distance from their home.

(4) There is a need in Illinois to increase the number of qualified medical providers available to provide medical forensic examinations to pediatric sexual assault survivors.

(b) If a medically stable pediatric acute sexual assault survivor presents at a transfer hospital or treatment hospital with approved pediatric transfer that has a plan approved by the Department requesting a medical forensic examination, then the hospital emergency department staff shall contact an approved pediatric health care facility, if one is designated in the hospital's plan, then the patient and non-offending parent or legal guardian shall be given the option to transfer to the approved pediatric health care facility during posted hours of operation or a treatment hospital.

(c) When a qualified medical provider who is qualified to treat pediatric survivors of sexual assault is available, a treatment hospital with approved pediatric transfer may offer medical forensic examinations to pediatric acute sexual assault survivors subject to prior approval from the Department. Prior to granting approval, the Department shall (i) confirm the treatment hospital with approved pediatric transfer is working toward becoming a treatment hospital and (ii) consult with the treatment hospital that receives acute pediatric sexual assault survivors from the treatment hospital with approved pediatric transfer pursuant to the plan approved by the Department. Department approval under this Section is valid for one year and may be renewed.

(d) If the patient or non-offending parent or legal guardian chooses to be transferred to an approved pediatric health care facility pursuant to subsection (b) or (c), then the hospital emergency department staff shall contact the approved pediatric health care facility to arrange the transfer. The pediatric sexual assault survivor and non-offending parent or legal guardian may be transported by ambulance, law enforcement, or personal vehicle. A medical forensic examination shall be initiated within 90 minutes of the acute sexual assault survivor's arrival at the approved pediatric health care facility following an immediate transfer during posted hours of operation.

(e) If a pediatric acute sexual assault survivor presents at an approved pediatric health care facility or the facility is contacted by law enforcement or the Department of Children and Family Services requesting a medical forensic examination for a pediatric acute sexual assault survivor during posted hours of operation, then the medical forensic examination shall be initiated within 90 minutes after the patient's arrival at the facility.

(f) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Out-of-State Hospitals

410 ILCS 70/5.4

(a) Nothing in this Section shall prohibit the transfer of a patient in need of medical services from a hospital that has been designated as a trauma center by the Department in accordance with Section 3.90 of the Emergency Medical Services (EMS) Systems Act.

(b) A transfer hospital, treatment hospital with approved pediatric transfer, or approved pediatric health care facility may transfer a sexual assault survivor to an out-of-state hospital that is located in a county that borders Illinois if the out-of-state hospital: (1) submits an areawide treatment plan approved by the Department; and (2) has certified

the following to the Department in a form and manner prescribed by the Department that the out-of-state hospital will:

(i) consent to the jurisdiction of the Department in accordance with Section 2.06 of this Act;

(ii) comply with all requirements of this Act applicable to treatment hospitals, including, but not limited to, offering evidence collection to any Illinois sexual assault survivor who presents with a complaint of acute sexual assault and not billing the sexual assault survivor for the medical forensic examination or 180 days of follow-up healthcare;

(iii) use an Illinois State Police Sexual Assault Evidence Collection Kit to collect forensic evidence from an Illinois acute sexual assault survivor;

(iv) ensure its staff cooperates with Illinois law enforcement agencies and are responsive to subpoenas issued by Illinois courts; and

(v) provide appropriate transportation upon the completion of a medical forensic examination back to the transfer hospital or treatment hospital with pediatric transfer where the sexual assault survivor initially presented seeking a medical forensic examination, unless the sexual assault survivor chooses to arrange his or her own transportation.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Minimum Reimbursement Requirements for Follow-Up Healthcare

410 ILCS 70/5.5

(a) Every hospital, pediatric health care facility, health care professional, laboratory, or pharmacy that provides follow-up healthcare to a sexual assault survivor, with the consent of the sexual assault survivor and as ordered by the attending physician, an advanced practice registered nurse, or physician assistant shall be reimbursed for the follow-up healthcare services provided. Follow-up healthcare services include, but are not limited to, the following:

(1) a physical examination;

(2) laboratory tests to determine the presence or absence of sexually transmitted infection; and

(3) appropriate medications, including HIV prophylaxis, in accordance with the Centers for Disease Control and Prevention's guidelines.

(b) Reimbursable follow-up healthcare is limited to office visits with a physician, advanced practice registered nurse, or physician assistant within 180 days after an initial visit as a result of the sexual assault.

(c) Nothing in this Section requires a hospital, pediatric health care facility, health care professional, laboratory, or pharmacy to provide follow-up healthcare to a sexual assault survivor.

(d) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

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Sexual Assault Evidence Collection Program

410 ILCS 70/6.4

(a) There is created a statewide sexual assault evidence collection program to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Illinois State Police. The program shall consist of the following: (1) distribution of sexual assault evidence collection kits which have been approved by the Illinois State Police to hospitals and approved pediatric health care facilities that request them, or arranging for such distribution by the manufacturer of the kits, (2) collection of the kits from hospitals and approved pediatric health care facilities after the kits have been used to collect evidence, (3) analysis of the collected evidence and conducting of laboratory tests, (4) maintaining the chain of custody and safekeeping of the evidence for use in a legal proceeding, and (5) the comparison of the collected evidence with the genetic marker grouping analysis information maintained by the Illinois State Police under Section 5-4-3 of the Unified Code of Corrections and with the information contained in the Federal Bureau of Investigation's National DNA database; provided the amount and quality of genetic marker grouping results obtained from the evidence in the sexual assault case meets the requirements of both the Illinois State Police and the Federal Bureau of Investigation's Combined DNA Index System (CODIS) policies. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Kit and shall include a written consent form authorizing law enforcement to test the sexual assault evidence and to provide law enforcement with details of the sexual assault.

(a-5) (Blank).

(b) The Illinois State Police shall administer a program to train hospital and approved pediatric health care facility personnel participating in the sexual assault evidence collection program, in the correct use and application of the sexual assault evidence collection kits. The Department shall cooperate with the Illinois State Police in this program as it pertains to medical aspects of the evidence collection.

(c) (Blank).

(d) This Section is effective on and after January 1, 2024.

Current through P.A. 102-0674, eff. May 13, 2022.

Written Consent to the Release of Sexual Assault Evidence for Testing

410 ILCS 70/6.5

(a) Upon the completion of a medical forensic examination, the health care professional providing the medical forensic examination shall provide the patient the opportunity to sign a written consent to allow law enforcement to submit the sexual assault evidence for testing, if collected. The written consent shall be on a form included in the sexual assault evidence collection kit and posted on the Illinois State Police website. The consent form shall include whether the survivor consents to the release of information about the sexual assault to law enforcement.

(1) A survivor 13 years of age or older may sign the written consent to release the evidence for testing.

(2) If the survivor is a minor who is under 13 years of age, the written consent to release the sexual assault evidence for testing may be signed by the parent, guardian, or agent acting under a health care power of attorney. If a parent, guardian, or health care power of attorney is not available or unwilling to release evidence, then a State's Attorney or the Attorney General may petition the court to authorize its release for testing.

(3) If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, the consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault or sexual abuse. If the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release.

(4) Any health care professional or health care institution, including any hospital or approved pediatric health care facility, who provides evidence or information to a law enforcement officer under a written consent as specified in this Section is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of this Section are met.

(b) The hospital or approved pediatric health care facility shall keep a copy of a signed or unsigned written consent form in the patient's medical record.

(c) If a written consent to allow law enforcement to hold the sexual assault evidence is signed at the completion of the medical forensic examination, the hospital or approved pediatric health care facility shall include the following information in its discharge instructions:

(1) the sexual assault evidence will be stored for 10 years from the completion of an Illinois State Police Sexual Assault Evidence Collection Kit, or 10 years from the age of 18 years, whichever is longer;

(2) a person authorized to consent to the testing of the sexual assault evidence may sign a written consent to allow law enforcement to test the sexual assault evidence at any time during that 10–year period for an adult victim, or until a minor victim turns 28 years of age by (A) contacting the law enforcement agency having jurisdiction, or if unknown, the law enforcement agency contacted by the hospital or approved pediatric health care facility under Section 3.2 of the Criminal Identification Act; or (B) by working with an advocate at a rape crisis center;

(3) the name, address, and phone number of the law enforcement agency having jurisdiction, or if unknown the name, address, and phone number of the law enforcement agency contacted by the hospital or approved pediatric health care facility under Section 3.2 of the Criminal Identification Act; and

(4) the name and phone number of a local rape crisis center.

(d) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Submission of Sexual Assault Evidence

410 ILCS 70/6.6

(a) As soon as practicable, but in no event more than 4 hours after the completion of a medical forensic examination, the hospital or approved pediatric health care facility shall make reasonable efforts to determine the law enforcement agency having jurisdiction where the sexual assault occurred, if sexual assault evidence was collected. The hospital or approved pediatric health care facility may obtain the name of the law enforcement agency with jurisdiction from the local law enforcement agency.

(b) Within 4 hours after the completion of a medical forensic examination, the hospital or approved pediatric health care facility shall notify the law enforcement agency having jurisdiction that the hospital or approved pediatric health care facility is in possession of sexual assault evidence and the date and time the collection of evidence was completed. The hospital or approved pediatric health care facility shall document the notification in the patient's medical records and shall include the agency notified, the date and time of the notification and the name of the person who received the notification. This notification to the law enforcement agency having jurisdiction satisfies the hospital's or approved pediatric health care facility's requirement to contact its local law enforcement agency under Section 3.2 of the Criminal Identification Act.

(c) If the law enforcement agency having jurisdiction has not taken physical custody of sexual assault evidence within 5 days of the first contact by the hospital or approved pediatric health care facility, the hospital or approved pediatric health care facility shall renotify the law enforcement agency having jurisdiction that the hospital or approved pediatric health care facility is in possession of sexual assault evidence and the date the sexual assault evidence was collected. The hospital or approved pediatric health care facility shall document the renotification in the patient's medical records and shall include the agency notified, the date and time of the notification and the name of the person who received the notification.

(d) If the law enforcement agency having jurisdiction has not taken physical custody of the sexual assault evidence within 10 days of the first contact by the hospital or approved pediatric health care facility and the hospital or approved pediatric health care facility has provided renotification under subsection (c) of this Section, the hospital or approved pediatric health care facility shall contact the State's Attorney of the county where the law enforcement agency having jurisdiction is located. The hospital or approved pediatric health care facility shall inform the State's Attorney that the hospital or approved pediatric health care facility is in possession of sexual assault evidence, the date the sexual assault evidence was collected, the law enforcement agency having jurisdiction, the dates, times and names of persons notified under subsections (b) and (c) of this Section. The notification shall be made within 14 days of the collection of the sexual assault evidence.

(e) This Section is effective on and after January 1, 2024

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Reimbursement

410 ILCS 70/7

(a) A hospital, approved pediatric health care facility, or health care professional furnishing medical forensic examinations, medical care and treatment as defined by 77 Ill. Adm. Code Part 545, an ambulance provider furnishing transportation to a sexual assault survivor, a hospital, health care professional, or laboratory providing follow-up healthcare, or a pharmacy dispensing prescribed medications to any sexual assault survivor shall furnish such services or medications to that person without charge and shall seek payment as follows:

(1) If a sexual assault survivor is eligible to receive benefits under the medical assistance program under Article V of the Illinois Public Aid Code, the ambulance provider, hospital, approved pediatric health care facility, health care professional, laboratory, or pharmacy must submit the bill to the Department of Healthcare and Family Services or the appropriate Medicaid managed care organization and accept the amount paid as full payment.

(2) If a sexual assault survivor is covered by one or more policies of health insurance or is a beneficiary under a public or private health coverage program, the ambulance provider, hospital, approved pediatric health care facility, health care professional, laboratory, or pharmacy shall bill the insurance company or program. With respect to such insured patients, applicable deductible, co-pay, co-insurance, denial of claim, or any other out-of-pocket insurance-related expense may be submitted to the Illinois Sexual Assault Emergency Treatment Program of the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 for payment at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. The ambulance provider, hospital, approved pediatric health care facility, health care professional, laboratory, or pharmacy shall accept the amounts paid by the insurance company or health coverage program and the Illinois Sexual Assault Treatment Program as full payment.

(3) If a sexual assault survivor (i) is neither eligible to receive benefits under the medical assistance program under Article V of the Illinois Public Aid Code nor covered by a policy of insurance or a public or private health coverage program or (ii) opts out of billing a private insurance provider, as permitted under subsection (a–5) of Section 7.5, the ambulance provider, hospital, approved pediatric health care facility, health care professional, laboratory, or pharmacy shall submit the request for reimbursement to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code.

(4) If a sexual assault survivor presents a sexual assault services voucher for follow-up healthcare, the healthcare professional, pediatric health care facility, or laboratory that provides follow-up healthcare or the pharmacy that dispenses prescribed medications to a sexual assault survivor shall submit the request for reimbursement for follow-up healthcare, pediatric health care facility, laboratory, or pharmacy services to the Illinois Sexual Assault Emergency Treatment

Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. Nothing in this subsection (a) precludes hospitals or approved pediatric health care facilities from providing follow-up healthcare and receiving reimbursement under this Section.

(b) Nothing in this Section precludes a hospital, health care provider, ambulance provider, laboratory, or pharmacy from billing the sexual assault survivor or any applicable health insurance or coverage for inpatient services.

(b–5) Medical forensic examinations furnished by a qualified medical provider to any sexual assault survivor on or after July 1, 2022 that are required under this Act to be reimbursed by the Department of Healthcare and Family Services, the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services, or the appropriate Medicaid managed care organization shall be reimbursed at a rate of $1,000 or at allowable rates under the Illinois Public Aid Code, whichever is greater.

(b–7) Medical care and treatment as defined by 77 Ill. Adm. Code Part 545 furnished to any sexual assault survivor to be reimbursed by the Department of Healthcare and Family Services, the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services, or the appropriate Medicaid managed care organization shall be reimbursed at allowable rates under the Illinois Public Aid Code.

(c) (Blank).

(d) (Blank).

(e) The Department of Healthcare and Family Services shall establish standards, rules, and regulations to implement this Section.

(f) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Prohibition on Billing Sexual Assault Survivors Directly for Certain Services; Written Notice; Billing Protocols

410 ILCS 70/7.5

(a) A hospital, approved pediatric health care facility, health care professional, ambulance provider, laboratory, or pharmacy furnishing a medical forensic examination, medical care and treatment as defined by 77 Ill. Adm. Code Part 545 transportation, follow-up healthcare, or medication to a sexual assault survivor shall not:

(1) charge or submit a bill for any portion of the costs of the services, transportation, or medications to the sexual assault survivor, including any insurance deductible, co-pay, co-insurance, denial of claim by an insurer, spenddown, or any other out-of-pocket expense;

(2) communicate with, harass, or intimidate the sexual assault survivor for payment of services, including, but not limited to, repeatedly calling or writing to the sexual

assault survivor and threatening to refer the matter to a debt collection agency or to an attorney for collection, enforcement, or filing of other process;

(3) refer a bill to a collection agency or attorney for collection action against the sexual assault survivor;

(4) contact or distribute information to affect the sexual assault survivor's credit rating; or

(5) take any other action adverse to the sexual assault survivor or his or her family on account of providing services to the sexual assault survivor.

(a–5) Notwithstanding any other provision of law, including, but not limited to, subsection (a), a sexual assault survivor who is not the subscriber or primary policyholder of the sexual assault survivor's insurance policy may opt out of billing the sexual assault survivor's private insurance provider. If the sexual assault survivor opts out of billing the sexual assault survivor's private insurance provider, then the bill for the medical forensic examination shall be sent to the Department of Healthcare and Family Services' Sexual Assault Emergency Treatment Program for reimbursement for the services provided to the sexual assault survivor.

(b) Nothing in this Section precludes a hospital, health care provider, ambulance provider, laboratory, or pharmacy from billing the sexual assault survivor or any applicable health insurance or coverage for inpatient services.

(c) Every hospital and approved pediatric health care facility with a sexual assault treatment plan or sexual assault transfer plan providing treatment services to sexual assault survivors in accordance with a plan approved by the Department under Section 2 of this Act shall provide a written notice to a sexual assault survivor. The written notice must include, but is not limited to, the following:

(1) a statement that the sexual assault survivor should not be directly billed by any ambulance provider providing transportation services, or by any hospital, approved pediatric health care facility, health care professional, laboratory, or pharmacy for the services the sexual assault survivor received as an outpatient at the hospital or approved pediatric health care facility;

(2) a statement that a sexual assault survivor who is admitted to a hospital may be billed for inpatient services provided by a hospital, health care professional, laboratory, or pharmacy;

(3) a statement that prior to leaving the hospital or approved pediatric health care facility, the hospital or approved pediatric health care facility will give the sexual assault survivor a sexual assault services voucher for follow-up healthcare if the sexual assault survivor is eligible to receive a sexual assault services voucher;

(4) the definition of "follow-up healthcare" as set forth in Section 1a of this Act;

(5) (blank);

(6) the toll-free phone number of the Office of the Illinois Attorney General's Health Care Bureau, which the sexual assault survivor may call should the sexual assault survivor receive a bill from an ambulance provider, approved pediatric health care facility, a health care professional, a laboratory, or a pharmacy.

(d) Within 60 days after the Department's approval of a treatment plan, a hospital or an approved pediatric health care facility must develop a billing protocol that ensures that no survivor of sexual assault is sent a bill for any medical forensic examination.

The billing protocol must include at a minimum:

(1) (blank);

(2) (blank);

(3) prohibitions on submitting any bill for any portion of the medical forensic examination provided to a survivor of sexual assault to a collection agency;

(4) (blank);

(5) (blank);

(6) the actions to be taken if a bill is sent to a collection agency or the failure to pay is reported to any credit reporting agency; and

(7) protocols and procedures for compliance with subsections (a), (a–5), and (c) of this Section.

Upon request, the Department of Healthcare and Family Services may provide assistance to hospitals and approved pediatric health care facilities developing billing protocols.

A hospital or approved pediatric health care facility shall provide a copy of its billing protocol upon request.

(e) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Violations and Penalties

410 ILCS 70/8

(a) The Department shall implement a complaint system through which the Department may receive complaints of violations of this Act. The Department may use an existing complaint system to fulfill the requirements of this Section.

(b) The Department may work with the Attorney General to verify complaints that the Attorney General's Office Health Care Bureau has received as set forth in Section 7.5.

(c) After receiving a complaint, the Department shall determine whether the hospital or approved pediatric health care facility is not in compliance with its approved plan or if a violation of any provision of this Act or rules adopted under this Act has occurred. Upon determining a violation of any provision of this Act or rules adopted under this Act has occurred, the Department shall issue a written notice of violation that includes the specific items of noncompliance to the hospital or approved pediatric health care facility.

(d) The hospital shall have 10 business days to submit to the Department a plan of correction that contains the hospital's or approved pediatric health care facility's specific proposals for correcting the items of noncompliance. The Department shall review the plan of correction and notify the hospital in writing within 10 business days as to whether the plan is acceptable or unacceptable. If the Department finds the plan of correction unacceptable, the hospital or approved pediatric health care facility shall

have 10 business days to resubmit an acceptable plan of correction. Upon notification that its plan of correction is acceptable, a hospital or approved pediatric health care facility shall implement the plan of correction within 60 days. The Department may conduct additional surveys or request documentation from the hospital or approved pediatric health care facility, as necessary, to ensure compliance with the accepted plan of correction.

(e) If the hospital or approved pediatric health care facility fails to submit an acceptable plan of correction or implement an accepted plan of correction within the time frames required in this Section, the Department may impose a fine as follows:

(1) at least $1,500 but less than $3,000 for a first violation; and

(2) at least $3,000 but less than $5,000 for a second or subsequent violation.

(f) In imposing a fine, the Department shall consider the following factors:

(1) the alleged violation or violations and the adequacy of the response by the hospital or pediatric facility;

(2) any historical pattern or practice of noncompliance with this Act;

(3) the number of patients seeking treatment and support from the hospital or pediatric facility affected by the violation.

(g) The Department's notice of violation shall include, at a minimum, the following:

(1) the hospital or approved pediatric health care facility's right to request an administrative hearing to contest the Department's notice of violation;

(2) an opportunity to present evidence, orally, in writing, or both, on the question of the alleged violation before an administrative law judge; and

(3) an opportunity to file an answer responding to the Department's notice of violation.

(h) The Department shall follow all rules of practice and procedure for hearings conducted under this Section pursuant to 77 Ill. Adm. Code Part 100. After an administrative hearing before an administrative law judge or hearing officer, the Director shall issue a final written decision, or a final order, based on the administrative law judge's findings of fact, conclusions of law, and recommendation. The final order shall also include the monetary penalty against such hospital or pediatric facility.

(i) The Attorney General may bring an action in the circuit court to enforce the collection of a monetary penalty imposed under this Section.

(j) The fines under this Section shall be deposited into the Sexual Assault Services Fund.

(k) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Sexual Assault Nurse Examiner Program

410 ILCS 70/10

(a) The Sexual Assault Nurse Examiner Program is established within the Office of the Attorney General.

(b) By March 1, 2019, the Sexual Assault Nurse Examiner Program shall develop and make available to hospitals 2 hours of online sexual assault training for emergency department clinical staff to meet the training requirement established in subsection (a) of Section 2. Notwithstanding any other law regarding ongoing licensure requirements, such training shall count toward the continuing medical education and continuing nursing education credits for physicians, physician assistants, advanced practice registered nurses, and registered professional nurses.

The Sexual Assault Nurse Examiner Program shall provide didactic and clinical training opportunities consistent with the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses, in sufficient numbers and geographical locations across the State, to assist hospitals with training the necessary number of sexual assault nurse examiners to comply with the requirement of this Act to employ or contract with a qualified medical provider to initiate a medical forensic examination to a sexual assault survivor within 90 minutes of the patient presenting to the hospital as required in subsection (a–7) of Section 5.

The Sexual Assault Nurse Examiner Program shall assist hospitals in establishing trainings to achieve the requirements of this Act.

For the purpose of providing continuing medical education credit in accordance with the Medical Practice Act of 1987 and administrative rules adopted under the Medical Practice Act of 1987 and continuing education credit in accordance with the Nurse Practice Act and administrative rules adopted under the Nurse Practice Act to health care professionals for the completion of sexual assault training provided by the Sexual Assault Nurse Examiner Program under this Act, the Office of the Attorney General shall be considered a State agency.

(c) The Sexual Assault Nurse Examiner Program, in consultation with qualified medical providers, shall create uniform materials that all hospitals and approved pediatric health care facilities are required to give patients and non-offending parents or legal guardians, if applicable, regarding the medical forensic exam procedure, laws regarding consenting to medical forensic examinations, and the benefits and risks of evidence collection, including recommended time frames for evidence collection pursuant to evidence-based research. These materials shall be made available to all hospitals and approved pediatric health care facilities on the Office of the Attorney General's website.

(d) This Section is effective on and after January 1, 2024.

Current through P.A. 104-0386, eff. Jan. 1, 2026.

Qualified Medical Provider List; Sexual Assault Nurse Examiner and Sexual Assault Forensic Examiner Qualifications

410 ILCS 70/15

Note: To view the text of this section, please refer to www.ilga.gov.

CONSENT BY MINORS TO HEALTH CARE SERVICES ACT

410 ILCS 210/0.01

Consent by Minor

410 ILCS 210/1

The consent to the performance of a health care service by a physician licensed to practice medicine in all its branches, a chiropractic physician, a licensed optometrist, a licensed advanced practice registered nurse, or a licensed physician assistant executed by a married person who is a minor, by a parent who is a minor, by a pregnant woman who is a minor, or by any person 18 years of age or older, is not voidable because of such minority, and, for such purpose, a married person who is a minor, a parent who is a minor, a pregnant woman who is a minor, or any person 18 years of age or older, is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

Current through P.A. 100-0863, eff. Aug. 14, 2018.

Consent by Minor Seeking Care for Limited Primary Care Services

410 ILCS 210/1.5

(a) The consent to the performance of primary care services by a physician licensed to practice medicine in all its branches, a licensed advanced practice registered nurse, a licensed physician assistant, a chiropractic physician, or a licensed optometrist executed by a minor seeking care is not voidable because of such minority, and for such purpose, a minor seeking care is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age under the following circumstances:

(1) the health care professional reasonably believes that the minor seeking care understands the benefits and risks of any proposed primary care or services; and

(2) the minor seeking care is identified in writing as a minor seeking care by:

(A) an adult relative;

(B) a representative of a homeless service agency that receives federal, State, county, or municipal funding to provide those services or that is otherwise sanctioned by a local continuum of care;

(C) an attorney licensed to practice law in this State;

(D) a public school homeless liaison or school social worker;

(E) a social service agency providing services to at risk, homeless, or runaway youth; or

(F) a representative of a religious organization.

(b) A health care professional rendering primary care services under this Section shall not incur civil or criminal liability for failure to obtain valid consent or professional discipline for failure to obtain valid consent if he or she relied in good faith on the representations made by the minor or the information provided under paragraph (2) of subsection (a) of this Section. Under such circumstances, good faith shall be presumed.

(c) The confidential nature of any communication between a health care professional described in Section 1 of this Act and a minor seeking care is not waived (1) by the presence, at the time of communication, of any additional persons present at the request of the minor seeking care, (2) by the health care professional's disclosure of confidential information to the additional person with the consent of the minor seeking care, when reasonably necessary to accomplish the purpose for which the additional person is consulted, or (3) by the health care professional billing a health benefit insurance or plan under which the minor seeking care is insured, is enrolled, or has coverage for the services provided.

(d) Nothing in this Section shall be construed to limit or expand a minor's existing powers and obligations under any federal, State, or local law. Nothing in this Section affects the right or authority of a parent or legal guardian to verbally, in writing, or otherwise authorize health care services to be provided for a minor in their absence.

(e) For the purposes of this Section:

"Minor seeking care" means a person at least 14 years of age but less than 18 years of age who is living separate and apart from his or her parents or legal guardian, whether with or without the consent of a parent or legal guardian who is unable or unwilling to return to the residence of a parent, and managing his or her own personal affairs. "Minor seeking care" does not include minors who are under the protective custody, temporary custody, or guardianship of the Department of Children and Family Services.

"Primary care services" means health care services that include screening, counseling, immunizations, medication, and treatment of illness and conditions customarily provided by licensed health care professionals in an out-patient setting, eye care services, excluding advanced optometric procedures, provided by optometrists, and services provided by chiropractic physicians according to the scope of practice of chiropractic physicians under the Medical Practice Act of 1987. "Primary care services" does not include invasive care, beyond standard injections, laceration care, or non-surgical fracture care.

Current through P.A. 102-1117, eff. Jan. 13, 2023

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Situations Where Consent Need Not Be Obtained

410 ILCS 210/3

(a) Where a hospital, a physician licensed to practice medicine in all its branches, a chiropractic physician, a licensed optometrist, a licensed advanced practice registered nurse, or a licensed physician assistant renders emergency treatment or first aid or a licensed dentist renders emergency dental treatment to a minor, consent of the minor's parent or legal guardian need not be obtained if, in the sole opinion of the physician, chiropractic physician, optometrist, advanced practice registered nurse, physician assistant, dentist, or hospital, the obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of such minor's health.

(b) Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012, the consent of the minor's parent or legal guardian need not be obtained

to authorize a hospital, physician, chiropractic physician, optometrist, advanced practice registered nurse, physician assistant, or other medical personnel to furnish health care services or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority.

Current through P.A. 100-0863, eff. Aug. 14, 2018.

Sexually Transmitted Disease; Drug or Alcohol Abuse

410 ILCS 210/4

Notwithstanding any other provision of law, a minor 12 years of age or older who may have come into contact with any sexually transmitted disease, or may be determined to be an intoxicated person or a person with a substance use disorder, as defined in the Substance Use Disorder Act, or who may have a family member who abuses drugs or alcohol, may give consent to the furnishing of health care services or counseling related to the prevention, diagnosis, or treatment of the disease. Each incident of sexually transmitted disease shall be reported to the State Department of Public Health or the local board of health in accordance with regulations adopted under statute or ordinance. The consent of the parent, parents, or legal guardian of a minor shall not be necessary to authorize health care services or counseling related to the prevention, diagnosis, or treatment of sexually transmitted disease or drug use or alcohol consumption by the minor or the effects on the minor of drug or alcohol abuse by a member of the minor's family. The consent of the minor shall be valid and binding as if the minor had achieved his or her majority. The consent shall not be voidable nor subject to later disaffirmance because of minority.

Anyone involved in the furnishing of health services care to the minor or counseling related to the prevention, diagnosis, or treatment of the minor's disease or drug or alcohol use by the minor or a member of the minor's family shall, upon the minor's consent, make reasonable efforts, to involve the family of the minor in his or her treatment, if the person furnishing treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor. Reasonable effort shall be extended to assist the minor in accepting the involvement of his or her family in the care and treatment being given.

Current through P.A. 101-0214, eff. Jan. 1, 2020.

Counseling; Informing Parent or Guardian

410 ILCS 210/5

Any physician licensed to practice medicine in all its branches, advanced practice registered nurse, or physician assistant, who provides diagnosis or treatment or any licensed clinical psychologist or professionally trained social worker with a master's degree or any qualified person employed (i) by an organization licensed or funded by the Department of Human Services, (ii) by units of local government, or (iii) by agencies or organizations operating drug abuse programs funded or licensed by the Federal Government or the State of Illinois or any qualified person employed by or associated with any public or private alcoholism or drug abuse program licensed by the State of Illinois who provides counseling to a minor patient who has come into contact with any sexually transmitted disease referred to in Section 4 of this Act may, but shall not be obligated to, inform the parent, parents, or guardian of the minor as to the treatment given or needed. Any person described in this Section who provides counseling to a

minor who abuses drugs or alcohol or has a family member who abuses drugs or alcohol shall not inform the parent, parents, guardian, or other responsible adult of the minor's condition or treatment without the minor's consent unless that action is, in the person's judgment, necessary to protect the safety of the minor, a family member, or another individual.

Any such person shall, upon the minor's consent, make reasonable efforts to involve the family of the minor in his or her treatment, if the person furnishing the treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor. Reasonable effort shall be extended to assist the minor in accepting the involvement of his or her family in the care and treatment being given.

Current through P.A. 100-0863, eff. Aug. 14, 2018.

PRIVILEGED COMMUNICATIONS (SELECTED SECTIONS)

735 ILCS 5/8

Confidentiality of Statements Made to Rape Crisis Personnel

735 ILCS 5/8-802.1

(a) Purpose. This Section is intended to protect victims of rape from public disclosure of statements they make in confidence to counselors of organizations established to help them. On or after July 1, 1984, "rape" means an act of forced sexual penetration or sexual conduct, as defined in Section 11-0.1 of the Criminal Code of 2012, including acts prohibited under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012. Because of the fear and stigma that often results from those crimes, many victims hesitate to seek help even where it is available at no cost to them. As a result they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the crime and aid police in preventing future crimes.

(b) Definitions. As used in this Act:

(1) "Rape crisis organization" means any organization or association a major purpose of which is providing information, counseling, and psychological support to victims of any or all of the crimes of aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations between siblings, criminal sexual abuse and aggravated criminal sexual abuse. "Rape crisis organization" includes, but is not limited to, rape crisis centers certified by a statewide sexual assault coalition.

(2) "Rape crisis counselor" means a person who is a psychologist, social worker, employee, or volunteer in any organization or association defined as a rape crisis organization under this Section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis organization.

(3) "Victim" means a person who is the subject of, or who seeks information, counseling, or advocacy services as a result of an aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations within families, criminal sexual abuse, aggravated criminal sexual abuse, sexual exploitation of a child, indecent solicitation of a child, public indecency, exploitation of a child, promoting commercial sexual exploitation of a

child as described in subdivision (a)(4) of Section 11-14.4, or an attempt to commit any of these offenses.

(4) “Confidential communication” means any communication between a victim and a rape crisis counselor in the course of providing information, counseling, and advocacy. The term includes all records kept by the counselor or by the organization in the course of providing services to an alleged victim concerning the alleged victim and the services provided.

(c) Waiver of privilege.

(1) The confidential nature of the communication is not waived by: the presence of a third person who further expresses the interests of the victim at the time of the communication; group counseling; or disclosure to a third person with the consent of the victim when reasonably necessary to accomplish the purpose for which the counselor is consulted.

(2) The confidential nature of counseling records is not waived when: the victim inspects the records; or in the case of a minor child less than 12 years of age, a parent or guardian whose interests are not adverse to the minor inspects the records; or in the case of a minor victim 12 years or older, a parent or guardian whose interests are not adverse to the minor inspects the records with the victim’s consent, or in the case of an adult who has a guardian of his or her person, the guardian inspects the records with the victim’s consent.

(3) When a victim is deceased, the executor or administrator of the victim’s estate may waive the privilege established by this Section, unless the executor or administrator has an interest adverse to the victim.

(4) A minor victim 12 years of age or older may knowingly waive the privilege established in this Section. When a minor is, in the opinion of the Court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the minor, unless the parent or guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to that of the minor with respect to the waiver of the privilege.

(5) An adult victim who has a guardian of his or her person may knowingly waive the privilege established in this Section. When the victim is, in the opinion of the court, incapable of knowingly waiving the privilege, the guardian of the adult victim may waive the privilege on behalf of the victim, unless the guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to the victim with respect to the privilege.

(d) Confidentiality. Except as provided in this Act, no rape crisis counselor shall disclose any confidential communication or be examined as a witness in any civil or criminal proceeding as to any confidential communication without the written consent of the victim or a representative of the victim as provided in subparagraph (c).

(e) A rape crisis counselor may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any rape crisis counselor or rape crisis organization participating in good faith in the disclosing of records and communications under this Act shall have immunity from any liability, civil, criminal, or otherwise that might result from the action. In any proceeding, civil or criminal, arising

out of a disclosure under this Section, the good faith of any rape crisis counselor or rape crisis organization who disclosed the confidential communication shall be presumed.

(f) Any rape crisis counselor who knowingly discloses any confidential communication in violation of this Act commits a Class C misdemeanor.

Current through P.A. 103-1071, eff. July 1, 2025.

Confidential Advisor

735 ILCS 5/8-804

(a) This Section is intended to protect students at higher education institutions in this State who are survivors of sexual violence from public disclosure of communications they make in confidence to confidential advisors. Because of the fear, stigma, and trauma that often result from incidents of sexual violence, many survivors hesitate to report or seek help, even when it is available at no cost to them. As a result, they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the incident of sexual violence to the higher education institution or law enforcement.

(b) In this Section:

"Confidential advisor" means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Preventing Sexual Violence in Higher Education Act.

"Higher education institution" means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

"Sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

"Survivor" means a student who has experienced sexual violence while enrolled at a higher education institution.

(c) All communications between a confidential advisor and a survivor pertaining to an incident of sexual violence shall remain confidential, unless the survivor consents to the disclosure of the communication in writing, the disclosure falls within one of the exceptions outlined in subsection (d) of this Section, or failure to disclose the communication would violate State or federal law. Communications include all records kept by the confidential advisor in the course of providing the survivor with services related to the incident of sexual violence.

(d) The confidential advisor may disclose confidential communications between the confidential advisor and the survivor if failure to disclose would result in a clear, imminent risk of serious physical injury to or death of the survivor or another person.

The confidential advisor shall have no obligation to report crimes to the higher education institution or law enforcement, except to report to the Title IX coordinator, as defined by Title IX of the federal Education Amendments of 1972, on a monthly basis the number and type of incidents of sexual violence reported exclusively to the confidential advisor in accordance with the higher education institution's reporting requirements under

subsection (b) of Section 9.21 of the Board of Higher Education Act and under federal law.

If, in any judicial proceeding, a party alleges that the communications are necessary to the determination of any issue before the court and written consent to disclosure has not been given, the party may ask the court to consider ordering the disclosure of the communications. In such a case, communications may be disclosed if the court finds, after in camera examination of the communication, that the communication is relevant, probative, and not unduly prejudicial or inflammatory or is otherwise clearly admissible; that other evidence is demonstrably unsatisfactory as evidence of the facts sought to be established by the communication or communications; and that disclosure is more important to the interests of substantial justice than protection from injury to the confidential advisor-survivor relationship, to the survivor, or to any other individual whom disclosure is likely to harm.

(e) This privilege shall not preclude an individual from asserting a greater privilege under federal or State law that applies.

Current through P.A. 99-0426, eff. Aug. 21, 2015.

Parties to a Restorative Justice Practice

735 ILCS 5/8-804.5

(a) This Section is intended to encourage the use of restorative justice practices by providing a privilege for participation in such practices and ensuring that anything said or done during the practice, or in anticipation of or as a follow-up to the practice, is privileged and may not be used in any future proceeding unless the privilege is waived by the informed consent of the party or parties covered by the privilege. The General Assembly affords this privilege in recognition of restorative justice as a powerful tool in addressing the needs of victims, offenders, and the larger community in the process of repairing the fabric of community peace. The General Assembly encourages residents of this State to employ restorative justice practices, not only in justiciable matters, but in all aspects of life and law.

(b) As used in this Section:

“Circle” means a versatile restorative practice that can be used proactively, to develop relationships and build community, or reactively, to respond to wrongdoing, conflicts, and problems.

“Conference” means a structured meeting between offenders, victims, and both parties’ family and friends, in which they deal with the consequences of a crime or wrongdoing and decide how best to repair the harm.

“Facilitator” means a person who is trained to facilitate a restorative justice practice.

“Party” means a person, including a facilitator, an individual who has caused harm, an individual who has been harmed, a community member, and any other participant, who voluntarily consents to participate with others who have agreed to participate in a restorative justice practice.

“Proceeding” means any legal action subject to this Code, including, but not limited to, civil, criminal, juvenile, or administrative hearings.

"Restorative justice practice" or "practice" means a gathering, such as a conference or circle, in which parties who have caused harm or who have been harmed and community stakeholders collectively gather to identify and repair harm to the extent possible, address trauma, reduce the likelihood of further harm, and strengthen community ties by focusing on the needs and obligations of all parties involved through a participatory process.

(c) Anything said or done during or in preparation for a restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened, is privileged and cannot be referred to, used, or admitted in any civil, criminal, juvenile, or administrative proceeding unless the privilege is waived, during the proceeding or in writing, by the party or parties protected by the privilege. Privileged information is not subject to discovery or disclosure in any judicial or extrajudicial proceedings.

Any waiver of privilege is limited to the participation and communication of the waiving party only, and the participation or communications of any other participant remain privileged unless waived by the other participant.

(d) Evidence that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because it was discussed or used in a restorative justice practice.

(e) The legitimacy of a restorative justice practice, if challenged in any civil, juvenile, criminal, or administrative proceeding, shall be determined by a judge. In a hearing conducted pursuant to this subsection, the judge may consider information that would otherwise be privileged to the extent that the information is probative of the issue.

(f) The privilege afforded by this Section does not apply if:

(1) disclosure is necessary to prevent death, great bodily harm, or the commission of a crime;

(2) necessary to comply with another law; or

(3) a court, tribunal, or administrative body requires a report on a restorative justice practice, but such report shall be limited to the fact that a practice has taken place, an opinion regarding the success of the practice, and whether further restorative justice practices are expected.

(g) This Section applies to all restorative justice practices that are convened on or after July 15, 2021 (the effective date of 102-100).

Current through P.A. 104-0417, eff. Aug 15, 2025.

CRIME VICTIMS COMPENSATION ACT

740 ILCS 45/1

Definitions

740 ILCS 45/2

As used in this Act, unless the context otherwise requires:

(a) "Applicant" means any of the following claiming compensation under this Act:

(1) A victim.

(2) If the victim was a guardian or primary caregiver to an adult who is physically or mentally incapacitated, that adult who is physically or mentally incapacitated.

(3) A guardian of a minor or of a person under legal disability.

(4) A person who, at the time the crime occurred, resided in the same dwelling as the victim, solely for the purpose of compensating for any of the following:

(A) Pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime.

(B) Loss of earnings under paragraph (14.5) of subsection (h) for time off from work necessary to provide full time care for the injured victim.

(C) Relocation expenses.

(5) A person who assumes a legal obligation or voluntarily pays for a victim's medical or funeral or burial expenses.

(6) Any other person the Court of Claims or the Attorney General finds is entitled to compensation.

The changes made to this subsection by Public Act 101-652 apply to actions commenced or pending on or after January 1, 2022.

(b) "Court of Claims" means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1, 10-2, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 11-20.1, 11-23, 11-23.5, 12-1, 12-2, 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-3.4, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-20.5, 20-1 or 20-1.1, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), or subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961 or the Criminal Code of 2012, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, Section 125 of the Stalking No Contact Order Act, Section 219 of the Civil No Contact Order Act, driving under the influence as defined in Section 11-501 of the Illinois Vehicle Code, a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact, and a violation of Section 11-204.1 of the Illinois Vehicle Code; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or crash involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) “Victim” means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the spouse, parent, or child of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, or anyone living in the dwelling of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.05) a person who will be called as a witness by the prosecution to establish a necessary nexus between the offender and the violent crime, (5.1) any person who is the grandparent, grandchild, brother, sister, half brother, or half sister of a person killed or injured in this State as a result of a crime of violence, applying solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, loss of earnings under paragraph (14.5) of subsection (h) for time off from work necessary to provide full time care for the injured victim, or relocation if the crime occurred within the dwelling of the applicant, (5.2) any person who was in a dating relationship with a person killed in this State as a result of a crime of violence, solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, (6) an Illinois resident who is a victim of a “crime of violence” as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) the parent, spouse, or child of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, (8) (blank), or (9) an individual who is injured or killed in an incident in which a law enforcement officer’s use of force caused bodily harm or death to that individual.

(e) “Dependent” means a relative of a deceased victim who was wholly or partially dependent upon the victim’s income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) “Relative” means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse’s parent, nephew, niece, uncle, aunt, or anyone living in the dwelling of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child.

(g) “Child” means a son or daughter and includes a stepchild, an adopted child or a child born out of wedlock.

(h) “Pecuniary loss” means:

(1) in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling

expenses, appropriate expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, licensed professional counselor, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto;

(2) transportation expenses to and from medical and counseling treatment facilities;

(3) prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime;

(4) expenses incurred for the towing and storage of a victim's vehicle in connection with a crime of violence, to a maximum of $1,000;

(5) costs associated with trafficking tattoo removal by a person authorized or licensed to perform the specific removal procedure; for victims of offenses defined in Section 10-9 of the Criminal Code of 2012, the victim shall submit a statement under oath on a form prescribed by the Attorney General attesting that the removed tattoo was applied in connection with the commission of the offense;

(6) replacement costs for clothing and bedding used as evidence;

(7) costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first 2 months' rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime;

(8) locks, doors, or windows necessary or damaged as a result of the crime;

(9) the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; "real and personal property" includes, but is not limited to, vehicles, houses, apartments, townhouses, or condominiums;

(10) the costs of appropriate crime scene clean-up;

(11) replacement services loss, to a maximum of $1,250 per month, with this amount to be divided in proportion to the amount of the actual loss among those entitled to compensation;

(12) dependents replacement services loss, to a maximum of $1,250 per month, with this amount to be divided in proportion to the amount of the actual loss among those entitled to compensation;

(13) loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her;

(14) loss of earnings, loss of future earnings because of disability resulting from the injury. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work the victim was capable of performing but unreasonably failed to undertake; loss of earnings and loss of future earnings shall be determined on the basis of the victim's average net monthly earnings for

the 6 months immediately preceding the date of the injury or on $2,400 per month, whichever is less, or, in cases where the absences commenced more than 3 years from the date of the crime, on the basis of the net monthly earnings for the 6 months immediately preceding the date of the first absence, not to exceed $2,400 per month;

(14.5) loss of earnings for applicants or loss of future earnings for applicants. The applicant must demonstrate that the loss of earnings is a direct result of circumstances attributed to the crime including, but not limited to, court appearances, funeral preparation and bereavement, receipt of medical or psychological care; loss of earnings and loss of future earnings shall be determined on the basis of the applicant's average net monthly earnings for the 6 months immediately preceding the date of the injury or on $2,400 per month, whichever is less, or, in cases where the absences commenced more than 3 years from the date of the crime, on the basis of the net monthly earnings for the 6 months immediately preceding the date of the first absence, not to exceed $2,400 per month;

(15) loss of support of the dependents of the victim. Loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on $2,400 per month, whichever is less, or, in cases where the absences commenced more than 3 years from the date of the crime, on the basis of the net monthly earnings for the 6 months immediately preceding the date of the first absence, not to exceed $2,400 per month. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Loss of support for minors shall be divided in proportion to the amount of the actual loss among those entitled to such compensation;

(16) in the case of death, expenses for reasonable funeral, burial, headstone, cremation, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may be awarded up to a maximum of $10,000 for each victim. Other individuals that have paid or become obligated to pay funeral, cremation, or burial expenses, including a headstone, for the deceased shall share a maximum award of $10,000, with the award divided in proportion to the amount of the actual loss among those entitled to compensation;

(17) in the case of dismemberment or desecration of a body, expenses for reasonable funeral, burial, headstone, and cremation, all of which may be awarded up to a maximum of $10,000 for each victim. Other individuals that have paid or become obligated to pay funeral, cremation, or burial expenses, including a headstone, for the deceased shall share a maximum award of $10,000, with the award divided in proportion to the amount of the actual loss among those entitled to compensation; and

[*Sic: There is no (18) in the statute*.]

(19) legal fees resulting from proceedings that became necessary solely because of the crime, including, but not limited to, establishing a legal guardian for the minor victim or the minor child of a victim, or obtaining a restraining order, no contact order, or order of protection, awarded up to a maximum of $3,500.

"Pecuniary loss" does not include pain and suffering or property loss or damage.

The changes made to this subsection by Public Act 101-652 apply to actions commenced or pending on or after January 1, 2022.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, stepfather, stepmother, child, brother, sister, or spouse.

(l) "Parent" means a natural parent, adopted parent, stepparent, or permanent legal guardian of another person.

(m) "Trafficking tattoo" is a tattoo which is applied to a victim in connection with the commission of a violation of Section 10-9 of the Criminal Code of 2012.

(n) "Dwelling" means a person's primary home. A person may be required to provide verification or proof of residence including, but not limited to, a lease agreement, utility bill, license registration, document showing the mailing address, pay stub, tax form, or notarized statement.

(o) "Dating relationship" means a current, continuous, romantic, courtship, or engagement relationship, often characterized by actions of an intimate or sexual nature or an expectation of affection. "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

(p) "Medical facility" means a facility for the delivery of health services. "Medical facility" includes, but is not limited to, a hospital, public health center, outpatient medical facility, federally qualified health center, migrant health center, community health center, or State correctional institution.

(q) "Mental health provider" means a licensed clinical psychologist, a licensed clinical social worker, a licensed professional counselor, or a licensed clinical professional counselor as defined in the Mental Health and Developmental Disabilities Code.

(r) "Independent medical evaluation" means an assessment by a mental health provider who is not currently providing treatment to the applicant and will not seek reimbursement from the program for continuing treatment after the assessment. A provider may seek reimbursement for the assessment.

Current through P.A. 103-1037, eff. Jan 1, 2025.

Felony Status
740 ILCS 45/2.5

A victim's criminal history or felony status shall not prevent compensation to that victim or the victim's family. No compensation may be granted to an applicant under this Act while the applicant is held in a correctional institution. An applicant who is held in a correctional institution may apply for assistance under this Act at any time, but no award of compensation may be considered until the applicant meets the requirements of this Section.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Powers and Duties of Court of Claims
740 ILCS 45/3.1

In addition to other powers and duties set forth in the Court of Claims Act and this Act, the Court of Claims shall have power to issue subpoenas, to administer oaths, to conduct hearings required by this Act and to promulgate all rules necessary thereto, and to prepare an annual report.

Current through P.A. 81-1013, eff. Sept. 22, 1979.

Powers and Duties of Attorney General
740 ILCS 45/4.1

In addition to other powers and duties set forth in this Act and other powers exercised by the Attorney General, the Attorney General shall:

(1) investigate all claims and prepare and present an investigatory report and a draft award determination to the Court of Claims for a review period of 28 business days;

(2) upon conclusion of the review by the Court of Claims, provide the applicant with a compensation determination letter;

(3) prescribe and furnish all applications and other forms required to be filed in the office of the Attorney General by the terms of this Act;

(4) represent the interests of the State of Illinois in any hearing before the Court of Claims; and

(5) upon failure to comply with Section 4.2, the Attorney General's office shall have the power to issue subpoenas to compel the production of law enforcement reports maintained by law enforcement agencies.

The changes made to this Section by this amendatory Act of the 101st General Assembly apply to actions commenced or pending on or after January 1, 2022.

Current through P.A. 103-1037, eff. Aug. 9, 2024.

Reports; Applications; Records
740 ILCS 45/4.2

A law enforcement agency shall, within 15 days of receipt of a written request for a police report made to verify that the requirements of a crime victims compensation application under Section 6.1 of this Act have been met, provide the Attorney General's office with the law enforcement agency's full written report of the investigation of the crime for which an

application for compensation has been filed. The law enforcement agency may redact the following from the report: names of confidential sources and informants; locations from which law enforcement conduct surveillance; and information related to issues of national security the law enforcement agency provided to or received from the United States Department of Homeland Security or another federal law enforcement agency. The Attorney General's office and a law enforcement agency may agree to the redaction of other information in the report or to the provision of necessary information in another format. Within 15 days of receipt of the request, a law enforcement agency shall respond to a written request from the Attorney General's office for additional information necessary to assist the Attorney General's office in making a recommendation for compensation.

An applicant may obtain and provide a law enforcement report to the Attorney General and the Attorney General may proceed with the review of the application. If the copy of the law enforcement report provided by the applicant does not contain all the information the Attorney General needs to move forward with the review of the application, the Attorney General may proceed with requesting from the law enforcement agency the full written report of the investigation.

Records that are obtained by the Attorney General's office from a law enforcement agency under this Section for purposes of investigating an application for crime victim compensation shall not be disclosed to the public, including the applicant, by the Attorney General's office. Law enforcement reports or other documentation obtained by the Attorney General's office from an applicant, victim, or third party under this Act for the purposes of investigating an application for crime victim compensation shall not be disclosed to the public or any individual or entity, not including the individual who supplied the report or documentation, by the Attorney General's office. Any records obtained by the Attorney General's office to process the application, including but not limited to applications, documents, and photographs, shall be exempt from disclosure by the Attorney General's office under the Freedom of Information Act.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Notice of Act; Hospitals; Law Enforcement Agencies

740 ILCS 45/5.1

(a) Every hospital licensed under the laws of this State shall display prominently in its emergency room posters giving notification of the existence and general provisions of this Act. The posters may be displayed by physical or electronic means.

(b) Any law enforcement agency that investigates an offense committed in this State shall inform the victim or any potential applicant contacted during the course of an investigation or arrest regarding the Crime Victims Compensation Program, and advise such persons that any information concerning this Act and the filing of a claim may be obtained from the office of the Attorney General.

(c) The Office of the Attorney General shall make available on its website applications, forms, posters, and general information that law enforcement agencies and hospitals may use to comply with this Section.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Right to Compensation

740 ILCS 45/6.1

A person is entitled to compensation under this Act if:

(a) Timing. Within 5 years of the occurrence of the crime, or within one year after a criminal charge of a person for an offense, upon which the claim is based, the applicant presents an application, under oath, to the Attorney General that is filed with the Court of Claims and on a form prescribed in accordance with Section 7.1 furnished by the Attorney General. If the person entitled to compensation is under 18 years of age or under other legal disability at the time of the occurrence or is determined by a court to be under a legal disability as a result of the occurrence, he or she may present the application required by this subsection within 3 years after he or she attains the age of 18 years or the disability is removed, as the case may be. Legal disability includes a diagnosis of posttraumatic stress disorder.

(a-1) The Attorney General and the Court of Claims may accept an application presented after the period provided in subsection (a) if the Attorney General determines that the applicant had good cause for a delay.

(b) Notification. The appropriate law enforcement officials were notified within 72 hours of the perpetration of the crime allegedly causing the death or injury to the victim. If the notification was made more than 72 hours after the perpetration of the crime and the applicant establishes that the notice was timely under the circumstances, the Attorney General and the Court of Claims may extend the time for reporting to law enforcement.

For victims of offenses defined in Sections 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, and 12-14 of the Criminal Code of 1961 or the Criminal Code of 2012, the appropriate law enforcement officials were notified within 7 days of the perpetration of the crime allegedly causing death or injury to the victim or, if the notification was made more than 7 days after the perpetration of the crime, the applicant establishes that the notice was timely under the circumstances.

(b-1) If, in lieu of a law enforcement report, the applicant or victim has obtained an order of protection, a civil no contact order, or a stalking no contact order, has presented to a medical facility for medical care or sexual assault evidence collection, has presented to a mental health provider for an independent medical evaluation, or is engaged in a legal proceeding involving a claim that the applicant or victim is a victim of human trafficking or law enforcement use of force, such action shall constitute appropriate notification under this Section.

(b-2) For purposes of notification under this Act, a victim who presents to a medical facility shall provide information sufficient to fulfill the requirements of this Section, except that the victim shall not be required to identify the offender to the medical provider.

(b-3) An applicant who is filing a claim that a law enforcement officer’s use of force caused injury or death, may fulfill the notification requirement by complying with subsection (b), filing a complaint with the Illinois Law Enforcement Training Standards Board, filing a lawsuit against a law enforcement officer or department, or presenting evidence that the victim has obtained a settlement or a verdict in a civil suit. An application filed by an individual presenting evidence of a verdict in a civil suit must be filed within one year after the resolution of the civil suit.

(b-4) An applicant may provide notification to a mental health provider regarding physical injuries of the victim or for victims of offenses defined in Sections 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 12-3.2, 12-3.3, 12-3.4, 12-7.3, 12-7.4 of the Criminal Code of 2012, psychological injuries resulting from the commission of the crime for which the applicant is filing an application. The provider shall perform an independent medical evaluation and provide the provider's professional opinion as to whether the injuries claimed are consistent with having resulted from the commission of the crime for which the applicant is filing an application.

Upon completion of the independent medical evaluation, the mental health provider shall complete a certification form, signed under oath. The form shall be provided by the Office of the Attorney General and contain the following:

(1) The provider's name, title, license number and place of employment.

(2) Contact information for the provider.

(3) The provider's relationship with the applicant.

(4) The date the crime was reported to the provider.

(5) The reported crime.

(6) The date and location of the crime.

(7) If there are physical injuries, what injuries that the mental health provider can attest to being present on the day of the reporting if they are consistent with the crime reported to the provider.

(8) If there are psychological injuries, whether the provider in his or her professional opinion believes that the injuries presented on the day of the reporting are consistent with the crime reported to the provider.

(9) A detailed summary of the incident, as reported.

(10) Any documentation or photos that relate to the crime of violence for which the applicant is seeking reimbursement.

(c) Cooperation. The applicant has cooperated with law enforcement officials in the apprehension and prosecution of the assailant. If the applicant or victim has obtained an order of protection, a civil no contact order, or a stalking no contact order, has presented to a medical facility for medical care or sexual assault evidence collection, obtained an independent medical examination from a mental health provider as described in subsection (b-4), has taken any of the actions described in subsection (b-3), or is engaged in a legal proceeding involving a claim that the applicant or victim is a victim of human trafficking, such action shall constitute cooperation under this subsection (c). If the victim is under 18 years of age at the time of the commission of the offense, the following shall constitute cooperation under this subsection (c):

(1) the applicant or the victim files a police report with a law enforcement agency;

(2) a mandated reporter reports the crime to law enforcement; or

(3) a person with firsthand knowledge of the crime reports the crime to law enforcement.

In evaluating cooperation, the Attorney General and Court of Claims may consider the victim's age, physical condition, psychological state, cultural or linguistic barriers, and

compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family, and giving due consideration to the degree of cooperation that the victim or derivative victim is capable of in light of the presence of any of these factors, or any other factor the Attorney General considers relevant.

(d) If the applicant is not barred from receiving compensation under Section 10.1.

(e) (Blank).

(f) (Blank).

(g) (Blank).

The changes made to this Section by this amendatory Act of the 101st General Assembly apply to actions commenced or pending on or after January 1, 2022.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Contents of Application for Compensation

740 ILCS 45/7.1

(a) The application shall set out:

(1) the name and address of the victim;

(2) if the victim is deceased, the name and address of the applicant and his or her relationship to the victim, the names and addresses of other persons dependent on the victim for their support and the extent to which each is so dependent, and other persons who may be entitled to compensation for a pecuniary loss;

(3) the date and nature of the crime on which the application for compensation is based;

(4) the date and place where notification under Section 6.1 was given and to whom, or the date and place of issuance of an order of protection, no contact order, evidence of a legal proceeding involving human trafficking, or in cases of a law enforcement officer's use of force, another form of documentation allowable under Section 6.1;

(4.5) if the victim is providing supplemental forms of documentation, that documentation, the date the victim obtained that other form of documentation and the type of documentation;

(5) the nature and extent of the injuries sustained by the victim, and the names and addresses of those giving medical and hospitalization treatment to the victim;

(6) the pecuniary loss to the applicant and to such other persons as are specified under item (2) resulting from the injury or death;

(7) the amount of benefits, payments, or awards, if any, payable under:

(a) the Workers' Compensation Act,

(b) the Dram Shop Act,

(c) any claim, demand, or cause of action based upon the crime-related injury or death,

(d) the Federal Medicare program,

(e) the State Public Aid program,

(f) Social Security Administration burial benefits,

(g) Veterans administration burial benefits,

(h) life, health, accident, vehicle, towing, or liability insurance,

(i) the Criminal Victims' Escrow Account Act,

(j) the Sexual Assault Survivors Emergency Treatment Act,

(k) restitution, or

(l) any other source;

(8) releases authorizing the surrender to the Court of Claims or Attorney General of reports, documents and other information relating to the matters specified under this Act and rules promulgated in accordance with the Act;

(9) such other information as the Court of Claims or the Attorney General reasonably requires.

(b) The Attorney General may require that materials substantiating the facts stated in the application be submitted with that application.

(b-5) The victim or applicant may provide to the Attorney General a sworn statement by the victim or applicant that attests to the victim's or applicant's experience of a crime or crimes of violence, in addition to documentation required under this Act. If the victim or applicant has additional corroborating evidence beyond those described in this Act, the victim or applicant may provide the following documents: law enforcement report; medical records; confirmation of sexual assault evidence collection; order of protection; civil no contact order, stalking no contact order; photographs; letter from a service provider who serves victims of crime; affidavit from a witness of the crime of violence; court record; military record; or any other corroborating evidence. Such documentation or statement may be used to supplement required documentation to verify the incident but is not required. If an applicant is seeking an exception under subsection (b) or (c-1) of Section 6.1, the applicant shall provide any additional documentation, information, or statement that substantiates the facts stated in the application.

(c) An applicant, on his or her own motion, may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the original application has been disposed of by the Court of Claims or the Attorney General. In either case, the filing of additional information or of an amended application shall be considered for the purpose of this Act to have been filed at the same time as the original application.

For claims submitted on or after January 1, 2022, an amended application or additional substantiating materials to correct inadvertent errors or omissions may be filed at any time before the original application is disposed of by the Attorney General or the Court of Claims.

(d) Determinations submitted by the Attorney General to the Court of Claims shall be available to the Court of Claims for review. The Attorney General shall provide the sources and evidence relied upon as a basis for a compensation determination.

(e) The changes made to this Section by this amendatory Act of the 101st General Assembly apply to actions commenced or pending on or after January 1, 2022.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Substantiation of Claim; Time; Failure to Comply

740 ILCS 45/8.1

If an applicant does not submit all materials substantiating his or her claim as requested of him or her by the Attorney General, the Attorney General shall notify the applicant in writing of the specific additional items of information or materials required and that he or she has 45 days in which to furnish those items to the Attorney General. The Attorney General shall report an applicant's failure to comply within 45 days of the foregoing notice to the Court of Claims. No award of compensation shall be made for any portion of the applicant's claim that is not substantiated by the applicant. An applicant may request an extension of time from the Attorney General prior to the expiration of the 45-day period.

After an application has been filed, an applicant's failure to respond to communication from the Office of the Attorney General or the Court of Claims or a failure to provide necessary documentation to substantiate the request for compensation may result in the claim being closed without compensation. An applicant may submit to have the claim reopened when the applicant is able to provide missing information and communicate regarding the claim.

Failure to update the Office of the Attorney General with changes to the applicant's contact information after the application is submitted to the Office of the Attorney General may result in applications that are not filed with the Court of Claims or claims that are closed without compensation.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

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Award of Compensation

740 ILCS 45/10.1

The awarding of compensation and the amount of compensation to which an applicant and other persons are entitled shall be based on the following factors:

(a) Each victim may be compensated for his or her pecuniary loss up to the maximum amount allowable.

(b) Each dependent may be compensated for loss of support, as provided in paragraph (15) of subsection (h) of Section 2.

(c) Any person, even though not dependent upon the victim for his or her support, may be compensated for reasonable expenses of the victim to the extent to which he or she has paid or become obligated to pay such expenses and only after compensation for reasonable funeral, medical and hospital expenses of the victim have been awarded may compensation be made for reasonable expenses of the victim incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime. Persons that have paid or become obligated to pay expenses for a victim shall share the maximum award with the amount divided in proportion to the amount of the actual loss among those entitled to compensation.

(d) Except for claims listed under subsection (d-1) of this Section, an award shall be reduced or denied according to the extent to which the victim's injury or death was caused by provocation or incitement by the victim or the victim assisting, attempting, or committing a criminal act.

(d-1) For claims that a law enforcement officer's use of force resulted in injury or death to a victim, an award shall be reduced or denied to the extent by which the victim's behavior posed an imminent threat of death or serious bodily injury to the law enforcement officer or another person and such behavior of the victim was a direct and proximate cause of the victim's injury or death. If a police report has been made, the police report shall not be the sole factor if the Attorney General or Court of Claims has identified reliable information that conflicts with the police report.

(d-2) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive an award with respect to such claim. A member of the family of a person criminally responsible for the crime upon which a claim is based or a member of the family of an accomplice of such person shall be eligible to receive an award, unless the person criminally responsible will receive substantial economic benefit or unjust enrichment from the compensation. In no event shall an applicant be denied compensation solely because of the applicant's or the victim's familial relationship with the offender or because of the sharing of a dwelling by the victim or applicant and the offender.

(d-3) A denial or reduction shall not automatically bar the survivors of homicide victims from receiving compensation for counseling, crime scene cleanup, relocation, funeral or burial costs, and loss of support.

(e) An award shall be reduced by the amount of benefits, payments or awards payable under those sources which are required to be listed under item (7) of Section 7.1(a) and any other sources except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first $25,000 of life insurance that would inure to the benefit of the applicant, which the applicant or any other person dependent for the support of a deceased victim, as the case may be, has received or to which he or she is entitled as a result of injury to or death of the victim.

(f) A final award shall not exceed $10,000 for a crime committed prior to September 22, 1979, $15,000 for a crime committed on or after September 22, 1979 and prior to January 1, 1986, $25,000 for a crime committed on or after January 1, 1986 and prior to August 7, 1998, $27,000 for a crime committed on or after August 7, 1998 and prior to August 7, 2022, or $45,000 per victim for a crime committed on or after August 7, 2022. For any applicant who is not a victim, if the total pecuniary loss is greater than the maximum amount allowed, the award shall be divided in proportion to the amount of actual loss among those entitled to compensation who are not victims.

(g) Compensation under this Act is a secondary source of compensation and the applicant must show that he or she has exhausted the benefits reasonably available under the Criminal Victims' Escrow Account Act or any governmental or medical or health insurance programs, including, but not limited to, Workers' Compensation, the Federal Medicare program, the State Public Aid program, Social Security Administration burial benefits, and Veterans Administration burial benefits, and life, health, accident, full vehicle coverage (including towing insurance, if available), or liability insurance. Crowdfunding resources available to applicants are not considered collateral sources of

payment, regardless of any statements made about what expenses the crowdfunding resources will be used to pay.

Current through P.A. 103-1037, eff. Jan. 1, 2025.

Emergency Awards

740 ILCS 45/10.2

(a) If it appears, prior to taking action on an application, that the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the Attorney General may recommend and the Court may make an emergency award of compensation to the applicant, pending a final decision in the case. Emergency awards may be issued to the applicant for the purpose of paying funeral and burial expenses directly to a funeral home and for relocation expenses incurred by an applicant. The amount of emergency compensation shall be deducted from any final award made as a result of the claim. The full amount of the emergency award if no final award is made shall be repaid by the applicant to the State of Illinois.

(b) Emergency award applicants must satisfy all requirements under Section 6.1 of this Act.

Current through P.A. 102-0027, eff. Jan. 1, 2022.

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Fees; Counsels' or Agents' Fees

740 ILCS 45/12

No fee may be charged to the applicant in any proceeding under this Act except as provided in this Act. If the applicant is represented by counsel or some other duly authorized agent in making application under this Act or in any further proceedings provided for in this Act, that counsel or agent may receive no payment for his or her services in preparing or presenting the application before the Court of Claims or the Attorney General. He or she may, however, charge fees to the applicant for representing him or her at a hearing provided for in this Act but only in such an amount as the Court of Claims or the Attorney General determines to be reasonable.

Current through P.A. 102-0027, eff. Jan. 1, 2022.

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Hearings

740 ILCS 45/13.1

(a) A hearing before a Commissioner of the Court of Claims shall be held for those claims in which:

(1) the Court of Claims on its own motion sets a hearing;

(2) the Attorney General petitions the Court of Claims for a hearing;

(3) a claim has been disposed of without a hearing and an applicant has been denied compensation or has been awarded compensation which he or she thinks is inadequate and he or she petitions the Court of Claims for a hearing within 30 days of the date of issuance of the determination sought to be reviewed. The petition shall set forth the reasons for which review is sought and a recitation of

any additional evidence the applicant desires to present to the Court. A copy of the petition shall be provided to the Attorney General. Documentation to be presented at a hearing of the Court of Claims must be submitted to the Attorney General at least 10 working days before the hearing date. Failure to do so may result in a continuance of the hearing.

(b) At hearings held under this Act before Commissioners of the Court of Claims, any statement, document, information or matter may be received in evidence if in the opinion of the Court or its Commissioner such evidence would contribute to reaching a decision on the claim, regardless of whether such evidence would be admissible in a court of law.

(c) Petition for rehearing.

(1) The Court of Claims may order a rehearing of a matter decided after a hearing, if, in reaching its decision:

(A) the court has overlooked, misapplied, or failed to consider a statute, decision, or directly controlling principle;

(B) the court has overlooked or misconceived some material fact or proposition of law; or

(C) the court has overlooked or misconceived a material question in the case.

(2) A rehearing may not be granted if it is sought merely for the purpose of obtaining a reargument on and reconsideration of matters which have already been fully considered by the court.

(3) The petition shall specify which of the grounds in paragraph (1) of this subsection (c) exists and shall specifically designate that portion of the opinion, or the record, or that particular authority, which the petitioner wishes the court to consider. A copy of the petition shall be served on the opposing party. No petition for rehearing shall exceed 10 typewritten pages. No memoranda or briefs in support of a petition for rehearing, and no response to a petition for rehearing, shall be received unless requested by the court.

Current through P.A. 102-0027, eff. Jan. 1, 2022.

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Restrictions on Collection of Debts Incurred by Crime Victims

740 ILCS 45/18.5

(a) Within 10 business days after the filing of a claim, the Office of the Attorney General shall issue an applicant a written notice of the crime victim compensation claim and inform the applicant that the applicant may provide a copy of the written notice to vendors to have debt collection activities cease while the claim is pending.

(b) An applicant may provide a copy of the written notice to a vendor waiting for payment of a related debt. A vendor that receives notice of the filing of a claim under this Act with the Court of Claims or Attorney General must cease all debt collection activities against the applicant for a related debt. A vendor that assists an applicant to complete or submit an application for compensation or a vendor that submits a bill to the Office of the Attorney General has constructive notice of the filing of the claim and must not engage

in debt collection activities against the applicant for a related debt. If the Court of Claims or Attorney General awards compensation for the related debt, a vendor shall not engage in debt collection activities while payment is pending. If the Court of Claims denies compensation for a vendor's bill for the related debt or a portion thereof, the vendor may not engage in debt collection activities until 45 days after the date of notice from the Court of Claims or the Attorney General denying compensation in whole or in part.

(c) A vendor that has notice of a compensation claim may submit a written request to the Attorney General for notification of the Attorney General's decision involving a related debt. The Attorney General shall provide notification of payment or denial of payment within 30 days of its decision.

(d) The statute of limitations for collection of a related debt is tolled upon the filing of the claim with the Court of Claims and all civil actions in court against the applicant for a related debt shall be stayed until 45 days after the Attorney General denies or the Court of Claims enters an order denying compensation for the related debt or portion thereof.

(d-5) Any vendor that violates the provisions of this Section may be held liable to the affected victim or applicant in an action brought in a court of competent jurisdiction for such legal or equitable relief as may be appropriate to effectuate the purposes of this Section.

(e) As used in this Section:

(1) "Crime victim" means a victim of a violent crime or an applicant as defined in this Act.

(2) "Debt collection activities" means:

(A) communicating with, harassing, or intimidating the crime victim for payment, including, but not limited to:

(i) repeatedly calling or writing to the crime victim or applicant or his or her relatives or employers;

(ii) calling or writing to the victim or applicant or his or her relatives or employers after an explicit request to cease contact; and

(iii) threatening to refer the related debt to a debt collection agency or to an attorney for collection, enforcement, or the filing of other process;

(B) contacting a credit ratings agency or distributing information to affect the crime victim's credit rating as a result of the related debt;

(C) referring a bill, or portion thereof, to a collection agency or attorney for collection action against the crime victim; or

(D) taking any other action adverse to the crime victim or his or her family on account of the related debt.

"Debt collection activities" does not include billing insurance or other government programs, routine inquiries about coverage by private insurance or government programs, or routine billing that indicates that the amount is not due pending resolution of the crime victim compensation claim.

(3) “Related debt” means a debt or expense for hospital, medical, dental, or counseling services incurred by or on behalf of a crime victim as a direct result of the crime.

(4) “Vendor” includes persons, providers of service, vendors’ agents, debt collection agencies, and attorneys hired by a vendor.

Current through P.A. 103-1037, eff. Aug. 9, 2024.

Willful Misstatements or Omissions; Penalty

740 ILCS 45/20

(a) In addition to any other civil liability or criminal penalties provided by law, a person who the Court of Claims or the Attorney General finds has willfully misstated or omitted facts relevant to the determination of whether compensation is due under this Act or of the amount of that compensation, whether in making application for compensation or in the further proceedings provided for in this Act, shall be denied compensation under this Act.

(b) A person who is convicted of having willfully misstated or omitted facts relevant to the determination of whether compensation is due under this Act or of the amount of that compensation, whether in making application for compensation or in the further proceedings provided for in this Act, shall be guilty of a Class A misdemeanor.

Current through P.A. 102-0027, eff. Jan. 1, 2022.

GENDER VIOLENCE ACT

740 ILCS 82/1

Definitions

740 ILCS 82/5

“Employee” has the meaning provided in Section 2-101 of the Illinois Human Rights Act.

“Employer” has the meaning provided in Section 2-101 of the Illinois Human Rights Act.

“Gender-related violence”, which is a form of sex discrimination, means the following:

(1) One or more acts of violence or physical aggression satisfying the elements of battery under the laws of Illinois that are committed, at least in part, on the basis of a person’s sex, whether or not those acts have resulted in criminal charges, prosecution, or conviction.

(2) A physical intrusion or physical invasion of a sexual nature under coercive conditions satisfying the elements of battery under the laws of Illinois, whether or not the act or acts resulted in criminal charges, prosecution, or conviction.

(2.5) Domestic violence, as defined in the Victims’ Economic Security and Safety Act.

(3) A threat of an act described in item (1), (2), or (2.5) causing a realistic apprehension that the originator of the threat will commit the act.

“Workplace” means the employer’s premises, including any building, real property, and parking area under the control of the employer, or any location used by an employee while in the performance of the employee’s job duties. “Workplace” includes activities occurring off-

premises at employer-sponsored events where an employee is not performing the employee's job duties.

Current through P.A. 103-0282, eff. Jan. 1, 2024.

Cause of Action

740 ILCS 82/10

Any person who has been subjected to gender-related violence as defined in Section 5 may bring a civil action for damages, injunctive relief, or other appropriate relief against a person or persons perpetrating that gender-related violence. For purposes of this Section, "perpetrating" means either personally committing the gender-related violence or personally encouraging or assisting the act or acts of gender-related violence.

Current through P.A. 93-0416, eff. Jan. 1, 2004.

Employer Liability for an Employee or Agent

740 ILCS 82/11

(a) An employer is only liable for gender-related violence committed in the workplace by an employee or agent of the employer when the interaction giving rise to the gender-related violence arises out of and in the course of employment with the employer. Liability only extends to gender-related violence that occurs: (i) while the employee was directly performing the employee's job duties and the gender-related violence was the proximate cause of the injury; or (ii) while the agent of the employer was directly involved in the gender-related violence and the performance of the contracted work was the proximate cause of the injury. Proximate cause exists when the actions of the employee or the agent of the employer were a substantial factor in causing the injury.

An employer is liable if the employer has acted in a manner inconsistent with how a reasonable person would act under similar circumstances.

(b) Notwithstanding subsection (a), an employer is only liable for gender-related violence if the employer:

(1) failed to supervise, train, or monitor the employee who engaged in the gender-related violence. An employer providing training pursuant to Section 2-109 of the Illinois Human Rights Act shall have an affirmative defense that adequate training was provided to the employee; or

(2) failed to investigate complaints or reports directly provided to a supervisor, manager, owner, or another person designated by the employer of similar conduct by an employee or agent of the employer and the employer failed to take remedial measures in response to the complaints or reports.

(c) Nothing in this Act precludes a person who has been the victim of gender-related violence from pursuing any other right or cause of action created by statute or common law.

Current through P.A. 103-0282, eff. Jan. 1, 2024.

Relief

740 ILCS 82/15

In an action brought under this Act, the court may award damages, injunctive relief, or other appropriate relief. The court may award actual damages, damages for emotional distress, or punitive damages. A judgment may also include attorney's fees and costs.

Current through P.A. 93-0416, eff. Jan. 1, 2004.

Limitation

740 ILCS 82/20

An action by an individual based on gender-related violence as defined in paragraph (1), (2), or (2.5) of Section 5 must be commenced within 7 years after the cause of action accrued, except that if the person entitled to bring the action was a minor at the time the cause of action accrued, the action must be commenced within 7 years after the person reaches the age of 18. An action based on gender-related violence as defined in paragraph (3) of Section 5 must be commenced within 2 years after the cause of action accrued, except that if the person entitled to bring the action was a minor at the time the cause of action accrued, the action must be commenced within 2 years after the person reaches the age of 18. An action against an employer pursuant to Section 11 must be commenced within 4 years after the cause of action accrued, except that if the person entitled to bring the action was a minor at the time the cause of action accrued, the action must be commenced within 4 years after the person reaches the age of 18.

Current through P.A. 103-0282, eff. Jan. 1, 2024.

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SEXUAL EXPLOITATION IN PSYCHOTHERAPY, PROFESSIONAL HEALTH SERVICES, AND PROFESSIONAL MENTAL HEALTH SERVICES ACT

740 ILCS 140/0.01

Definitions

740 ILCS 140/1

(a) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist, unlicensed health professional, or unlicensed mental health professional are such that the psychotherapist, unlicensed health professional, or unlicensed mental health professional knows or has reason to believe that the patient or former patient is unable to withhold consent to sexual contact by the psychotherapist, unlicensed health professional, or unlicensed mental health professional.

(b) "Former patient" means a person who was given psychotherapy within 1 year prior to sexual contact with the psychotherapist or who obtained a professional consultation or diagnostic or therapeutic service from an unlicensed health professional or unlicensed mental health professional within one year prior to sexual contact with the unlicensed health professional or unlicensed mental health professional.

(c) “Patient” means a person who seeks or obtains psychotherapy or who obtains a professional consultation or diagnostic or therapeutic service from an unlicensed health professional or unlicensed mental health professional.

(d) “Psychotherapist” means a physician, psychologist, nurse, chemical dependency counselor, social worker, or other person, whether or not licensed by the State, who performs or purports to perform psychotherapy.

(e) “Psychotherapy” means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition. “Psychotherapy” does not include counseling of a spiritual or religious nature, social work, or casual advice given by a friend or family member.

(f) “Sexual contact” means any of the following, whether or not occurring with the consent of a patient or former patient:

(1) sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, into the genital or anal openings of the patient’s or former patient’s body by any part of the psychotherapist’s, unlicensed health professional’s, or unlicensed mental health professional’s body or by any object used by the psychotherapist, unlicensed health professional, or unlicensed mental health professional for that purpose, or any intrusion, however, slight, into the genital or anal openings of the psychotherapist’s, unlicensed health professional’s, or unlicensed mental health professional’s body by any part of the patient’s or former patient’s body or by any object used by the patient or former patient for that purpose, if agreed to by the psychotherapist, unlicensed health professional, or unlicensed mental health professional;

(2) kissing or intentional touching by the psychotherapist, unlicensed health professional, or unlicensed mental health professional of the patient’s or former patient’s genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts;

(3) kissing or intentional touching by the patient or former patient of the psychotherapist’s, unlicensed health professional’s, or unlicensed mental health professional’s genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts if the psychotherapist, unlicensed health professional, or unlicensed mental health professional agrees to the kissing or intentional touching.

“Sexual contact” includes a request by the psychotherapist, unlicensed health professional, or unlicensed mental health professional for conduct described in paragraphs (1) through (3).

“Sexual contact” does not include conduct described in paragraph (1) or (2) that is a part of standard medical treatment of a patient, casual social contact not intended to be sexual in character, or inadvertent touching.

(g) “Therapeutic deception” means a representation by a psychotherapist, unlicensed health professional, or unlicensed mental health professional that sexual contact with the psychotherapist, unlicensed health professional, or unlicensed mental health professional is consistent with or part of the patient’s or former patient’s treatment.

(h) “Unlicensed health professional” means a person who is not licensed or registered to provide health services by the Department of Professional Regulation or a board of registration duly authorized to grant licenses or registration to persons engaged in the practice of providing health services or whose license or registration to provide health services has been returned or revoked by the Department or that board.

(i) “Unlicensed mental health professional” means a person who is not licensed or registered to provide mental health services by the Department of Professional Regulation or a board of registration duly authorized to grant licenses or registration to persons engaged in the practice of providing mental health services or whose license or registration to provide mental health services has been returned or revoked by the Department or that board.

Current through P.A. 90-0538, eff. Dec. 1, 1997.

Cause of Action for Sexual Exploitation

740 ILCS 140/2

(a) A cause of action against a psychotherapist, unlicensed health professional, or unlicensed mental health professional for sexual exploitation exists for a patient or former patient for injury caused by sexual contact with the psychotherapist, unlicensed health professional, or unlicensed mental health professional, if the sexual contact occurred:

(1) during the period the patient was receiving psychotherapy from the psychotherapist, or health services from the unlicensed health professional, or mental health services from the unlicensed mental health professional; or

(2) after the period the patient received psychotherapy from the psychotherapist, or health services from the unlicensed health professional, or mental health services from the unlicensed mental health professional if (i) the former patient was emotionally dependent on the psychotherapist, unlicensed health professional, or unlicensed mental health professional or (ii) the sexual contact occurred by means of therapeutic deception.

(b) The patient or former patient may recover damages from a psychotherapist, unlicensed health professional, or unlicensed mental health professional who is found liable for sexual exploitation. It is not a defense to the action that sexual contact with a patient occurred outside a therapy or treatment session or that it occurred off the premises regularly used by the psychotherapist, unlicensed health professional, or unlicensed mental health professional for therapy or treatment sessions.

(c) Whenever the Attorney General has probable cause to believe (i) that a psychotherapist, unlicensed health professional, or unlicensed mental health professional is having or has had sexual contact with one or more patients or clients or former patients or former clients while the psychotherapist, unlicensed health professional, or unlicensed mental health professional was licensed or unlicensed and (ii) that the psychotherapist, unlicensed health professional, or unlicensed mental health professional poses a threat to the health, safety, or welfare of members of the public who are or may be patients or clients of the psychotherapist, unlicensed health professional, or unlicensed mental health professional, the Attorney General may bring an action in the name of the State against the psychotherapist, unlicensed health

professional, or unlicensed mental health professional to restrain by temporary restraining order or preliminary or permanent injunction the psychotherapist, unlicensed health professional, or unlicensed mental health professional from providing, offering to provide, or representing himself or herself as being able to provide psychotherapy, health services, or mental health services.

At least 5 days prior to the commencement of any action brought under this Section, except when a temporary restraining order is sought, the Attorney General shall notify the psychotherapist, unlicensed health professional, or unlicensed mental health professional of the Attorney General's intended action and shall give the psychotherapist, unlicensed health professional, or unlicensed mental health professional an opportunity to confer with the Attorney General or his or her representative in person or by counsel or other representative as to the proposed action.

The notice shall be given by first-class mail, postage prepaid, to the psychotherapist's, unlicensed health professional's, or unlicensed mental health professional's usual place of business or, if that person has no usual place of business, to that person's last known address.

(d) The action may be brought either in the circuit court of the county in which the conduct complained of occurred or in the circuit court of the county in which the psychotherapist, unlicensed health professional, or unlicensed mental health professional resides or has his or her principal place of business.

The court may issue temporary restraining orders or preliminary or permanent injunctions and make other orders or judgments it deems appropriate.

(e) No injunction shall be issued under this Section unless the court finds that the defendant has had an opportunity for an evidentiary hearing as to all contested material issues of fact. Issues decided in a prior evidentiary hearing in a court or in an administrative proceeding may be applied to a proceeding under this Section in compliance with the Code of Civil Procedure.

If the court issues an injunction against a psychotherapist, unlicensed health professional, or unlicensed mental health professional under this Section, the court shall retain jurisdiction of the matter and the cause shall be continued. Any psychotherapist, unlicensed health professional, or unlicensed mental health professional who is ordered to refrain from certain conduct or activities in an action brought under this Section may petition the court for a modification or termination of the injunction upon 10 days notice to the Attorney General.

(f) Any State's Attorney or other law enforcement office receiving notice of any alleged violation of this Section or violation of an injunction or order issued in an action brought under this Section shall immediately forward written notice of the alleged violation together with any information that the State's Attorney or other law enforcement office may have to the office of the Attorney General.

(g) In an action brought under this Section, whenever the court issues a temporary restraining order or a preliminary or permanent injunction ordering a defendant to refrain from certain conduct or activities, the order shall contain the following statement:

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

The clerk shall transmit 2 certified copies of each such order issued under this Section to each appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and the law enforcement agency shall serve one copy of the order on the defendant. Unless otherwise ordered by the court, service shall be by delivering a copy in hand to the defendant.

After any such order has been served on the defendant, any violation of the order by the defendant is a Class 4 felony punishable by a fine of not more than $25,000.

Law enforcement agencies shall establish procedures adequate to ensure that all officers responsible for the enforcement of an order entered under this Section are informed of the existence and terms of the order. Whenever any law enforcement officer has probable cause to believe that a defendant has violated the provisions of this Section, the officer has the authority to arrest the defendant.

Whenever the court vacates a temporary restraining order or a preliminary or permanent injunction issued under this Section, the clerk shall promptly notify in writing each appropriate law enforcement agency that has been notified of the issuance of the order and shall direct each such agency to destroy all records of the vacated order. The law enforcement agency shall comply with that directive.

(h) Nothing contained in this Section shall prohibit the Attorney General in his or her discretion from bringing an action for civil contempt against the defendant rather than bringing criminal charges for an alleged violation of an order issued under this Section as provided in subsection (g). If the court finds that a psychotherapist, unlicensed health professional, or unlicensed mental health professional is in civil contempt by reason of an alleged violation of an injunction or the order entered under this Section, the court shall assess a civil penalty of not more than $10,000 for each such violation found.

Current through P.A. 90-0538, eff. Dec. 1, 1997.

Liability of Employer

740 ILCS 140/3

An employer of a psychotherapist, unlicensed health professional, or unlicensed mental health professional may be liable under Section 2 if the employer fails or refuses to take reasonable action when the employer knows or has reason to know that the psychotherapist, unlicensed health professional, or unlicensed mental health professional engaged in sexual contact with the plaintiff or any other patient or former patient of the psychotherapist, unlicensed health professional, or unlicensed mental health professional.

Current through P.A. 90-0538, eff. Dec. 1, 1997.

Scope of Discovery

740 ILCS 140/4

(a) In an action for sexual exploitation, evidence of the plaintiff's sexual history is not subject to discovery except when the plaintiff claims damage to sexual functioning; or

(1) the defendant requests a hearing prior to conducting discovery and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

(b) The court shall allow the discovery only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is subject to discovery.

Current through P.A. 85-1254, eff. Jan. 1, 1989.

Admission of Evidence

740 ILCS 140/5

(a) In an action for sexual exploitation, evidence of the plaintiff's sexual history is not admissible except when:

(1) the defendant requests a hearing prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

(b) The court shall allow the admission only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other such evidence may be introduced.

(c) Violation of the terms of the order may be grounds for a new trial.

Current through P.A. 85-1254, eff. Jan. 1, 1989.

Limitation Period

740 ILCS 140/6

An action for sexual exploitation shall be commenced within 2 years after the cause of action arises.

Current through P.A. 85-1254, eff. Jan. 1, 1989.

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CIVIL REMEDIES FOR NONCONSENSUAL DISSEMINATION OF PRIVATE SEXUAL IMAGES ACT

740 ILCS 190/1

Definitions

740 ILCS 190/5

As used in this act:

(1) "Child" means an unemancipated individual who is less than 18 years of age.

(2) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(3) "Depicted individual" means an individual whose face or body is shown, in whole or in part, in a private sexual image or digitally altered sexual image.

(3.5) “Digitally altered sexual image” means any visual media, including any photograph, film, videotape digital recording, or other similar medium, that is created or substantially altered so that it would falsely appear to a reasonable person to be an authentic depiction of the appearance or conduct, or the absence of the appearance or conduct, of an individual depicted in the media.

(4) “Dissemination” or “disseminate” means publication or distribution to another person with intent to disclose.

(5) “Harm” means physical harm, economic harm, or emotional distress whether or not accompanied by physical or economic harm.

(6) “Identifiable” means recognizable by a person other than the depicted individual:

(A) from a private sexual image itself; or

(B) from a private sexual image and identifying characteristic displayed in connection with the image.

(7) “Identifying characteristic” means information that may be used to identify a depicted individual.

(8) “Individual” means a human being.

(9) “Parent” means an individual recognized as a parent under laws of this State.

(10) “Private” means:

(A) created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy; or

(B) made accessible through theft, bribery, extortion, fraud, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.

(11) “Person” means an individual, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or other legal entity.

(12) “Sexual conduct” includes:

(A) masturbation;

(B) genital sex, anal sex, oral sex, or sexual activity; or

(C) sexual penetration of or with an object.

(13) “Sexual activity” means any:

(A) knowing touching or fondling by the depicted individual or another person, either directly or through clothing, of the sex organs, anus, or breast of the depicted individual or another person for the purpose of sexual gratification or arousal;

(B) transfer or transmission of semen upon any part of the clothed or unclothed body of the depicted individual, for the purpose of sexual gratification or arousal of the depicted individual or another person;

(C) act of urination within a sexual context;

(D) bondage, fetish, sadism, or masochism;

(E) sadomasochistic abuse in any sexual context; or

(F) animal-related sexual activity.

(14) “Sexual image” means a photograph, film, videotape, digital recording, or other similar medium that shows or falsely appears to show:

(A) the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, anus, or female post-pubescent nipple, partially or fully exposed, of a depicted individual; or

(B) a depicted individual engaging in or being subjected to sexual conduct or activity.

Current through P.A. 103-0571, eff. Dec. 8, 2023.

Civil Action

740 ILCS 190/10

(a) Except as otherwise provided in Section 15, if a depicted individual is identifiable to a reasonable person and suffers harm from the intentional dissemination or threatened dissemination by a person over the age of 18 of a private or intentionally digitally altered sexual image without the depicted individual’s consent, the depicted individual has a cause of action against the person if the person knew or recklessly disregarded the possibility that:

(1) the depicted individual did not consent to the dissemination;

(2) the image was a private or intentionally digitally altered sexual image; and

(3) the depicted individual was identifiable.

(b) The following conduct by a depicted individual does not establish by itself that the individual consented to the nonconsensual dissemination of a private sexual image that is the subject of an action under this Act or that the individual lacked a reasonable expectation of privacy:

(1) consent to creation of the image; or

(2) previous consensual disclosure of the image.

(c) In the case of digitally altered sexual images, disclosing that the images were digitally altered shall not be a defense to liability.

Current through P.A. 103-0294, eff. Jan. 1, 2024.

Exceptions to Liability

740 ILCS 190/15

(a) A person is not liable under this Act if the person proves that the dissemination of or a threat to disseminate a private sexual image or digitally altered sexual image was:

(1) made in good faith:

(A) by law enforcement;

(B) in a legal proceeding; or

(C) for medical education or treatment;

(2) made in good faith in the reporting or investigation of:

(A) unlawful conduct; or

(B) unsolicited and unwelcome conduct; or

(3) related to a matter of public concern.

(b) Subject to subsection (c), a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this Act for a dissemination or threatened dissemination of an intimate private sexual image of the child.

(c) If a defendant asserts an exception to liability under subsection (b), the exception does not apply if the plaintiff proves the disclosure was:

(1) prohibited by a law other than this Act; or

(2) made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(d) The dissemination of or a threat to disseminate a private sexual image is not a matter of public concern solely because the depicted individual is a public figure or the image is accompanied by a political message.

Current through P.A. 103-0571, eff. Dec. 8, 2023.

Privacy of Parties

740 ILCS 190/20

(a) In an action under this Act:

(1) a plaintiff may proceed by using a pseudonym in place of the true name of the plaintiff under Section 2-401 of the Code of Civil Procedure; and

(2) the court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff.

(b) A plaintiff to whom paragraph (2) of subsection (a) applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics.

(c) The court may make further orders as necessary to protect the identity and privacy of a plaintiff.

(d) If a plaintiff is granted privacy protections under this Section, a defendant may file a motion with the court to receive the same privacy protections. The court may deny or grant the motion at its discretion.

Current through P.A. 101-0556, eff. Jan. 1, 2020.

Remedies

740 ILCS 190/25

(a) In an action under this Act, a prevailing plaintiff may recover:

(1) the greater of:

(A) economic and noneconomic damages proximately caused by the defendant's dissemination or threatened dissemination, including damages for emotional distress whether or not accompanied by other damages; or

(B) statutory damages, not to exceed $10,000, against each defendant found liable under this Act for all disseminations and threatened disseminations

by the defendant of which the plaintiff knew or reasonably should have known when filing the action or that became known during the pendency of the action. In determining the amount of statutory damages under this subsection, consideration shall be given to the age of the parties at the time of the disseminations or threatened disseminations, the number of disseminations or threatened disseminations made by the defendant, the breadth of distribution of the image by the defendant, and other exacerbating or mitigating factors;

(2) an amount equal to any monetary gain made by the defendant from dissemination of the private sexual image; and

(3) punitive damages.

(b) In an action under this Act, the court may award a prevailing plaintiff:

(1) reasonable attorney's fees and costs; and

(2) additional relief, including equitable relief such as a temporary restraining order, preliminary injunction, or permanent injunction ordering the defendant to cease the display or disclosure of the image.

(c) This Act does not affect a right or remedy available under any other law of this State.

Current through P.A. 103-0294, eff. Jan 1, 2024.

Statute of Limitations

740 ILCS 190/30

(a) An action under subsection (b) of Section 10 for:

(1) a nonconsensual dissemination may not be brought later than 2 years from the date the dissemination was discovered or should have been discovered with the exercise of reasonable diligence; and

(2) a threat to disseminate may not be brought later than 2 years from the date of the threat to disseminate.

(b) Except as otherwise provided in subsection (c), this Section is subject to the tolling statutes of this State.

(c) In an action under subsection (a) of Section 10 by a depicted individual who was a minor on the date of the dissemination or threat to disseminate, the time specified in subsection (a) of this Section does not begin to run until the depicted individual attains the age of majority.

Current through P.A. 101-0556, eff. Jan. 1, 2020.

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ILLINIOS PARENTAGE ACT OF 2015

750 ILCS 46/101

Allocation of Parental Responsibilities or Parenting Time Prohibited to Persons Who Conceive a Child Through Sexual Assault or Sexual Abuse

750 ILCS 46/622

(a) This Section applies to a person who has been found to be the parent of a child under this Act and who:

(1) has been convicted of or who has pled guilty or nolo contendere to a violation of Section 11-1.20 (criminal sexual assault), Section 11-1.30 (aggravated criminal sexual assault), Section 11-1.40 (predatory criminal sexual assault of a child), Section 11-1.50 (criminal sexual abuse), Section 11-1.60 (aggravated criminal sexual abuse), Section 11-11 (sexual relations within families), Section 12-13 (criminal sexual assault), Section 12-14 (aggravated criminal sexual assault), Section 12-14.1 (predatory criminal sexual assault of a child), Section 12-15 (criminal sexual abuse), or Section 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar statute in another jurisdiction, for conduct in paragraph (1) of this subsection in conceiving that child; or

(2) at a fact-finding hearing, is found by clear and convincing evidence to have committed an act of non-consensual sexual penetration for his conduct in fathering that child.

(b) A person described in subsection (a) shall not be entitled to an allocation of any parental responsibilities or parenting time with that child without the consent of the woman or person who gave birth to the child or the child's guardian. If the person described in subsection (a) is also the guardian of the child, the person does not have the authority to consent to parenting time or the allocation of parental responsibilities under this Section. If the woman or person who gave birth to the child is a minor, and the person described in subsection (a) is also the parent or guardian of the woman or person who gave birth to the child, then the person does not have the authority to consent to the allocation of parental responsibilities or parenting time.

(c) Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the parent described in subsection (a) of any support and maintenance obligations to the child under this Act. The woman or person who gave birth to the child or the child's guardian may decline support and maintenance obligations from the parent.

(d) Notwithstanding any other provision of law, the parent described in subsection (a) of this Section is not entitled to any inheritance or other rights from the child without the consent of the woman or person who gave birth to the child or the child's guardian.

(e) Notwithstanding any provision of the Illinois Marriage and Dissolution of Marriage Act, the parent, grandparent, great-grandparent, or sibling of the person described in subsection (a) of this Section does not have standing to bring an action requesting the allocation of parental responsibilities or parenting time with the child without the consent of the woman or person who gave birth to the child or the child's guardian.

(f) A petition under this Section may be filed by the woman or person who gave birth to the child or the child's guardian either as an affirmative petition in circuit court or as an affirmative defense in any proceeding filed by the person described in subsection (a) of this Section regarding the child.

Current through P.A. 104-0448, eff. Dec. 12, 2025.

SAFE HOMES ACT

765 ILCS 750/1

Purpose

765 ILCS 750/5

The purpose of this Act is to promote the State's interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence and their families to flee existing dangerous housing in order to leave violent or abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences thereof.

Current through P.A. 94-1038, eff. Jan. 1, 2007.

Definitions

765 ILCS 750/10

For purposes of this Act:

"Domestic violence" means "abuse" as defined in Section 103 of the Illinois Domestic Violence Act of 1986 by a "family or household member" as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Landlord" means the owner of a building or the owner's agent with regard to matters concerning landlord's leasing of a dwelling.

"Sexual violence" means any act of sexual assault, sexual abuse, or stalking of an adult or minor child, including but not limited to non-consensual sexual conduct or non-consensual sexual penetration as defined in the Civil No Contact Order Act and the offenses of stalking, aggravated stalking, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, and aggravated criminal sexual abuse as those offenses are described in the Criminal Code of 2012.

"Tenant" means a person who has entered into an oral or written lease with a landlord whereby the person is the lessee under the lease.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Affirmative Defense

765 ILCS 750/15

(a) In any action brought by a landlord against a tenant to recover rent for breach of lease, a tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord, if by preponderance of the evidence, the court finds that:

(1) at the time that the tenant vacated the premises, the tenant or a member of tenant's household was under a credible imminent threat of domestic or sexual violence at the premises; and

(2) the tenant gave written notice to the landlord prior to or within 3 days of vacating the premises that the reason for vacating the premises was because of a credible imminent threat of domestic or sexual violence against the tenant or a member of the tenant's household.

(b) In any action brought by a landlord against a tenant to recover rent for breach of lease, a tenant shall have an affirmative defense and not be liable for rent for the period after which the tenant vacates the premises owned by the landlord, if by preponderance of the evidence, the court finds that:

(1) a tenant or a member of tenant's household was a victim of sexual violence on the premises that is owned or controlled by a landlord and the tenant has vacated the premises as a result of the sexual violence; and

(2) the tenant gave written notice to the landlord prior to or within 3 days of vacating the premises that the reason for vacating the premises was because of the sexual violence against the tenant or member of the tenant's household, the date of the sexual violence, and that the tenant provided at least one form of the following types of evidence to the landlord supporting the claim of the sexual violence: medical, court or police evidence of sexual violence; or statement from an employee of a victim services or rape crisis organization from which the tenant or a member of the tenant's household sought services; and

(3) the sexual violence occurred not more than 60 days prior to the date of giving the written notice to the landlord, or if the circumstances are such that the tenant cannot reasonably give notice because of reasons related to the sexual violence, such as hospitalization or seeking assistance for shelter or counseling, then as soon thereafter as practicable. Nothing in this subsection (b) shall be construed to be a defense against an eviction action for failure to pay rent before the tenant provided notice and vacated the premises.

(c) Nothing in this Act shall be construed to be a defense against an action for rent for a period of time before the tenant vacated the landlord's premises and gave notice to the landlord as required in subsection (b).

Current through P.A. 100-0173, eff. Jan. 1, 2018.

Change of Locks

765 ILCS 750/20

(a)(1) Written leases. Upon written notice from all tenants who have signed as lessees under a written lease, the tenants may request that a landlord change the locks of the dwelling unit in which they live if one or more of the tenants reasonably believes that one of the tenants or a member of tenant's household is under a credible imminent threat of domestic or sexual violence at the premises. If the threat of violence is from a person who is not a lessee under the written lease, notice to the landlord requesting a change of locks shall be accompanied by at least one form of the following types of evidence to support a claim of domestic or sexual violence: medical, court or police evidence of domestic or sexual violence; or a statement from an employee of a victim services,

domestic violence, or rape crisis organization from which the tenant or a member of the tenant's household sought services. If the threat of violence is from a person who is a lessee under a written lease, notice to the landlord requesting a change of locks shall be accompanied by a plenary order of protection pursuant to Section 219 of the Illinois Domestic Violence Act of 1986 or Section 112A-19 of the Code of Criminal Procedure of 1963, or a plenary civil no contact order pursuant to Section 215 of the Civil No Contact Order Act, granting the tenant exclusive possession of the premises. The tenant requesting a change of locks shall not be required to obtain written notice from the person posing a threat who is a lessee under the written lease, provided that the notice is accompanied by a plenary order of protection or a plenary civil no contact order granting the tenant exclusive possession of the premises.

(2) Oral leases. Upon written notice from all tenants who are lessees under an oral lease, the tenants may request that a landlord change the locks of the dwelling unit in which they live if one or more of the tenants reasonably believes that one of the tenants or a member of tenant's household is under a credible imminent threat of domestic or sexual violence at the premises. Notice to the landlord requesting a change of locks shall be accompanied by a plenary order of protection pursuant to Section 219 of the Illinois Domestic Violence Act of 1986 or Section 112A-19 of the Code of Criminal Procedure of 1963, or a plenary civil no contact order pursuant to Section 215 of the Civil No Contact Order Act, granting the tenant exclusive possession of the premises. The tenant requesting a change of locks shall not be required to obtain written notice from the person posing a threat who is a lessee under the oral lease, provided that the notice is accompanied by a plenary order of protection or a plenary civil no contact order granting the tenant exclusive possession of the premises.

(b) Once a landlord has received notice of a request for change of locks and has received one form of evidence referred to in Section (a) above, the landlord shall, within 48 hours, change the locks or give the tenant the permission to change the locks. If the landlord changes the locks, the landlord shall make a good faith effort to give a key to the new locks to the tenant as soon as possible or not more than 48 hours of the locks being changed.

(1) The landlord may charge a fee for the expense of changing the locks. That fee must not exceed the reasonable price customarily charged for changing a lock.

(2) If a landlord fails to change the locks within 48 hours after being provided with the notice and evidence referred to in (a) above, the tenant may change the locks without the landlord's permission. If the tenant changes the locks, the tenant shall make a good faith effort to give a key to the new locks to the landlord within 48 hours of the locks being changed. In the case where a tenant changes the locks without the landlord's permission, the tenant shall do so in a workmanlike manner with locks of similar or better quality than the original lock.

(c) The landlord who changes locks or allows the change of locks under this Act shall not be liable to any third party for damages resulting from a person being unable to access the dwelling.

Current through P.A. 95-0378, eff. Aug. 23, 2007.

Penalty for Violation of Lock-Change Provisions

765 ILCS 750/25

(a) If a landlord takes action to prevent the tenant who has complied with Section 20 of this Act from changing his or her locks, the tenant may seek a temporary restraining order, preliminary injunction, or permanent injunction ordering the landlord to refrain from preventing the tenant from changing the locks. A tenant who successfully brings an action pursuant to this Section may be awarded reasonable attorney's fees and costs.

(b) A tenant who changes locks and does not make a good faith effort to provide a copy of a key to the landlord within 48 hours of the tenant changing the locks, shall be liable for any damages to the dwelling or the building in which the dwelling is located that could have been prevented had landlord been able to access the dwelling unit in the event of an emergency.

(b-1) A landlord who changes the locks and does not make a good faith effort to provide a copy of a key to the tenant within 48 hours of the landlord changing the locks shall be liable for any damages to the tenant incurred as a result of not having access to his or her unit.

(c) The remedies provided to landlord and tenant under this Section 25 shall be sole and exclusive for violations of the lock-change provisions of this Act.

Current through P.A. 95-0999, eff. Oct. 6, 2008.

Nondisclosure, Confidentiality, and Privilege

765 ILCS 750/27

(a) A landlord may not disclose to a prospective landlord (1) that a tenant or a member of tenant's household exercised his or her rights under the Act, or (2) any information provided by the tenant or a member of tenant's household in exercising those rights.

(b) The prohibition on disclosure under subsection (a) shall not apply in civil proceedings brought under this Act, or if such disclosure is required by law.

(c) A tenant or a member of tenant's household, who is the victim of domestic or sexual violence or is the parent or legal guardian of the victim of domestic or sexual violence, may waive the prohibition on disclosure under subsection (a) by consenting to the disclosure in writing.

(d) Furnishing evidence to support a claim of domestic or sexual violence against a tenant or a member of tenant's household pursuant to Section 15 or 20 shall not waive any confidentiality or privilege that may exist between the victim of domestic or sexual violence and a third party.

Current through P.A. 95-0999, eff. Oct. 6, 2008.

Nondisclosure Violation Penalty

765 ILCS 750/29

A landlord who, in violation of Section 27, discloses that a tenant has exercised his or her rights under the Act, or discloses any information provided by the tenant in exercising those rights, shall be liable for actual damages up to $2,000 resulting from the disclosure. A tenant

who successfully brings an action pursuant to this Section may be awarded reasonable attorney's fees and costs.

Current through P.A. 95-0999, eff. Oct. 6, 2008.

Prohibition of Waiver or Modification

765 ILCS 750/30

The provisions of this Act may not be waived or modified in any lease or separate agreement.

Current through P.A. 94-1038, eff. Jan. 1, 2007.

Public Housing Excluded

765 ILCS 750/35

This Act does not apply to public housing, assisted under the United States Housing Act of 1937, as amended, 42 U.S.C. 1437 et seq., and its implementing regulations, with the exception of the tenant-based Housing Choice Voucher program. Public housing includes dwelling units in mixed-finance projects that are assisted through a public housing authority's capital, operating, or other funds.

Current through P.A. 94-1038, eff. Jan. 1, 2007.

SUMMARY OF RIGHTS FOR SAFER HOMES ACT

765 ILCS 752/1

Legislative Intent

765 ILCS 752/5

The purpose of this Act is to promote the State's interest in enabling more victims of domestic or sexual violence and their families to become timely aware of the existing housing protections they have under 6 Illinois statutes and how to exercise their rights under these statutes. By requiring that a summary of these rights appear on page 1 of each residential lease, more tenants will become timely aware of these rights and how to exercise them. This will lead to safer homes and greater financial security for more victims of domestic or sexual violence and their families.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

Definitions

765 ILCS 752/10

As used in this Act:

"Domestic violence" means "abuse" as defined in Section 103 of the Illinois Domestic Violence Act of 1986 by a "family or household member" as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Landlord" means the owner of the building or the owner's agent for matters concerning the landlord's leasing of a dwelling.

"Sexual violence" means any act of sexual assault, sexual abuse, or stalking of an adult or minor child. This includes, but is not limited to, non-consensual sexual conduct or non-

consensual sexual penetration as defined in the Civil No Contact Order Act and the offense of stalking, aggravated stalking, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, and aggravated criminal sexual abuse as those offenses are described in the Criminal Code of 2012.

“Tenant” means a person who has entered into a written lease with a landlord in which the person is the lessee under the lease.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

Summary of Illinois Housing Protections for Survivors of Domestic Violence and Sexual Violence and Acknowledgment of Receipt of Summary Form

765 ILCS 752/15

(a) The Director of the Illinois Department of Human Rights shall prepare a summary identifying the key rights and remedies of tenants or household members of tenants who are survivors of domestic violence or sexual violence under the following 6 Illinois statutes: the Safe Homes Act; the Eviction Article in the Code of Civil Procedure; the Illinois Human Rights Act; and Section 8-201.6 of the Public Utilities Act providing for the deferral of deposit for victims of domestic violence and ordinances that prohibit penalizing tenants who contact police or other emergency services in Section 1-2-1.5 of the Illinois Municipal Code and Section 5-1005.10 of the Counties Code. The Director shall make this summary available for public inspection and copying no later than 60 days after this bill becomes law.

(b) Space must be provided at the bottom of each page of the summary that the tenant may sign as acknowledgment of the tenant’s receipt of the summary as attached to a paper version of the lease or inserted into an electronic version of the lease.

(c) The summary described in this Act shall be prepared in consultation with Illinois domestic and sexual violence service providers.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

Disclosure of Summary to Tenants and Obtaining Acknowledgment of Receipt

765 ILCS 752/20

A landlord or a landlord’s agent shall attach a copy of the summary of this Act as the first page of any written residential lease they enter into with a tenant, including for a new rental or renewal, and obtain the signature of each tenant in the acknowledgment of receipt at the bottom of each page of the summary.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

Evidence of Attachment of Summary and Delivery of Summary To Tenants Under Written Residential Leases

765 ILCS 752/25

(a) The signature of the tenant at the bottom of each page of the summary described in this Act may simultaneously act as evidence that the landlord fulfilled the obligations described in this Act for that tenant.

(b) Failure of the landlord to provide the evidence described in this Section creates a rebuttable presumption that the landlord failed to comply with the landlord's disclosure obligations in this Act.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

Failure to Comply with the Act's Requirements

765 ILCS 752/25

(a) A landlord who is found to have failed to comply with the requirements of this Act for any tenant under a written residential lease shall be liable to that tenant for the greater of: (i) the tenant's actual damages, if any, not to exceed $2,000 or (ii) $100.

(b) If a tenant brings a private right of action under this Act and prevails in such action, the tenant shall also be awarded all court costs and reasonable attorney's fees. There is no requirement for the tenant to seek relief under this Act through the Illinois Department of Human Rights.

Current through P.A. 103-1031, eff. Jan. 1, 2026.

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VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA)

820 ILCS 180/1

Findings

820 ILCS 180/5

Note: To view the text of this section, please refer to www.ilga.gov.

Definitions

820 ILCS 180/10

In this Act, except as otherwise expressly provided:

(1) "Commerce" includes trade, traffic, commerce, transportation, or communication; and "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and includes "commerce" and any "industry affecting commerce".

(2) "Course of conduct" means a course of repeatedly maintaining a visual or physical proximity to a person or conveying oral or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(2.5) "Crime of violence" means any conduct proscribed by Articles 9, 11, 12, 26.5, 29D, and 33A of the Criminal Code of 2012 or a similar provision of the Criminal Code of 1961, in

addition to conduct proscribed by Articles of the Criminal Code of 2012 referenced in other definitions in this Section.

(3) “Department” means the Department of Labor.

(4) “Director” means the Director of Labor.

(5) “Domestic violence, sexual violence, or gender violence” means domestic violence, sexual assault, gender violence, or stalking.

(6) “Domestic violence” means abuse, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, by a family or household member, as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

(7) “Electronic communications” includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, pager, online platform (including, but not limited to, any public-facing website, web application, digital application, or social network), or any other electronic communication, as defined in Section 12-7.5 of the Criminal Code of 2012.

(8) “Employ” includes to suffer or permit to work.

(9) Employee.

(A) In general. “Employee” means any person employed by an employer.

(B) Basis. “Employee” includes a person employed as described in subparagraph (A) on a full or part-time basis, or as a participant in a work assignment as a condition of receipt of federal or State income-based public assistance.

(10) “Employer” means any of the following: (A) the State or any agency of the State; (B) any unit of local government or school district; or (C) any person that employs at least one employee.

(11) “Employment benefits” means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, pensions, and profit-sharing, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”. “Employee benefit plan” or “plan” means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan.

(12) “Family or household member”, for employees with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence, means a spouse or party to a civil union, parent, grandparent, child, grandchild, sibling, or any other person related by blood or by present or prior marriage or civil union, other person who shares a relationship through a child, or any other individual whose close association with the employee is the equivalent of a family relationship as determined by the employee, and persons jointly residing in the same household.

(12.5) “Gender violence” means:

(A) one or more acts of violence or aggression satisfying the elements of any criminal offense under the laws of this State that are committed, at least in part,

on the basis of a person's actual or perceived sex or gender, regardless of whether the acts resulted in criminal charges, prosecution, or conviction;

(B) a physical intrusion or physical invasion of a sexual nature under coercive conditions satisfying the elements of any criminal offense under the laws of this State, regardless of whether the intrusion or invasion resulted in criminal charges, prosecution, or conviction; or

(C) a threat of an act described in item (A) or (B) causing a realistic apprehension that the originator of the threat will commit the act.

(13) (Blank).

(14) "Perpetrator" means an individual who commits or is alleged to have committed any act or threat of domestic violence, sexual violence, gender violence, or any other crime of violence.

(15) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(16) "Public agency" means the Government of the State or political subdivision thereof; any agency of the State, or of a political subdivision of the State; or any governmental agency.

(17) "Public assistance" includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency or public employer.

(18) "Reduced work schedule" means a work schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(19) "Repeatedly" means on 2 or more occasions.

(20) "Sexual assault" means any conduct proscribed by: (i) Article 11 of the Criminal Code of 2012 except Sections 11-35 and 11-45; (ii) Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 2012; or (iii) a similar provision of the Criminal Code of 1961.

(20.5) "Sexual violence" means sexual assault.

(21) "Stalking" means any conduct proscribed by the Criminal Code of 1961 or the Criminal Code of 2012 in Sections 12-7.3, 12-7.4, and 12-7.5.

(22) "Victim" or "survivor" means an individual who has been subjected to domestic violence, sexual violence, gender violence, or any other crime of violence. "Victim" also includes any person described as a victim, as defined under Section 2 of the Crime Victims Compensation Act.

(23) "Victim services organization" means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual violence, gender violence, or any other crime of violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

Current through P.A. 102-0487, eff. Jan. 1, 2022.

Purposes

820 ILCS 180/15

The purposes of this Act are:

(1) to promote the State's interest in reducing domestic violence, dating violence, sexual assault, gender violence, stalking, and any crime of violence by enabling victims of domestic violence, sexual violence, gender violence, or any crime of violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, sexual violence, gender violence, or any crime of violence, and to reduce the devastating economic consequences of domestic violence, sexual violence, gender violence, or any crime of violence to employers and employees;

(2) to address the failure of existing laws to protect the employment rights of employees who are victims of domestic violence, sexual violence, gender violence, or any crime of violence and employees with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any crime of violence by protecting the civil and economic rights of those employees, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(3) to accomplish the purposes described in paragraphs (1) and (2) by (A) entitling employed victims of domestic violence, sexual violence, gender violence, or any crime of violence and employees with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any crime of violence to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers for the employee or the family or household member who is a victim; and (B) prohibiting employers from discriminating against any employee who is a victim of domestic violence, sexual violence, gender violence, or any crime of violence or any employee who has a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any crime of violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

Current through P.A. 103-0314, eff. Jan. 1, 2024.

Entitlement to Leave Due to Domestic Violence, Sexual Violence, Gender Violence, or Any Other Crime of Violence

820 ILCS 180/20

(a) Leave requirement.

(1) Basis. An employee who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence or an employee who has a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence whose interests are not adverse to the employee as it relates to the domestic violence, sexual violence, gender violence, or any other crime of violence may take unpaid leave from work if the employee or employee's family or household member is experiencing an incident of domestic violence, sexual violence, gender violence, or any other crime of violence or to address domestic violence, sexual violence, gender violence, or any other crime of violence by:

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, sexual violence, gender violence, or any other crime of violence to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, sexual violence, gender violence, or any other crime of violence or ensure economic security;

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil, criminal, or military legal proceeding related to or derived from domestic violence, sexual violence, gender violence, or any other crime of violence;

(F) attending the funeral or alternative to a funeral or wake of a family or household member who is killed in a crime of violence;

(G) making arrangements necessitated by the death of a family or household member who is killed in a crime of violence; or

(H) grieving the death of a family or household member who is killed in a crime of violence.

(2) Period. Subject to subsection (c) and except as provided in paragraph (4) of this subsection, an employee working for an employer that employs at least 50 employees shall be entitled to a total of 12 workweeks of leave during any 12-month period. Subject to subsection (c) and except as provided in paragraph (4) of this subsection, an employee working for an employer that employs at least 15 but not more than 49 employees shall be entitled to a total of 8 workweeks of leave during any 12-month period. Subject to subsection (c) and except as provided in paragraph (4) of this subsection, an employee working for an employer that employs at least one but not more than 14 employees shall be entitled to a total of 4 workweeks of leave during any 12-month period. The total number of workweeks to which an employee is entitled shall not decrease during the relevant 12-month period. This Act does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) Schedule. Leave described in paragraph (1) may be taken consecutively, intermittently, or on a reduced work schedule.

(4) Exceptions. An employee shall be entitled to use a cumulative total of not more than 2 workweeks (10 work days) of unpaid leave for the purposes described in subparagraphs (F), (G), or (H) of paragraph (1), which must be completed within

60 days after the date on which the employee receives notice of the death of the victim, and is subject to the following:

(A) Except as provided in subparagraph (2), if an employee is also entitled to taken unpaid bereavement leave under the Family Bereavement Leave Act as a result of the death of the victim, this Act does not create a right for the employee to take unpaid bereavement leave that exceeds, or is in addition to, the unpaid bereavement leave the employee is entitled to take under the Family Bereavement Leave Act.

(B) If an employee is also entitled to take unpaid bereavement leave under the Family Bereavement Leave Act as a result of the death of the victim, leave taken under this Act for the purposes described in subparagraphs (F), (G), or (H) of paragraph (1) or leave taken under the Family Bereavement Leave Act shall be in addition to, and shall not diminish, the total amount of leave time an employee is entitled to under paragraph (2).

(C) If an employee is not entitled to unpaid bereavement leave under the Family Bereavement Leave Act as a result of the death of the victim, leave taken for the purposes described in subparagraphs (F), (G), or (H) of paragraph (1) shall be deducted from, and is not in addition to, the total amount of leave time an employee is entitled to under paragraph (2).

(D) Leave taken for the purposes described in subparagraphs (F), (G), or (H) of paragraph (1) shall not otherwise limit or diminish the total amount of leave time an employee is entitled to take under paragraph (2).

(b) Notice. The employee shall provide the employer with at least 48 hours' advance notice of the employee's intention to take the leave, unless providing such notice is not practicable. When an unscheduled absence occurs, the employer may not take any action against the employee if the employee, upon request of the employer and within a reasonable period after the absence, provides certification under subsection (c).

(c) Certification.

(1) In general. The employer may require the employee to provide certification to the employer that:

(A) the employee or the employee's family or household member is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence; and

(B) the leave is for one of the purposes enumerated in paragraph (a)(1).

The employee shall provide such certification to the employer within a reasonable period after the employer requests certification.

(2) Contents. An employee may satisfy the certification requirement of paragraph (1) by providing to the employer a sworn statement of the employee, and if the employee has possession of such document, the employee shall provide one of the following documents:

(A) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or

household member has sought assistance in addressing domestic violence, sexual violence, gender violence, or any other crime of violence and the effects of the violence;

(B) a police, court, or military record;

(B-5) a death certificate, published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or government agency, documenting that a victim was killed in a crime of violence; or

(C) other corroborating evidence.

The employee shall choose which document to submit, and the employer shall not request or require more than one document to be submitted during the same 12-month period leave is requested or taken if the reason for leave is related to the same incident or incidents of violence or the same perpetrator or perpetrators of the violence.

(d) Confidentiality. All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this Section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

(1) requested or consented to in writing by the employee; or

(2) otherwise required by applicable federal or State law.

(e) Employment and benefits.

(1) Restoration to position.

(A) In general. Any employee who takes leave under this Section for the intended purpose of the leave shall be entitled, on return from such leave:

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) Loss of benefits. The taking of leave under this Section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) Limitations. Nothing in this subsection shall be construed to entitle any restored employee to:

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) Construction. Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this Section to report

periodically to the employer on the status and intention of the employee to return to work.

(2) Maintenance of health benefits.

(A) Coverage. Except as provided in subparagraph (B), during any period that an employee takes leave under this Section, the employer shall maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) Failure to return from leave. The employer may recover the premium that the employer paid for maintaining coverage for the employee and the employee's family or household member under such group health plan during any period of leave under this Section if:

(i) the employee fails to return from leave under this Section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than:

(I) the continuation, recurrence, or onset of domestic violence, sexual violence, gender violence, or any other crime of violence that entitles the employee to leave pursuant to this Section; or

(II) other circumstances beyond the control of the employee.

(C) Certification.

(i) Issuance. An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) Contents. An employee may satisfy the certification requirement of clause (i) by providing to the employer:

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee has sought assistance in addressing domestic violence, sexual violence, gender violence, or any other crime of violence and the effects of that violence;

(III) a police, court, or military record; or

(IV) other corroborating evidence.

The employee shall choose which document to submit, and the employer shall not request or require more than one document to be submitted.

(D) Confidentiality. All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

(i) requested or consented to in writing by the employee; or

(ii) otherwise required by applicable federal or State law.

(f) Prohibited acts.

(1) Interference with rights.

(A) Exercise of rights. It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this Section.

(B) Employer discrimination. It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual:

(i) exercised any right provided under this Section; or

(ii) opposed any practice made unlawful by this Section.

(C) Public agency sanctions. It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner) because the individual:

(i) exercised any right provided under this Section; or

(ii) opposed any practice made unlawful by this Section.

(2) Interference with proceedings or inquiries. It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual:

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this Section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this Section.

Current through P.A. 103-0314, eff. Jan. 1, 2024.

Existing Leave Usable for Addressing Domestic Violence, Sexual Violence, Gender Violence, or Any Criminal Violence

820 ILCS 180/25

Existing leave usable for addressing domestic violence, sexual violence, gender violence, or any criminal violence. An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to federal, State, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under Section 20. The employer may not require the employee to substitute available paid or unpaid leave for leave provided under Section 20.

Current through P.A. 102-0487, eff. Jan. 1, 2022.

Victims' Employment Sustainability; Prohibited Discriminatory Acts

820 ILCS 180/30

(a) An employer shall not fail to hire, refuse to hire, discharge, constructively discharge, or harass any individual, otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, or retaliate against an individual in any form or manner, and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual, or retaliate against an individual in any form or manner, because:

(1) the individual involved:

(A) is or is perceived to be a victim of domestic violence, sexual violence, gender violence, or any criminal violence;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic violence, sexual violence, gender violence, or any criminal violence of which the individual or a family or household member of the individual was a victim, or requested or took leave for any other reason provided under Section 20, or attended, participated in, prepared for, requested leave to attend, participate in, or prepare for a court-martial or nonjudicial punishment proceeding pursuant to the Uniform Code of Military Justice relating to an incident of domestic violence, sexual violence, gender violence, or any criminal violence of which the individual or a family or household member of the individual was a victim, or requested or took leave for any other reason provided under Section 20;

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure in response to actual or threatened domestic violence, sexual violence, gender violence, or any other crime of violence, regardless of whether the request was granted; or

(D) is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence, sexual violence, gender violence, or any other crime of violence against the individual or the individual's family or household member.

(b) In this Section:

(1) "Discriminate", used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public assistance, includes not making a reasonable accommodation to the known limitations resulting from circumstances relating to being a victim of domestic violence, sexual violence, gender violence, or any criminal violence or a family or household member being a victim of domestic violence, sexual violence, gender violence, or any other crime of violence of an otherwise qualified individual:

(A) who is:

(i) an applicant or employee of the employer (including a public agency); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(B) who is:

(i) or is perceived to be a victim of domestic violence, sexual violence, gender violence, or any other crime of violence; or

(ii) with a family or household member who is or is perceived to be a victim of domestic violence, sexual violence, gender violence, or any other crime of violence whose interests are not adverse to the individual in subparagraph (A) as it relates to the domestic violence, sexual violence, gender violence, or any other crime of violence;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

A reasonable accommodation must be made in a timely fashion. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable.

(2) "Qualified individual" means:

(A) in the case of an applicant or employee described in paragraph (1)(A)(i), an individual who, but for being a victim of domestic violence, sexual violence, gender violence, or any other crime of violence or with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(A)(ii), an individual who, but for being a victim of domestic violence, sexual

violence, gender violence, or any other crime of violence or with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) "Reasonable accommodation" may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, or assistance in documenting domestic violence, sexual violence, gender violence, or any other crime of violence that occurs at the workplace or in work-related settings, or any other reasonable accommodation in response to actual or threatened domestic violence, sexual violence, gender violence, or any other crime of violence.

(4) Undue hardship.

(A) In general. "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered. In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include:

(i) the nature and cost of the reasonable accommodation needed under this Section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

(c) An employer subject to Section 21 of the Workplace Violence Prevention Act shall not violate any provisions of the Workplace Violence Prevention Act.

(d) Confidentiality. All information provided to the employer pursuant to this Section including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained an accommodation pursuant to this Section shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

(1) requested or consented to in writing by the employee; or

(2) otherwise required by applicable federal or State law.

Current through P.A. 102-0890, eff. May 19, 2022.

Employees' Personal Use of Employer-Provided Electronic Devices

820 ILCS 180/33

(a) An employer shall not fail to hire, refuse to hire, discharge, constructively discharge, harass, discriminate with respect to compensation, terms, conditions, or privileges of employment, or retaliate against an employee in any form or manner because the employee used employer-issued equipment to record domestic violence, sexual violence, gender violence, or any other crime of violence committed against the employee or a family or household member of the employee.

(b) An employer shall not deprive an employee of employer-issued equipment solely because the employee used or attempted to use the employer-issued equipment to record domestic violence, sexual violence, gender violence, or any other crime of violence committed against the employee or a family or household member of the employee.

(c) An employer shall grant an employee access to any photographs, voice or video recordings, sound recordings, or any other digital documents or communications stored on an employer-issued device relating to domestic violence, sexual violence, gender violence, or any other crime of violence committed against the employee or a family or household member of the employee.

(d) Nothing in this Section prohibits an employer from complying with an investigation, court order, or subpoena for a device, information, data, or documents.

(e) Nothing in this Section shall be construed to relieve an employee of obligations to comply with an employer's reasonable employment policies or to perform the essential functions of employment.

Current through P.A. 104-0171, eff. Jan. 1, 2026.

Enforcement

820 ILCS 180/35

(a) Department of Labor.

(1) The Director or his or her authorized representative shall administer and enforce the provisions of this Act. Any employee or a representative of employees who believes his or her rights under this Act have been violated may, within 3 years after the alleged violation occurs, file a complaint with the Department requesting a review of the alleged violation. A copy of the complaint shall be sent to the person who allegedly committed the violation, who shall be the respondent. Upon receipt of a complaint, the Director shall cause such investigation to be made as he or she deems appropriate. The investigation shall provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least 7 days before the

hearing. Upon receiving the report of the investigation, the Director shall make findings of fact. If the Director finds that a violation did occur, he or she shall issue a decision incorporating his or her findings and requiring the party committing the violation to take such affirmative action to abate the violation as the Director deems appropriate, including:

(A) damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) such equitable relief as may be appropriate, including, but not limited to, hiring, reinstatement, promotion, and reasonable accommodations; and

(C) reasonable attorney's fees, reasonable expert witness fees, and other costs of the action to be paid by the respondent to a prevailing employee.

If the Director finds that there was no violation, he or she shall issue an order denying the complaint. An order issued by the Director under this Section shall be final and subject to judicial review under the Administrative Review Law.

(2) The Director shall adopt rules necessary to administer and enforce this Act in accordance with the Illinois Administrative Procedure Act. The Director shall have the powers and the parties shall have the rights provided in the Illinois Administrative Procedure Act for contested cases, including, but not limited to, provisions for depositions, subpoena power and procedures, and discovery and protective order procedures.

(3) Intervention. The Attorney General of Illinois may intervene on behalf of the Department if the Department certifies that the case is of general public importance. Upon such intervention the court may award such relief as is authorized to be granted to an employee who has filed a complaint or whose representative has filed a complaint under this Section.

(b) Refusal to pay damages. Any employer who has been ordered by the Director of Labor or the court to pay damages under this Section and who fails to do so within 30 days after the order is entered is liable to pay a penalty of 1% per calendar day to the employee for each day of delay in paying the damages to the employee.

Current through P.A. 104-0417, eff. Aug. 15, 2025.

Notification

820 ILCS 180/40

Every employer covered by this Act shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Director of Labor, summarizing the requirements of this Act and information pertaining to the filing of a charge. The Director shall furnish copies of summaries and rules to employers upon request without charge. Any employer that fails to post the required notice may not rely on the provisions in subsection (b) of Section 20 to claim that the employee failed to inform the employer that she or he wanted or was eligible for leave under this Act.

Current through P.A. 96-0635, eff. Aug. 24, 2009.

Effect on Other Laws and Employment Benefits

820 ILCS 180/45

(a) More protective laws, agreements, programs, and plans. Nothing in this Act shall be construed to supersede any provision of any federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides:

(1) greater leave benefits for victims of domestic violence, sexual violence, gender violence, or any other crime of violence than the rights established under this Act; or

(2) leave benefits for a larger population of victims of domestic violence, sexual violence, gender violence, or any other crime of violence (as defined in such law, agreement, program, or plan) than the victims of domestic violence, sexual violence, gender violence, or any other crime of violence covered under this Act.

(b) Less protective laws, agreements, programs, and plans. The rights established for employees who are victims of domestic violence, sexual violence, gender violence, or any other crime of violence and employees with a family or household member who is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence under this Act shall not be diminished by any federal, State or local law, collective bargaining agreement, or employment benefits program or plan.

Current through P.A. 102-0487, eff. Jan. 1, 2022

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WORKPLACE VIOLENCE PREVENTION ACT

820 ILCS 275/1

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Definitions

820 ILCS 275/10

“Credible threat of violence” means a statement or course of conduct that causes a reasonable person to fear for the person’s safety at his or her workplace or for the safety of others at his or her workplace.

“Employee” means:

(1) a person employed or permitted to work or perform a service for remuneration;

(2) a member of a board of directors of any organization;

(3) an elected or appointed public officer; and

(4) a volunteer, independent contractor, agency worker, or any other person who performs services for an employer at the employer’s place of work.

“Employer” means an individual, partnership, association, limited liability company, corporation, business trust, the State, a governmental agency, or a political subdivision that has at least 15 employees during any work week.

“Petitioner” means any employer who commences a proceeding for a workplace protection restraining order.

“Respondent” means a person against whom a workplace protection restraining order proceeding has been commenced.

“Workplace” or “place of work” means any property that is owned or leased by the employer and at which the official business of the petitioner is conducted.

“Unlawful violence” means any act of violence, harassment, or stalking as defined by the Criminal Code of 2012.

Current through PA 98-0766 eff. July 16, 2014

Employer’s Right to a Workplace Restraining Order

820 ILCS 275/15

An employer may seek a workplace protection restraining order to prohibit further violence or threats of violence by the respondent if:

(1) an employee has suffered unlawful violence and the respondent has made a credible threat of violence to be carried out at the employee’s workplace;

(2) an employee believes that the respondent has made a credible threat of violence to be carried out at the employee’s workplace; or

(3) an unlawful act of violence has been carried out at the workplace or the respondent has made a credible threat of violence at the workplace.

Current through PA 98-0766 eff. July 16, 2014

Affidavit

820 ILCS 275/20

An employer may obtain a workplace protection restraining order if the employer files an affidavit that shows by a preponderance of the evidence that:

(1) the conditions of Section 15 of this Act have been met;

(2) if the petitioner is seeking an emergency order, great or irreparable harm has been suffered, will be suffered, or is likely to be suffered by an employee at the workplace;

(3) if the employer is seeking a workplace protection restraining order involving an employee who is a victim of unlawful violence by a family or household member as defined by item (6) of Section 103 of the Illinois Domestic Violence Act of 1986, the conditions of Section 21 of this Act have been met.

Current through PA 98-0766 eff. July 16, 2014

Employee Notification

820 ILCS 275/21

(a) In cases in which an employer is seeking a workplace protection restraining order involving an employee who is a victim of unlawful violence by a family or household member as defined by item (6) of Section 103 of the Illinois Domestic Violence Act of 1986 or is an employee who is a victim of unlawful violence as proscribed in Article 11 or Sections 12-7.3, 12-7.4, and 12-7.5 of the Criminal Code of 2012, the employer shall:

(1) prior to the filing of the petition, notify the employee in writing of the employer’s intent to seek a workplace protection restraining order; and

(2) conduct a direct verbal consultation in conversation with the employee prior to seeking a workplace protection restraining order under this Act to determine whether any safety or well-being concerns exist in relation to the employer's pursuit of the order or whether seeking the order may interfere with the employee's own legal actions.

If, after direct verbal consultation in conversation with the employee, the employee does not give the employer full and voluntary consent to seek a workplace protection restraining order, the employer shall not file for that order until a 4-day waiting period has elapsed following the date of the direct consultation. The 4-day waiting period does not apply if there is an immediate threat of imminent physical harm to the work site and the petitioner is seeking an emergency order.

(b) Employers subject to the Victims' Economic Security and Safety Act shall additionally include in the written notice to the employee in subsection (a) the following: "As your employer, we are subject to the Victims' Economic Security and Safety Act, which includes provisions for leave, accommodations, and prohibitions against discrimination, and we are notifying you of your rights under this Act. A summary of your rights under the Victims' Economic Security and Safety Act is provided on the workplace poster we are required under law to post in your workplace."

Current through PA 98-0766 eff. July 16, 2014

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Note: To view the remainder of the Act, please refer to www.ilga.gov.

IV. CRIMINAL PROCEDURE

ACT 2630: CRIMINAL IDENTIFICATION ACT

20 ILCS 2630/1

Notification of Treatment of Firearm Injury and Injury Sustained in Commission of or Received from Criminal Offense (*Hospital Report to Law Enforcement*)

20 ILCS 2630/3.2

(a) It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

(1) any injury resulting from the discharge of a firearm; or

(2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

(b) Notwithstanding subsection (a), nothing in this Section shall be construed to require the reporting of lawful health care activity, whether such activity may constitute a violation of another state's law.

(c) As used in this Section:

"Lawful health care" means:

(1) reproductive health care that is not unlawful under the laws of this State or was not unlawful under the laws of this State as of January 13, 2023 (the effective date of Public Act 102-1117), including on any theory of vicarious, joint, several, or conspiracy liability; or

(2) the treatment of gender dysphoria or the affirmation of an individual's gender identity or gender expression, including but not limited to, all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature that is not unlawful under the laws of this State or was not unlawful under the laws of this State as of January 13, 2023 (the effective date of Public Act 102-1117), including on any theory of vicarious, joint, several, or conspiracy liability.

"Lawful health care activity" means seeking, providing, receiving, assisting in seeking, providing, or receiving, providing material support for, or traveling to obtain lawful health care.

Current through P.A. 103-0551, eff. Aug. 11, 2023

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Expungement (*Sealing Records in Sex Crimes Case*)

20 ILCS 2630/5.2(b)(5)

(b)(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Illinois State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

Current through P.A. 104-0417, eff. Aug. 15, 2025.

Sealing or Vacation and Expungement of Trafficking Victims' Crimes

20 ILCS 2630/5.2(h)

(1) A trafficking victim, as defined by paragraph (10) of subsection (a) of Section 10-9 of the Criminal Code of 2012, may petition for vacation and expungement or immediate sealing of his or her criminal record upon the completion of his or her last sentence if his or her participation in the underlying offense was a result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(1.5) A petition under paragraph (1) shall be prepared, signed, and filed in accordance with Supreme Court Rule 9. The court may allow the petitioner to attend any required hearing remotely in accordance with local rules. The court may allow a petition to be filed under seal if the public filing of the petition would constitute a risk of harm to the petitioner.

(2) A petitioner under this subsection (h), in addition to the requirements provided under paragraph (4) of subsection (d) of this Section, shall include in his or her petition a clear and concise statement that: (A) he or she was a victim of human trafficking at the time of the offense; and (B) that his or her participation in the offense was a result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(3) If an objection is filed alleging that the petitioner is not entitled to vacation and expungement or immediate sealing under this subsection (h), the court shall conduct a hearing under paragraph (7) of subsection (d) of this Section and the court shall determine whether the petitioner is entitled to vacation and expungement or immediate sealing under this subsection (h). A petitioner is eligible for vacation and expungement or immediate relief under this subsection (h) if he or she shows, by a preponderance of the evidence, that: (A) he or she was a victim of human trafficking at the time of the offense; and (B) that his or her participation in the offense was a result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

Current through P.A. 104-0417, eff. Aug. 15, 2025.

CODE OF CRIMINAL PROCEDURE
Article 106B: Victims of Sexual Abuse: Children and Persons with Developmental Disabilities
725 ILCS 5/106B

Testimony by a Victim Who Is a Child or a Person with a Moderate, Severe, or Profound Intellectual Disability or a Person Affected by a Developmental Disability
725 ILCS 5/106B-5

(a) In a proceeding in the prosecution of an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery, or aggravated domestic battery, trafficking in persons, involuntary servitude, or involuntary sexual servitude of a minor, a court may order that the testimony of a victim who is a child under the age of 18 years or a person with a moderate, severe, or profound intellectual disability or a person affected by a developmental disability be taken outside the courtroom and shown in the courtroom by means of a closed circuit television if:

(1) the testimony is taken during the proceeding; and

(2) the judge determines that testimony by the child victim or victim with a moderate, severe, or profound intellectual disability or victim affected by a developmental disability in the courtroom will result in the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability suffering serious emotional distress such that the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability cannot reasonably communicate or that the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability will suffer severe emotional distress that is likely to cause the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability to suffer severe adverse effects.

(b) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability.

(c) The operators of the closed circuit television shall make every effort to be unobtrusive.

(d) Only the following persons may be in the room with the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability when the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability testifies by closed circuit television:

(1) the prosecuting attorney;

(2) the attorney for the defendant;

(3) the judge;

(4) the operators of the closed circuit television equipment; and

(5) any person or persons whose presence, in the opinion of the court, contributes to the well-being of the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability, including a person who has dealt with the child in a therapeutic setting concerning the abuse, a parent or guardian of the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability, and court security personnel.

(e) During the child's or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability's testimony by closed circuit television, the defendant shall be in the courtroom and shall not communicate with the jury if the cause is being heard before a jury.

(f) The defendant shall be allowed to communicate with the persons in the room where the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability is testifying by any appropriate electronic method.

(f-5) There is a rebuttable presumption that the testimony of a victim who is a child under 13 years of age shall testify outside the courtroom and the child's testimony shall be shown in the courtroom by means of a closed circuit television. This presumption may be overcome if the defendant can prove by clear and convincing evidence that the child victim will not suffer severe emotional distress.

(f-6) Before the court permits the testimony of a victim outside the courtroom that is to be shown in the courtroom by means of a closed circuit television, the court must make a finding that the testimony by means of closed circuit television does not prejudice the defendant.

(g) The provisions of this Section do not apply if the defendant represents himself pro se.

(h) This Section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(i) This Section applies to prosecutions pending on or commenced on or after the effective date of this amendatory Act of 1994.

(j) For the purposes of this Section, "developmental disability" includes, but is not limited to, cerebral palsy, epilepsy, and autism.

Current through P.A. 104-0159, eff. Jan. 1, 2026.

Conditions for Testimony by a Victim or Witness Who is Under 18 Years of Age or an Intellectually Disabled Person or a Person Affected by a Developmental Disability (*Facility Dog*)

725 ILCS 5/106B-10

The court may set any conditions it finds just and appropriate on the taking of testimony of a victim or witness who is under 18 years of age or an intellectually disabled person or a person affected by a developmental disability involving the use of a facility dog in any criminal proceeding. When deciding whether to permit the child or person to testify with the assistance of a facility dog, the court shall take into consideration the age of the child or person, the rights

of the parties to the litigation, and any other relevant factor that would facilitate the giving of testimony. As used in this Section, “facility dog” means a dog that is a graduate of an assistance dog organization that is a member of Assistance Dogs International.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Article 110: Pretrial Release

725 ILCS 5/110

Definitions

725 ILCS 5/110-1

As used in this Article:

(a) (Blank).

(b) “Sureties” encompasses the nonmonetary requirements set by the court as conditions for release either before or after conviction.

(c) The phrase “for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction” means an offense for which a sentence of imprisonment in the Department of Corrections, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction.

(d) (Blank).

(e) “Protective order” means any order of protection issued under Section 112A-14 of this Code or the Illinois Domestic Violence Act of 1986, a stalking no contact order issued under Section 80 of the Stalking No Contact Order Act, or a civil no contact order issued under Section 213 of the Civil No Contact Order Act.

(f) “Willful flight” means intentional conduct with a purpose to thwart the judicial process to avoid prosecution. Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight. Reoccurrence and patterns of intentional conduct to evade prosecution, along with any affirmative steps to communicate or remedy any such missed court date, may be considered as factors in assessing future intent to evade prosecution.

Current through P.A. 103-0154, eff. June 30, 2023.

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Pretrial Release

725 ILCS 5/110-2

(a) All persons charged with an offense shall be eligible for pretrial release before conviction. It is presumed that a defendant is entitled to release on personal recognizance on the condition that the defendant attend all required court proceedings and the defendant does not commit any criminal offense, and complies with all terms of pretrial release, including, but not limited to, orders of protection under both Section 112A-4 of this Code and Section 214 of the Illinois Domestic Violence Act of 1986, all civil no contact orders, and all stalking no contact orders. Pretrial release may be denied only if a person is charged with an offense listed in Section 110-6.1 and after the court

has held a hearing under Section 110-6.1, and in a manner consistent with subsections (b), (c), and (d) of this Section.

(b) At all pretrial hearings, the prosecution shall have the burden to prove by clear and convincing evidence that any condition of release is necessary.

(c) When it is alleged that pretrial release should be denied to a person upon the grounds that the person presents a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, the burden of proof of such allegations shall be upon the State.

(d) When it is alleged that pretrial release should be denied to a person charged with stalking or aggravated stalking upon the grounds set forth in Section 110-6.3, the burden of proof of those allegations shall be upon the State.

(e) This Section shall be liberally construed to effectuate the purpose of relying on pretrial release by nonmonetary means to reasonably ensure an eligible person's appearance in court, the protection of the safety of any other person or the community, that the person will not attempt or obstruct the criminal justice process, and the person's compliance with all conditions of release, while authorizing the court, upon motion of a prosecutor, to order pretrial detention of the person under Section 110-6.1 when it finds clear and convincing evidence that no condition or combination of conditions can reasonably ensure the effectuation of these goals.

Current through P.A. 102-1104, eff. Jan. 1, 2023.

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Determining the Amount of Bails and Conditions of Release

725 ILCS 5/110-5

(a) In determining which conditions of pretrial release, if any, will reasonably ensure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of pretrial release, the court shall, on the basis of available information, take into account such matters as:

(1) the nature and circumstances of the offense charged;

(2) the weight of the evidence against the defendant, except that the court may consider the admissibility of any evidence sought to be excluded;

(3) the history and characteristics of the defendant, including:

(A) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past relating to drug or alcohol abuse, conduct, history criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the defendant was on probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal law, or the law of this or any other state;

(4) the nature and seriousness of the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, that would be posed by the defendant's release, if applicable, as required under paragraph (7.5) of Section 4 of the Rights of Crime Victims and Witnesses Act;

(5) the nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process that would be posed by the defendant's release, if applicable;

(6) when a person is charged with a violation of a protective order, domestic battery, aggravated domestic battery, kidnapping, aggravated kidnaping, unlawful restraint, aggravated unlawful restraint, cyberstalking, harassment by telephone, harassment through electronic communications, or an attempt to commit first degree murder committed against a spouse or a current or former partner in a cohabitation or dating relationship, regardless of whether an order of protection has been issued against the person, the court may consider the following additional factors:

(A) whether the alleged incident involved harassment or abuse, as defined in the Illinois Domestic Violence Act of 1986;

(B) whether the person has a history of domestic violence, as defined in the Illinois Domestic Violence Act of 1986, or a history of other criminal acts;

(C) the mental health of the person;

(D) whether the person has a history of violating the orders of any court or governmental entity;

(E) whether the person has been, or is, potentially a threat to any other person;

(F) whether the person has access to deadly weapons or a history of using deadly weapons;

(G) whether the person has a history of abusing alcohol or any controlled substance;

(H) the severity of the alleged incident that is the basis of the alleged offense, including, but not limited to, the duration of the current incident, and whether the alleged incident involved the use of a weapon, physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;

(I) whether a separation of the person from the victim of abuse or a termination of the relationship between the person and the victim of abuse has recently occurred or is pending;

(J) whether the person has exhibited obsessive or controlling behaviors toward the victim of abuse, including, but not limited to, stalking, surveillance, or isolation of the victim of abuse or the victim's family member or members;

(K) whether the person has expressed suicidal or homicidal ideations; and

(L) any other factors deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive, or assaultive behavior, or lack of that behavior.

(7) in cases of stalking or aggravated stalking under Section 12-7.3 or 12-7.4 of the Criminal Code of 2012, the court may consider the factors listed in paragraph (6) and the following additional factors:

(A) any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior; the evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations, or other proceedings;

(B) any evidence of the defendant's psychological, psychiatric, or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history;

(C) the nature of the threat that is the basis of the charge against the defendant;

(D) any statements made by, or attributed to, the defendant, together with the circumstances surrounding them;

(E) the age and physical condition of any person allegedly assaulted by the defendant;

(F) whether the defendant is known to possess or have access to any weapon or weapons; and

(G) any other factors deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive, or assaultive behavior, or lack of that behavior.

(b) The court may use a regularly validated risk assessment tool to aid its determination of appropriate conditions of release as provided under Section 110-6.4. If a risk assessment tool is used, the defendant's counsel shall be provided with the information and scoring system of the risk assessment tool used to arrive at the determination. The defendant retains the right to challenge the validity of a risk assessment tool used by the court and to present evidence relevant to the defendant's challenge.

(c) The court shall impose any conditions that are mandatory under subsection (a) of Section 110-10. The court may impose any conditions that are permissible under subsection (b) of Section 110-10. The conditions of release imposed shall be the least restrictive conditions or combination of conditions necessary to reasonably ensure the appearance of the defendant as required or the safety of any other person or persons or the community.

(d) When a person is charged with a violation of a protective order, the court may order the defendant placed under electronic surveillance as a condition of pretrial release, as provided in Section 5-8A-7 of the Unified Code of Corrections, based on the information collected under paragraph (6) of subsection (a) of this Section, the results of any assessment conducted, or other circumstances of the violation.

(e) If a person remains in pretrial detention 48 hours after having been ordered released with pretrial conditions, the court shall hold a hearing to determine the reason for

continued detention. If the reason for continued detention is due to the unavailability or the defendant's ineligibility for one or more pretrial conditions previously ordered by the court or directed by a pretrial services agency, the court shall reopen the conditions of release hearing to determine what available pretrial conditions exist that will reasonably ensure the appearance of a defendant as required, the safety of any other person, and the likelihood of compliance by the defendant with all the conditions of pretrial release. The inability of the defendant to pay for a condition of release or any other ineligibility for a condition of pretrial release shall not be used as a justification for the pretrial detention of that defendant.

(f) Prior to the defendant's first appearance, and with sufficient time for meaningful attorney-client contact to gather information in order to advocate effectively for the defendant's pretrial release, the court shall appoint the public defender or a licensed attorney at law of this State to represent the defendant for purposes of that hearing, unless the defendant has obtained licensed counsel. Defense counsel shall have access to the same documentary information relied upon by the prosecution and presented to the court.

(f-5) At each subsequent appearance of the defendant before the court, the judge must find that the current conditions imposed are necessary to reasonably ensure the appearance of the defendant as required, the safety of any other person, and the compliance of the defendant with all the conditions of pretrial release. The court is not required to be presented with new information or a change in circumstance to remove pretrial conditions.

(g) Electronic monitoring, GPS monitoring, or home confinement can only be imposed as a condition of pretrial release if a no less restrictive condition of release or combination of less restrictive condition of release would reasonably ensure the appearance of the defendant for later hearings or protect an identifiable person or persons from imminent threat of serious physical harm.

(h) If the court imposes electronic monitoring, GPS monitoring, or home confinement, the court shall set forth in the record the basis for its finding. A defendant shall be given custodial credit for each day he or she was subjected to home confinement, at the same rate described in subsection (b) of Section 5-4.5-100 of the Unified Code of Corrections. The court may give custodial credit to a defendant for each day the defendant was subjected to GPS monitoring without home confinement or electronic monitoring without home confinement.

(i) If electronic monitoring, GPS monitoring, or home confinement is imposed, the court shall determine every 60 days if no less restrictive condition of release or combination of less restrictive conditions of release would reasonably ensure the appearance, or continued appearance, of the defendant for later hearings or protect an identifiable person or persons from imminent threat of serious physical harm. If the court finds that there are less restrictive conditions of release, the court shall order that the condition be removed. This subsection takes effect January 1, 2022.

(j) Crime Victims shall be given notice by the State's Attorney's office of this hearing as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act and shall be informed of their opportunity at this hearing to obtain a protective order.

(k) The State and defendants may appeal court orders imposing conditions of pretrial release.

Current through P.A. 102-1104, eff. Jan. 1, 2023.

Pretrial Release; Pregnant Pre-trial Detainee

725 ILCS 5/110-5.2

(a) It is the policy of this State that a pre-trial detainee shall not be required to deliver a child while in custody absent a finding by the court that continued pre-trial custody is necessary to alleviate a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or prevent the defendant's willful flight.

(b) If the court reasonably believes that a pre-trial detainee will give birth while in custody, the court shall order an alternative to custody unless, after a hearing, the court determines:

(1) the pregnant pretrial detainee is charged with an offense for which pretrial release may be denied under Section 110-6.1; and

(2) after a hearing under Section 110-6.1 that considers the circumstances of the pregnancy, the court determines that continued detention is the only way to prevent a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or prevent the defendant's willful flight.

(c) Electronic Monitoring may be ordered by the court only if no less restrictive condition of release or combination of less restrictive conditions of release would reasonably ensure the appearance, or continued appearance, of the defendant for later hearings or protect an identifiable person or persons from imminent threat of serious physical harm. All pregnant people or those who have given birth within 6 weeks shall be granted ample movement to attend doctor's appointments and for emergencies related to the health of the pregnancy, infant, or postpartum person.

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Current through P.A. 102-1104, eff. Jan. 1, 2023.

Revocation of Pretrial Release, Modification of Conditions of Pretrial Release, and Sanctions for Violations of Conditions of Pretrial Release

725 ILCS 5/110-6

(a) When a defendant has previously been granted pretrial release under this Section for a felony or Class A misdemeanor, that pretrial release may be revoked only if the defendant is charged with a felony or Class A misdemeanor that is alleged to have occurred during the defendant's pretrial release after a hearing on the court's own motion or upon the filing of a verified petition by the State.

When a defendant released pretrial is charged with a violation of a protective order or was previously convicted of a violation of a protective order and the subject of the

protective order is the same person as the victim in the current underlying matter, the State shall file a verified petition seeking revocation of pretrial release.

Upon the filing of a petition or upon motion of the court seeking revocation, the court shall order the transfer of the defendant and the petition or motion to the court before which the previous felony or Class A misdemeanor is pending. The defendant may be held in custody pending transfer to and a hearing before such court. The defendant shall be transferred to the court before which the previous matter is pending without unnecessary delay, and the revocation hearing shall occur within 72 hours of the filing of the State's petition or the court's motion for revocation.

A hearing at which pretrial release may be revoked must be conducted in person (and not by way of two-way audio-visual communication) unless the accused waives the right to be present physically in court, the court determines that the physical health and safety of any person necessary to the proceedings would be endangered by appearing in court, or the chief judge of the circuit orders use of that system due to operational challenges in conducting the hearing in person. Such operational challenges must be documented and approved by the chief judge of the circuit, and a plan to address the challenges through reasonable efforts must be presented and approved by the Administrative Office of the Illinois Courts every 6 months.

The court before which the previous felony matter or Class A misdemeanor is pending may revoke the defendant's pretrial release after a hearing. During the hearing for revocation, the defendant shall be represented by counsel and have an opportunity to be heard regarding the violation and evidence in mitigation. The court shall consider all relevant circumstances, including, but not limited to, the nature and seriousness of the violation or criminal act alleged. The State shall bear the burden of proving, by clear and convincing evidence, that no condition or combination of conditions of release would reasonably ensure the appearance of the defendant for later hearings or prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

In lieu of revocation, the court may release the defendant pre-trial, with or without modification of conditions of pretrial release.

If the case that caused the revocation is dismissed, the defendant is found not guilty in the case causing the revocation, or the defendant completes a lawfully imposed sentence on the case causing the revocation, the court shall, without unnecessary delay, hold a hearing on conditions of pretrial release pursuant to Section 110-5 and release the defendant with or without modification of conditions of pretrial release.

Both the State and the defendant may appeal an order revoking pretrial release or denying a petition for revocation of release.

(b) If a defendant previously has been granted pretrial release under this Section for a Class B or Class C misdemeanor offense, a petty or business offense, or an ordinance violation and if the defendant is subsequently charged with a felony that is alleged to have occurred during the defendant's pretrial release or a Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release, such pretrial release may not be revoked, but the court may impose sanctions under subsection (c).

(c) The court shall follow the procedures set forth in Section 110-3 to ensure the defendant's appearance in court if the defendant:

(1) fails to appear in court as required by the defendant's conditions of release;

(2) is charged with a felony or Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release after having been previously granted pretrial release for a Class B or Class C misdemeanor, a petty or business offense, or an ordinance violation that is alleged to have occurred during the defendant's pretrial release;

(3) is charged with a Class B or C misdemeanor offense, petty or business offense, or ordinance violation that is alleged to have occurred during the defendant's pretrial release; or

(4) violates any other condition of pretrial release set by the court.

In response to a violation described in this subsection, the court may issue a warrant specifying that the defendant must appear before the court for a hearing for sanctions and may not be released by law enforcement before that appearance.

(d) When a defendant appears in court pursuant to a summons or warrant issued in accordance with Section 110-3 or after being arrested for an offense that is alleged to have occurred during the defendant's pretrial release, the State may file a verified petition requesting a hearing for sanctions.

(e) During the hearing for sanctions, the defendant shall be represented by counsel and have an opportunity to be heard regarding the violation and evidence in mitigation. The State shall bear the burden of proving by clear and convincing evidence that:

(1) the defendant committed an act that violated a term of the defendant's pretrial release;

(2) the defendant had actual knowledge that the defendant's action would violate a court order;

(3) the violation of the court order was willful; and

(4) the violation was not caused by a lack of access to financial monetary resources.

(f) Sanctions for violations of pretrial release may include:

(1) a verbal or written admonishment from the court;

(2) imprisonment in the county jail for a period not exceeding 30 days;

(3) (Blank); or

(4) a modification of the defendant's pretrial conditions.

(g) The court may, at any time, after motion by either party or on its own motion, remove previously set conditions of pretrial release, subject to the provisions in this subsection. The court may only add or increase conditions of pretrial release at a hearing under this Section.

The court shall not remove a previously set condition of pretrial release regulating contact with a victim or witness in the case, unless the subject of the condition has been given notice of the hearing as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act. If the subject of the condition of release is not present, the court shall follow the procedures of paragraph (10) of subsection (c-1) of the Rights of Crime Victims and Witnesses Act.

(h) Crime victims shall be given notice by the State's Attorney's office of all hearings under this Section as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act and shall be informed of their opportunity at these hearings to obtain a protective order.

(i) Nothing in this Section shall be construed to limit the State's ability to file a verified petition seeking denial of pretrial release under subsection (a) of Section 110-6.1 or subdivision (d)(2) of Section 110-6.1.

(j) At each subsequent appearance of the defendant before the court, the judge must find that continued detention under this Section is necessary to reasonably ensure the appearance of the defendant for later hearings or to prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

Current through P.A. 102-1104, eff. Jan. 1, 2023.

Denial of Pretrial Release

725 ILCS 5/110-6.1

(a) Upon verified petition by the State, the court shall hold a hearing and may deny a defendant pretrial release only if:

(1) the defendant is charged with a felony offense other than a forcible felony for which, based on the charge or the defendant's criminal history, a sentence of imprisonment, without probation, periodic imprisonment, or conditional discharge, is required by law upon conviction, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case;

(1.5) the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, and the defendant is charged with a forcible felony, which as used in this Section, means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated robbery, robbery, burglary where there is use of force against another person, residential burglary, home invasion, vehicular invasion, aggravated arson, arson, aggravated kidnaping, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, or any other felony which involves the threat of or infliction of great bodily harm or permanent disability or disfigurement;

(2) the defendant is charged with stalking or aggravated stalking, and it is alleged that the defendant's pre-trial release poses a real and present threat to the safety of a victim of the alleged offense, and denial of release is necessary to prevent fulfillment of the threat upon which the charge is based;

(3) the defendant is charged with a violation of an order of protection issued under Section 112A-14 of this Code or Section 214 of the Illinois Domestic Violence Act of 1986, a stalking no contact order under Section 80 of the Stalking No Contact Order Act, or a civil no contact order under Section 213 of the Civil No Contact Order Act, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case;

(4) the defendant is charged with domestic battery or aggravated domestic battery under Section 12-3.2 or 12-3.3 of the Criminal Code of 2012 and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case;

(5) the defendant is charged with any offense under Article 11 of the Criminal Code of 2012, except for Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35, 11-40, and 11-45 of the Criminal Code of 2012, or similar provisions of the Criminal Code of 1961 and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case;

(6) the defendant is charged with any of the following offenses under the Criminal Code of 2012, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case:

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(L) Section 10-9 (b) (involuntary servitude);

(M) Section 10-9 (c) (involuntary sexual servitude of a minor);

(N) Section 10-9(d) (trafficking in persons);

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(7) the defendant is charged with an attempt to commit any charge listed in paragraphs (1) through (6.5), and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case; or

(8) the person has a high likelihood of willful flight to avoid prosecution and is charged with:

(A) Any felony described in subdivisions (a)(1) through (a)(7) of this Section; or

(B) A felony offense other than a Class 4 offense.

(b) If the charged offense is a felony, as part of the detention hearing, the court shall determine whether there is probable cause the defendant has committed an offense, unless a hearing pursuant to Section 109-3 of this Code has already been held or a grand jury has returned a true bill of indictment against the defendant. If there is a finding of no probable cause, the defendant shall be released. No such finding is necessary if the defendant is charged with a misdemeanor.

(c) Timing of petition.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained.

(2) Upon filing, the court shall immediately hold a hearing on the petition unless a continuance is requested. If a continuance is requested and granted, the hearing

shall be held within 48 hours of the defendant's first appearance if the defendant is charged with first degree murder or a Class X, Class 1, Class 2, or Class 3 felony, and within 24 hours if the defendant is charged with a Class 4 or misdemeanor offense. The Court may deny or grant the request for continuance. If the court decides to grant the continuance, the Court retains the discretion to detain or release the defendant in the time between the filing of the petition and the hearing.

(d) Contents of petition.

(1) The petition shall be verified by the State and shall state the grounds upon which it contends the defendant should be denied pretrial release, including the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts or flight risk, as appropriate.

(2) If the State seeks to file a second or subsequent petition under this Section, the State shall be required to present a verified application setting forth in detail any new facts not known or obtainable at the time of the filing of the previous petition.

(e) Eligibility: All defendants shall be presumed eligible for pretrial release, and the State shall bear the burden of proving by clear and convincing evidence that:

(1) the proof is evident or the presumption great that the defendant has committed an offense listed in subsection (a), and

(2) for offenses listed in paragraphs (1) through (7) of subsection (a), the defendant poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, by conduct which may include, but is not limited to, a forcible felony, the obstruction of justice, intimidation, injury, or abuse as defined by paragraph (1) of Section 103 of the Illinois Domestic Violence Act of 1986, and

(3) no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article can mitigate (i) the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, for offenses listed in paragraphs (1) through (7) of subsection (a), or (ii) the defendant's willful flight for offenses listed in paragraph (8) of subsection (a), and

(4) for offenses under subsection (b) of Section 407 of the Illinois Controlled Substances Act that are subject to paragraph (1) of subsection (a), no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article can mitigate the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, and the defendant poses a serious risk to not appear in court as required.

(f) Conduct of the hearings.

(1) Prior to the hearing, the State shall tender to the defendant copies of the defendant's criminal history available, any written or recorded statements, and the substance of any oral statements made by any person, if relied upon by the State in its petition, and any police reports in the prosecutor's possession at the time of the hearing.

(2) The State or defendant may present evidence at the hearing by way of proffer based upon reliable information.

(3) The defendant has the right to be represented by counsel, and if he or she is indigent, to have counsel appointed for him or her. The defendant shall have the opportunity to testify, to present witnesses on his or her own behalf, and to cross-examine any witnesses that are called by the State. Defense counsel shall be given adequate opportunity to confer with the defendant before any hearing at which conditions of release or the detention of the defendant are to be considered, with an accommodation for a physical condition made to facilitate attorney/client consultation. If defense counsel needs to confer or consult with the defendant during any hearing conducted via a 2-way audio-visual communication system, such consultation shall not be recorded and shall be undertaken consistent with constitutional protections.

(3.5) A hearing at which pretrial release may be denied must be conducted in person (and not by way of 2-way audio visual communication) unless the accused waives the right to be present physically in court, the court determines that the physical health and safety of any person necessary to the proceedings would be endangered by appearing in court, or the chief judge of the circuit orders use of that system due to operational challenges in conducting the hearing in person. Such operational challenges must be documented and approved by the chief judge of the circuit, and a plan to address the challenges through reasonable efforts must be presented and approved by the Administrative Office of the Illinois Courts every 6 months.

(4) If the defense seeks to compel the complaining witness to testify as a witness in its favor, it shall petition the court for permission. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness only on the issue of the defendant's pretrial detention. In making a determination under this Section, the court shall state on the record the reason for granting a defense request to compel the presence of a complaining witness, and only grant the request if the court finds by clear and convincing evidence that the defendant will be materially prejudiced if the complaining witness does not appear. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pre-trial detention hearing is not to be used for purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies, if any, of the defendant's criminal history, if available, and any written or recorded statements and the substance of any oral statements made by any person, if in the State's Attorney's possession at the time of the hearing.

(5) The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in

the State's case-in-chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(6) The defendant may not move to suppress evidence or a confession, however, evidence that proof of the charged crime may have been the result of an unlawful search or seizure, or both, or through improper interrogation, is relevant in assessing the weight of the evidence against the defendant.

(7) Decisions regarding release, conditions of release, and detention prior to trial must be individualized, and no single factor or standard may be used exclusively to order detention. Risk assessment tools may not be used as the sole basis to deny pretrial release.

(g) Factors to be considered in making a determination of dangerousness. The court may, in determining whether the defendant poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, consider, but shall not be limited to, evidence or testimony concerning:

(1) The nature and circumstances of any offense charged, including whether the offense is a crime of violence, involving a weapon, or a sex offense.

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive, or assaultive behavior, or lack of such behavior. Such evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations, or other proceedings.

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history which tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat.

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them.

(5) The age and physical condition of the defendant.

(6) The age and physical condition of any victim or complaining witness.

(7) Whether the defendant is known to possess or have access to any weapon or weapons.

(8) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, aftercare release, mandatory supervised release, or other release from custody pending trial, sentencing, appeal, or completion of sentence for an offense under federal or State law.

(9) Any other factors, including those listed in Section 110-5 of this Article deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive, or assaultive behavior, or lack of such behavior.

(h) Detention order. The court shall, in any order for detention:

(1) make a written finding summarizing the court's reasons for concluding that the defendant should be denied pretrial release, including why less restrictive conditions would not avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or prevent the defendant's willful flight from prosecution;

(2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;

(3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his or her choice by visitation, mail and telephone; and

(4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.

(i) Detention. If the court enters an order for the detention of the defendant pursuant to subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90-day period required by the preceding sentence, he shall not be denied pretrial release. In computing the 90-day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant and any period of delay resulting from a continuance granted at the request of the State with good cause shown pursuant to Section 103-5.

(i-5) At each subsequent appearance of the defendant before the court, the judge must find that continued detention is necessary to avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or to prevent the defendant's willful flight from prosecution.

(j) Rights of the defendant. The defendant shall be entitled to appeal any order entered under this Section denying his or her pretrial release.

(k) Appeal. The State may appeal any order entered under this Section denying any motion for denial of pretrial release.

(l) Presumption of innocence. Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(m) Interest of victims.

(1) Crime victims shall be given notice by the State's Attorney's office of this hearing as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act and shall be informed of their opportunity at this hearing to obtain a protective order.

(2) If the defendant is denied pretrial release, the court may impose a no contact provision with the victim or other interested party that shall be enforced while the defendant remains in custody.

Current through P.A. 104-0417, eff. Aug. 15, 2025.

Post-conviction Detention

725 ILCS 5/110-6.2

(a) The court may order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence be held without release unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community if released under Sections 110-5 and 110-10 of this Act.

(b) The court may order that person who has been found guilty of an offense and sentenced to a term of imprisonment be held without release unless the court finds by clear and convincing evidence that:

(1) the person is not likely to flee or pose a danger to the safety of any other person or the community if released pending appeal; and

(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

Current through P.A. 101-0652, eff. Jan. 1, 2023.

Statewide Risk-Assessment Tool

725 ILCS 5/110-6.4

The Supreme Court may establish a statewide risk-assessment tool to be used in proceedings to assist the court in establishing conditions of pretrial release for a defendant by assessing the defendant's likelihood of appearing at future court proceedings or determining if the defendant poses a real and present threat to the physical safety of any person or persons. The Supreme Court shall consider establishing a risk-assessment tool that does not discriminate on the basis of race, gender, educational level, socio-economic status, or neighborhood. If a risk-assessment tool is utilized within a circuit that does not require a personal interview to be completed, the Chief Judge of the circuit or the director of the pretrial services agency may exempt the requirement under Section 9 and subsection (a) of Section 7 of the Pretrial Services Act.

For the purpose of this Section, "risk-assessment tool" means an empirically validated, evidence-based screening instrument that demonstrates reduced instances of a defendant's failure to appear for further court proceedings or prevents future criminal activity.

Current through P.A. 101-0652, eff. Jan. 1, 2023.

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Conditions of Pretrial Release (Sex Offenses)

725 ILCS 5/110-10(c) and (d)

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(c) When a person is charged with an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in releasing the defendant, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the household.

2. Make payment of temporary support to his dependents.

3. Refrain from contact or communication with the child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

(1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and

(2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

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Current through P.A. 102-1104, eff. Jan. 1, 2023.

Article 111: Charging an Offense

725 ILCS 5/111

Methods of Prosecution

725 ILCS 5/111-1

(a) When authorized by law a prosecution may be commenced by:

(1) A complaint;

(2) An information;

(3) An indictment.

(b) Upon commencement of a prosecution for a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, the victims of these offenses shall have all the rights under this Section as they do in Section 4 of the Rights of Crime Victims and Witnesses Act.

For the purposes of this Section "victim" shall mean an individual who has suffered personal injury as a result of the commission of a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide. In regard to a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the offense of reckless homicide, "victim" shall also include, but not be limited to, spouse, guardian, parent, or other family member.

(c) Upon arrest after commencement of a prosecution for a sex offense against a person known to be an employee, the State's Attorney shall immediately provide the superintendent of schools or school administrator that employs the employee with a copy of the complaint, information, or indictment.

For the purposes of this subsection: “employee” has the meaning provided in subsection (a) of Section 24-5 of the School Code; and “sex offense” has the meaning provided in Section 2 of the Sex Offender Registration Act.

This subsection shall not be construed to diminish the rights, privileges, or remedies of an employee under a collective bargaining agreement or employment contract.

Current through P.A. 102-0558, eff. Aug. 20, 2021.

Commencement of Prosecutions

725 ILCS 5/111-2

(a) All prosecutions of felonies shall be by information or by indictment. No prosecution may be pursued by information unless a preliminary hearing has been held or waived in accordance with Section 109-3 and at that hearing probable cause to believe the defendant committed an offense was found, and the provisions of Section 109-3.1 of this Code have been complied with.

(b) All other prosecutions may be by indictment, information or complaint.

(c) Upon the filing of an information or indictment in open court charging the defendant with the commission of a sex offense defined in any Section of Article 11 of the Criminal Code of 1961 or the Criminal Code of 2012, and a minor as defined in Section 1-3 of the Juvenile Court Act of 1987 is alleged to be the victim of the commission of the acts of the defendant in the commission of such offense, the court may appoint a guardian ad litem for the minor as provided in Section 2-17, 3-19, 4-16 or 5-610 of the Juvenile Court Act of 1987.

(d) Upon the filing of an information or indictment in open court, the court shall immediately issue a warrant for the arrest of each person charged with an offense directed to a peace officer or some other person specifically named commanding him to arrest such person.

(e) When the offense is eligible for pretrial release, the judge shall endorse on the warrant the conditions of pretrial release required by the order of the court, and if the court orders the process returnable forthwith, the warrant shall require that the accused be arrested and brought immediately into court.

(f) Where the prosecution of a felony is by information or complaint after preliminary hearing, or after a waiver of preliminary hearing in accordance with paragraph (a) of this Section, such prosecution may be for all offenses, arising from the same transaction or conduct of a defendant even though the complaint or complaints filed at the preliminary hearing charged only one or some of the offenses arising from that transaction or conduct.

Current through P.A. 101-0652, eff. Jan.1, 2023.

Form of Charge

725 ILCS 5/111-3

(a) A charge shall be in writing and allege the commission of an offense by:

(1) Stating the name of the offense;

(2) Citing the statutory provision alleged to have been violated;

(3) Setting forth the nature and elements of the offense charged;

(4) Stating the date and county of the offense as definitely as can be done; and

(5) Stating the name of the accused, if known, and if not known, designate the accused by any name or description by which he can be identified with reasonable certainty.

(a-5) If the victim is alleged to have been subjected to an offense involving an illegal sexual act including, but not limited to, a sexual offense defined in Article 11 or Section 10-9 of the Criminal Code of 2012, the charge shall state the identity of the victim by name, initials, or description.

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Current through P.A. 103-0051, eff. Jan. 1, 2024.

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Orders of Protection to Prohibit Domestic Violence

725 ILCS 5/111-8

(a) Whenever a violation of Section 9-1, 9-2, 9-3, 10-3, 10-3.1, 10-4, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.3 that involves soliciting for a person engaged in the sex trade, 11-14.4 that involves soliciting for a sexually exploited child, 11-15, 11-15.1, 11-20.1, 11-20.1B, 11-20.3, 11-20a, 12-1, 12-2, 12-3, 12-3.05, 12-3.2, 12-3.3, 12-3.5, 12-4, 12-4.1, 12-4.3, 12-4.6, 12-5, 12-6, 12-6.3, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 19-4, 19-6, 21-1, 21-2, 21-3, or 26.5-2 of the Criminal Code of 1961 or the Criminal Code of 2012 or Section 1-1 of the Harassing and Obscene Communications Act is alleged in an information, complaint or indictment on file, and the alleged offender and victim are family or household members, as defined in the Illinois Domestic Violence Act of 1986, as now or hereafter amended, the People through the respective State's Attorneys may by separate petition and upon notice to the defendant, except as provided in subsection (c) herein, request the court to issue an order of protection.

(b) In addition to any other remedies specified in Section 208 of the Illinois Domestic Violence Act of 1986, as now or hereafter amended, the order may direct the defendant to initiate no contact with the alleged victim or victims who are family or household members and to refrain from entering the residence, school or place of business of the alleged victim or victims.

(c) The court may grant emergency relief without notice upon a showing of immediate and present danger of abuse to the victim or minor children of the victim and may enter a temporary order pending notice and full hearing on the matter.

Current through P.A. 103-1071, eff. July 1, 2025.

Article 112A: Protective Orders (Criminal Court)

725 ILCS 5/112A

Purpose and Construction

725 ILCS 5/112A-1.5

The purpose of this Article is to protect the safety of victims of domestic violence, sexual assault, sexual abuse, and stalking and the safety of their family and household members; and to minimize the trauma and inconvenience associated with attending separate and multiple civil court proceedings to obtain protective orders. This Article shall be interpreted in accordance with the constitutional rights of crime victims set forth in Article I, Section 8.1 of the Illinois Constitution, the purposes set forth in Section 2 of the Rights of Crime Victims and Witnesses Act, and the use of protective orders to implement the victim's right to be reasonably protected from the defendant as provided in Section 4.5 of the Rights of Victims and Witnesses Act.

Current through P.A. 100-0597, eff. June 29, 2018.

Types of Protective Orders

725 ILCS 5/112A-2.5

The following protective orders may be entered in conjunction with a delinquency petition or a criminal prosecution:

(1) a domestic violence order of protection in cases involving domestic violence;

(2) a civil no contact order in cases involving sexual offenses; or

(3) a stalking no contact order in cases involving stalking offenses.

Current through P.A. 100-0597, eff. June 29, 2018.

Definitions

725 ILCS 5/112A-3

(a) In this Article:

"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.

"Named victim" means the person named as the victim in the delinquency petition or criminal prosecution.

"Protective order" means a domestic violence order of protection, a civil no contact order, or a stalking no contact order.

(b) For the purposes of domestic violence cases, the following terms shall have the following meanings in this Article:

(1) "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(2) "Domestic violence" means abuse as described in paragraph (1) of this subsection (b).

(3) “Family or household members” include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in subsection (e) of Section 12-4.4a of the Criminal Code of 2012. For purposes of this paragraph (3), neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

(4) “Harassment” means knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

(i) creating a disturbance at petitioner’s place of employment or school;

(ii) repeatedly telephoning petitioner’s place of employment, home or residence;

(iii) repeatedly following petitioner about in a public place or places;

(iv) repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner’s windows;

(v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner’s from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence; or

(vi) threatening physical force, confinement or restraint on one or more occasions.

(5) “Interference with personal liberty” means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

(6) “Intimidation of a dependent” means subjecting a person who is dependent because of age, health, or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Article, regardless of whether the abused person is a family or household member.

(7) “Order of protection” or “domestic violence order of protection” means an ex parte or final order, granted pursuant to this Article, which includes any or all of the remedies authorized by Section 112A-14 of this Code.

(8) “Petitioner” may mean not only any named petitioner for the domestic violence order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Article.

(9) “Physical abuse” includes sexual abuse and means any of the following:

(i) knowing or reckless use of physical force, confinement or restraint;

(ii) knowing, repeated and unnecessary sleep deprivation; or

(iii) knowing or reckless conduct which creates an immediate risk of physical harm.

(9.3) “Respondent” in a petition for a domestic violence order of protection means the defendant.

(9.5) “Stay away” means for the respondent to refrain from both physical presence and nonphysical contact with the petitioner whether direct, indirect (including, but not limited to, telephone calls, mail, email, faxes, and written notes), or through third parties who may or may not know about the domestic violence order of protection.

(10) “Willful deprivation” means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forgo such medical care or treatment. This paragraph (10) does not create any new affirmative duty to provide support to dependent persons.

(c) For the purposes of cases involving sexual offenses, the following terms shall have the following meanings in this Article:

(1) “Civil no contact order” means an ex parte or final order granted under this Article, which includes a remedy authorized by Section 112A-14.5 of this Code.

(2) “Family or household members” include spouses, parents, children, stepchildren, and persons who share a common dwelling.

(3) “Non-consensual” means a lack of freely given agreement.

(4) “Petitioner” means not only any named petitioner for the civil no contact order and any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought, but includes any other person sought to be protected under this Article.

(5) “Respondent” in a petition for a civil no contact order means the defendant.

(6) “Sexual conduct” means any intentional or knowing touching or fondling by the petitioner or the respondent, either directly or through clothing, of the sex organs, anus, or breast of the petitioner or the respondent, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the respondent upon any part of the clothed or unclothed body of the petitioner, for the purpose of sexual gratification or arousal of the petitioner or the respondent.

(7) “Sexual penetration” means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

(8) “Stay away” means to refrain from both physical presence and nonphysical contact with the petitioner directly, indirectly, or through third parties who may or may not know of the order. “Nonphysical contact” includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

(d) For the purposes of cases involving stalking offenses, the following terms shall have the following meanings in this Article:

(1) “Course of conduct” means 2 or more acts, including, but not limited to, acts in which a respondent directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other contact, or interferes with or damages a person’s property or pet. A course of conduct may include contact via electronic communications. The incarceration of a person in a penal institution who commits the course of conduct is not a bar to prosecution.

(2) “Emotional distress” means significant mental suffering, anxiety, or alarm.

(3) “Contact” includes any contact with the victim, that is initiated or continued without the victim’s consent, or that is in disregard of the victim’s expressed desire that the contact be avoided or discontinued, including, but not limited to, being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(4) “Petitioner” means any named petitioner for the stalking no contact order or any named victim of stalking on whose behalf the petition is brought.

(5) “Reasonable person” means a person in the petitioner’s circumstances with the petitioner’s knowledge of the respondent and the respondent’s prior acts.

(6) “Respondent” in a petition for a civil no contact order means the defendant.

(7) “Stalking” means engaging in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety or the safety of a third person or suffer emotional distress. “Stalking” does not include an exercise of the right to free speech or assembly that is otherwise lawful or picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(8) “Stalking no contact order” means an ex parte or final order granted under this Article, which includes a remedy authorized by Section 112A-14.7 of this Code.

Current through P.A. 100-0597, eff. June 29, 2018.

Persons Protected by this Article

725 ILCS 5/112A-4

(a) The following persons are protected by this Article in cases involving domestic violence:

(1) any person abused by a family or household member;

(2) any minor child or dependent adult in the care of such person;

(3) any person residing or employed at a private home or public shelter which is housing an abused family or household member; and

(4) any of the following persons if the person is abused by a family or household member of a child:

(i) a foster parent of that child if the child has been placed in the foster parent’s home by the Department of Children and Family Services or by another state’s public child welfare agency;

(ii) a legally appointed guardian or legally appointed custodian of that child;

(iii) an adoptive parent of that child; or

(iv) a prospective adoptive parent of that child if the child has been placed in the prospective adoptive parent’s home pursuant to the Adoption Act or pursuant to another state’s law.

For purposes of this paragraph (a)(4), individuals who would have been considered “family or household members” of the child under paragraph (3) of subsection (b) of Section 112A-3 before a termination of the parental rights with respect to the child continue to meet the definition of “family or household members” of the child.

(a-5) The following persons are protected by this Article in cases involving sexual offenses:

(1) any victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought;

(2) any family or household member of the named victim; and

(3) any employee of or volunteer at a rape crisis center.

(a-10) The following persons are protected by this Article in cases involving stalking offenses:

(1) any victim of stalking; and

(2) any family or household member of the named victim.

(b) (Blank).

Current through P.A. 100-0639, eff. Jan. 1, 2019.

Who May File a Petition

725 ILCS 5/112A-4.5

(a) A petition for a domestic violence order of protection may be filed:

(1) by a named victim who has been abused by a family or household member;

(2) by any person or by the State's Attorney on behalf of a named victim who is a minor child or an adult who has been abused by a family or household member and who, because of age, health, disability, or inaccessibility, cannot file the petition;

(3) by a State's Attorney on behalf of any minor child or dependent adult in the care of the named victim, if the named victim does not file a petition or request the State's Attorney file the petition; or

(4) any of the following persons if the person is abused by a family or household member of a child:

(i) a foster parent of that child if the child has been placed in the foster parent's home by the Department of Children and Family Services or by another state's public child welfare agency;

(ii) a legally appointed guardian or legally appointed custodian of that child;

(iii) an adoptive parent of that child;

(iv) a prospective adoptive parent of that child if the child has been placed in the prospective adoptive parent's home pursuant to the Adoption Act or pursuant to another state's law.

For purposes of this paragraph (a)(4), individuals who would have been considered "family or household members" of the child under paragraph (3) of subsection (b) of Section 112A-3 before a termination of the parental rights with respect to the child continue to meet the definition of "family or household members" of the child.

(b) A petition for a civil no contact order may be filed:

(1) by any person who is a named victim of non-consensual sexual conduct or non-consensual sexual penetration, including a single incident of non-consensual sexual conduct or non-consensual sexual penetration;

(2) by a person or by the State's Attorney on behalf of a named victim who is a minor child or an adult who is a victim of non-consensual sexual conduct or non-consensual sexual penetration but, because of age, disability, health, or inaccessibility, cannot file the petition;

(3) by a State's Attorney on behalf of any minor child who is a family or household member of the named victim, if the named victim does not file a petition or request the State's Attorney file the petition;

(4) by a service member of the Illinois National Guard or any reserve military component serving within the State who is a victim of non-consensual sexual conduct who has also received a Military Protective Order; or

(5) by the Staff Judge Advocate of the Illinois National Guard or any reserve military component serving in the State on behalf of a named victim who is a victim of non-consensual sexual conduct who has also received a Military Protective Order only after receiving consent from the victim, and the petition shall include a statement that the victim has consented to the Staff Judge Advocate filing the petition.

(c) A petition for a stalking no contact order may be filed:

(1) by any person who is a named victim of stalking;

(2) by a person or by the State's Attorney on behalf of a named victim who is a minor child or an adult who is a victim of stalking but, because of age, disability, health, or inaccessibility, cannot file the petition;

(3) by a State's Attorney on behalf of any minor child who is a family or household member of the named victim, if the named victim does not file a petition or request the State's Attorney file the petition;

(4) by a service member of the Illinois National Guard or any reserve military component serving within the State who is a victim of non-consensual sexual conduct who has also received a Military Protective Order; or

(5) by the Staff Judge Advocate of the Illinois National Guard or any reserve military component serving in the State on behalf of a named victim who is a victim of non-consensual sexual conduct who has also received a Military Protective Order only after receiving consent from the victim, and the petition shall include a statement that the victim has consented to the Staff Judge Advocate filing the petition.

(d) The State's Attorney shall file a petition on behalf of any person who may file a petition under subsections (a), (b), or (c) of this Section if the person requests the State's Attorney to file a petition on the person's behalf, unless the State's Attorney has a good faith basis to delay filing the petition. The State's Attorney shall inform the person that the State's Attorney will not be filing the petition at that time and that the person may file a petition or may retain an attorney to file the petition. The State's Attorney may file the petition at a later date.

(d-5) (1) A person eligible to file a petition under subsection (a), (b), or (c) of this Section may retain an attorney to represent the petitioner on the petitioner's request for a protective order. The attorney's representation is limited to matters related to the petition and relief authorized under this Article.

(2) Advocates shall be allowed to accompany the petitioner and confer with the victim, unless otherwise directed by the court. Advocates are not engaged in the unauthorized practice of law when providing assistance to the petitioner.

(e) Any petition properly filed under this Article may seek protection for any additional persons protected by this Article.

Current through P.A. 103-0407, eff. July 31, 2023.

Pleading; Non-Disclosure of Address

725 ILCS 5/112A-5

(a) A petition for a protective order shall be filed in conjunction with a delinquency petition or criminal prosecution, or in conjunction with imprisonment or a bond forfeiture warrant, provided the petition names a victim of the alleged crime. The petition may include a request for an ex parte protective order, a final protective order, or both. The petition shall be in writing and verified or accompanied by affidavit and shall allege that:

(1) petitioner has been abused by respondent, who is a family or household member;

(2) respondent has engaged in non-consensual sexual conduct or non-consensual sexual penetration, including a single incident of non-consensual sexual conduct or non-consensual sexual penetration with petitioner; or

(3) petitioner has been stalked by respondent.

The petition shall further set forth whether there is any other action between the petitioner and respondent. During the pendency of this proceeding, the petitioner and respondent have a continuing duty to inform the court of any subsequent proceeding for a protective order in this State or any other state.

(a-5) The petition shall indicate whether an ex parte protective order, a protective order, or both are requested. If the respondent receives notice of a petition for a final protective order and the respondent requests a continuance to respond to the petition, the petitioner may, either orally or in writing, request an ex parte order.

(b) The petitioner shall not be required to disclose the petitioner's address. If the petition states that disclosure of petitioner's address would risk abuse to or endanger the safety of petitioner or any member of petitioner's family or household or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with the court.

Current through P.A. 100-0597, eff. June 29, 2018.

Time for Filing Petition; Service on Respondent, Hearing on Petition, and Default Order

725 ILCS 5/112A-5.5

(a) A petition for a protective order may be filed at any time, in person or online, after a criminal charge or delinquency petition is filed and before the charge or delinquency petition is dismissed, the defendant or juvenile is acquitted, or the defendant or juvenile completes service of his or her sentence.

(b) The request for an ex parte protective order may be considered without notice to the respondent under Section 112A-17.5 of this Code.

(c) A summons shall be issued and served for a protective order. The summons may be served by delivery to the respondent personally in open court in the criminal or juvenile delinquency proceeding, in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons shall include the petition for protective order, supporting affidavits, if any, and any ex parte protective order that has been issued.

(d) The summons shall be served by the sheriff or other law enforcement officer at the earliest time available and shall take precedence over any other summons, except those of a similar emergency nature. Attachments to the summons shall include the petition for protective order, supporting affidavits, if any, and any ex parte protective order that has been issued. Special process servers may be appointed at any time and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers. In a county with a population over 3,000,000, a special process server may not be appointed if the protective order grants the surrender of a child, the surrender of a firearm or Firearm Owner's Identification Card, or the exclusive possession of a shared residence.

(e) If the respondent is not served within 30 days of the filing of the petition, the court shall schedule a court proceeding on the issue of service. Either the petitioner, the petitioner's counsel, or the State's Attorney shall appear and the court shall either order continued attempts at personal service or shall order service by publication, in accordance with Sections 2-203, 2-206, and 2-207 of the Code of Civil Procedure.

(f) The request for a final protective order can be considered at any court proceeding in the delinquency or criminal case after service of the petition. If the petitioner has not been provided notice of the court proceeding at least 10 days in advance of the proceeding, the court shall schedule a hearing on the petition and provide notice to the petitioner.

(f-5) A court in a county with a population above 250,000 shall offer the option of a remote hearing to a petitioner for a protective order. The court has the discretion to grant or deny the request for a remote hearing. Each court shall determine the procedure for a remote hearing. The petitioner and respondent may appear remotely or in person.

The court shall issue and publish a court order, standing order, or local rule detailing information about the process for requesting and participating in a remote court appearance. The court order, standing order, or local rule shall be published on the court's website and posted on signs throughout the courthouse, including in the clerk's office. The sign shall be written in plain language and include information about the availability of remote court appearances and the process for requesting a remote hearing.

(g) Default orders.

(1) A final domestic violence order of protection may be entered by default:

(A) for any of the remedies sought in the petition, if the respondent has been served with documents under subsection (b) or (c) of this Section and if the respondent fails to appear on the specified return date or any subsequent hearing date agreed to by the petitioner and respondent or set by the court; or

(B) for any of the remedies provided under paragraph (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (14), (15), (17), or (18) of subsection (b) of Section 112A-14 of this Code, or if the respondent fails to answer or appear in accordance with the date set in the publication notice or the return date indicated on the service of a household member.

(2) A final civil no contact order may be entered by default for any of the remedies provided in Section 112A-14.5 of this Code, if the respondent has been served with documents under subsection (b) or (c) of this Section, and if the respondent

fails to answer or appear in accordance with the date set in the publication notice or the return date indicated on the service of a household member.

(3) A final stalking no contact order may be entered by default for any of the remedies provided by Section 112A-14.7 of this Code, if the respondent has been served with documents under subsection (b) or (c) of this Section and if the respondent fails to answer or appear in accordance with the date set in the publication notice or the return date indicated on the service of a household member.

Current through P.A. 103-0154, eff. June 30, 2023.

Application of Rules of Civil Procedure; Criminal Law

725 ILCS 5/112A-6.1

(a) Any proceeding to obtain, modify, re-open, or appeal a protective order and service of pleadings and notices shall be governed by the rules of civil procedure of this State. The Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by law. Civil law on venue, discovery, and penalties for untrue statements shall not apply to protective order proceedings heard under this Article.

(b) Criminal law on discovery, venue, and penalties for untrue statements apply to protective order proceedings under this Article.

(c) Court proceedings related to the entry of a protective order and the determination of remedies shall not be used to obtain discovery that would not otherwise be available in a criminal prosecution or juvenile delinquency case.

Current through P.A. 100-0597, eff. June 29, 2018.

Subject Matter Jurisdiction

725 ILCS 5/112A-8

Each of the circuit courts shall have the power to issue protective orders.

Current through P.A. 100-0597, eff. June 29, 2018.

Jurisdiction Over Persons

725 ILCS 5/112A-9

In child custody proceedings, the court's personal jurisdiction is determined by this State's Uniform Child-Custody Jurisdiction and Enforcement Act. Otherwise, the courts of this State have jurisdiction to bind (i) State residents, and (ii) non-residents having minimum contacts with this State, to the extent permitted by the long-arm statute, Section 2-209 of the Code of Civil Procedure, as now or hereafter amended.

Current through P.A. 93-0108, eff. Jan. 1, 2004.

Issuance of Protective Order

725 ILCS 5/112A-11.5

(a) Except as provided in subsection (a-5) of this Section, the court shall grant the petition and enter a protective order if the court finds prima facie evidence that a crime involving

domestic violence, a sexual offense, or a crime involving stalking has been committed. The following shall be considered prima facie evidence of the crime:

(1) an information, complaint, indictment, or delinquency petition, charging a crime of domestic violence, a sexual offense, or stalking or charging an attempt to commit a crime of domestic violence, a sexual offense, or stalking;

(2) an adjudication of delinquency, a finding of guilt based upon a plea, or a finding of guilt after a trial for a crime of domestic battery, a sexual crime, or stalking or an attempt to commit a crime of domestic violence, a sexual offense, or stalking;

(3) any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987, the imposition of supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release for a crime of domestic violence, a sexual offense, or stalking or an attempt to commit a crime of domestic violence, a sexual offense, or stalking, or imprisonment in conjunction with a bond forfeiture warrant; or

(4) the entry of a protective order in a separate civil case brought by the petitioner against the respondent.

(a-5) The respondent may rebut prima facie evidence of the crime under paragraph (1) of subsection (a) of this Section by presenting evidence of a meritorious defense. The respondent shall file a written notice alleging a meritorious defense which shall be verified and supported by affidavit. The verified notice and affidavit shall set forth the evidence that will be presented at a hearing. If the court finds that the evidence presented at the hearing establishes a meritorious defense by a preponderance of the evidence, the court may decide not to issue a protective order.

(b) The petitioner shall not be denied a protective order because the petitioner or the respondent is a minor.

(c) The court, when determining whether or not to issue a protective order, may not require physical injury on the person of the victim.

(d) If the court issues a final protective order under this Section, the court shall afford the petitioner and respondent an opportunity to be heard on the remedies requested in the petition.

Current through P.A. 100-0597, eff. June 29, 2018.

Transfer of Issues Not Decided in Cases Involving Domestic Violence

725 ILCS 5/112A-12

(a) (Blank).

(a-5) A petition for a domestic violence order of protection shall be treated as an expedited proceeding, and no court shall transfer or otherwise decline to decide all or part of the petition, except as otherwise provided in this Section. Nothing in this Section shall prevent the court from reserving issues when jurisdiction or notice requirements are not met.

(b) A criminal court may decline to decide contested issues of physical care and possession of a minor child, temporary allocation of parental responsibilities or

significant decision-making responsibility, parenting time, or family support, unless a decision on one or more of those contested issues is necessary to avoid the risk of abuse, neglect, removal from the State, or concealment within the State of the child or of separation of the child from the primary caretaker.

(c) The court shall transfer to the appropriate court or division any issue it has declined to decide. Any court may transfer any matter which must be tried by jury to a more appropriate calendar or division.

(d) If the court transfers or otherwise declines to decide any issue, judgment on that issue shall be expressly reserved and ruling on other issues shall not be delayed or declined.

Current through P.A. 100-0597, eff. June 29, 2018.

Domestic Violence Order of Protection; Remedies

725 ILCS 5/112A-14

Note: To view the text of this section, please refer to www.ilga.gov.

Civil No Contact Order; Remedies

725 ILCS 5/112A-14.5

(a) The court may order any of the remedies listed in this Section. The remedies listed in this Section shall be in addition to other civil or criminal remedies available to petitioner:

(1) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner;

(2) restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties, regardless of whether those third parties know of the order;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner's residence, school, day care or other specified location;

(4) order the respondent to stay away from any property or animal owned, possessed, leased, kept, or held by the petitioner and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the property or animal; and

(5) order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(b) When the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court when issuing a civil no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a

change of placement or program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. If the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.

(c) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. If the court orders a transfer of the respondent to another school, the parents or legal guardians of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(d) Denial of a remedy may not be based, in whole or in part, on evidence that:

(1) the respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article 7 of the Criminal Code of 2012;

(2) the respondent was voluntarily intoxicated;

(3) the petitioner acted in self-defense or defense of another, provided that, if the petitioner utilized force, such force was justifiable under Article 7 of the Criminal Code of 2012;

(4) the petitioner did not act in self-defense or defense of another;

(5) the petitioner left the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent; or

(6) the petitioner did not leave the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

(e) Monetary damages are not recoverable as a remedy.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Stalking No Contact Order; Remedies

725 ILCS 5/112A-14.7

(a) The court may order any of the remedies listed in this Section. The remedies listed in this Section shall be in addition to other civil or criminal remedies available to petitioner. A stalking no contact order shall order one or more of the following:

(1) prohibit the respondent from threatening to commit or committing stalking;

(2) order the respondent not to have any contact with the petitioner or a third person specifically named by the court;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within a specified distance of the petitioner or the petitioner's residence, school, daycare, or place of employment, or any specified place frequented by the petitioner; however, the court may order the respondent to stay away from the respondent's own residence, school, or place of employment only if the respondent has been provided actual notice of the opportunity to appear and be heard on the petition;

(4) prohibit the respondent from possessing a Firearm Owners Identification Card, or possessing or buying firearms; and

(5) order other injunctive relief the court determines to be necessary to protect the petitioner or third party specifically named by the court.

(b) When the petitioner and the respondent attend the same public, private, or non-public elementary, middle, or high school, the court when issuing a stalking no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine

the attendance center to which the respondent is transferred. If the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.

(c) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. If the court orders a transfer of the respondent to another school, the parents, guardian, or legal custodian of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(d) The court shall not hold a school district or private or non-public school or any of its employees in civil or criminal contempt unless the school district or private or non-public school has been allowed to intervene.

(e) The court may hold the parents, guardian, or legal custodian of a minor respondent in civil or criminal contempt for a violation of any provision of any order entered under this Article for conduct of the minor respondent in violation of this Article if the parents, guardian, or legal custodian directed, encouraged, or assisted the respondent minor in the conduct.

(f) Monetary damages are not recoverable as a remedy.

(g) If the stalking no contact order prohibits the respondent from possessing a Firearm Owner's Identification Card, or possessing or buying firearms; the court shall confiscate the respondent's Firearm Owner's Identification Card and immediately return the card to the Illinois State Police Firearm Owner's Identification Card Office.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Mutual Orders of Protection; Correlative Separate Orders

725 ILCS 5/112A-15

Mutual orders of protection are prohibited. Correlative separate orders of protection undermine the purposes of this Article and are prohibited. Nothing in this Section prohibits a victim from seeking a civil order of protection.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Accountability for Action of Others

725 ILCS 5/112A-16

For the purposes of issuing a domestic violence order of protection, deciding what remedies should be included and enforcing the order, Article 5 of the Criminal Code of 2012 shall govern whether respondent is legally accountable for the conduct of another person.

Current through P.A. 100-0597, eff. June 29, 2018.

Ex Parte Protective Orders

725 ILCS 5/112A-17.5

(a) The petitioner may request expedited consideration of the petition for an ex parte protective order. The court shall consider the request on an expedited basis without requiring the respondent's presence or requiring notice to the respondent.

(b) Issuance of ex parte protective orders in cases involving domestic violence. An ex parte domestic violence order of protection shall be issued if petitioner satisfies the requirements of this subsection (b) for one or more of the requested remedies. For each remedy requested, petitioner shall establish that:

(1) the court has jurisdiction under Section 112A-9 of this Code;

(2) the requirements of subsection (a) of Section 112A-11.5 of this Code are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or notice upon the respondent, because:

(A) for the remedy of prohibition of abuse described in paragraph (1) of subsection (b) of Section 112A-14 of this Code; stay away order and additional prohibitions described in paragraph (3) of subsection (b) of Section 112A-14 of this Code; removal or concealment of minor child described in paragraph (8) of subsection (b) of Section 112A-14 of this Code; order to appear described in paragraph (9) of subsection (b) of Section 112A-14 of this Code; physical care and possession of the minor child described in paragraph (5) of subsection (b) of Section 112A-14 of this Code; protection of property described in paragraph (11) of subsection (b) of Section 112A-14 of this Code; prohibition of entry described in paragraph (14) of subsection (b) of Section 112A-14 of this Code; prohibition of firearm possession described in paragraph (14.5) of subsection (b) of Section 112A-14 of this Code; prohibition of access to records described in paragraph (15) of subsection (b) of Section 112A-14 of this Code; injunctive relief described in paragraph (16) of subsection (b) of Section 112A-14 of this Code; and telephone services described in paragraph (18) of subsection (b) of Section 112A-14 of this Code, the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief;

(B) for the remedy of grant of exclusive possession of residence described in paragraph (2) of subsection (b) of Section 112A-14 of this Code; the immediate danger of further abuse of the petitioner by the respondent, if the petitioner chooses or had chosen to remain in the residence or household while the respondent was given any prior notice or greater notice than was actually given of the petitioner's efforts to obtain judicial relief outweighs the hardships to the respondent of an emergency order granting the petitioner exclusive possession of the residence or household; and the remedy shall not be denied because the petitioner has or could obtain temporary shelter elsewhere while prior notice is given to

the respondent, unless the hardship to the respondent from exclusion from the home substantially outweigh the hardship to the petitioner; or

(C) for the remedy of possession of personal property described in paragraph (10) of subsection (b) of Section 112A-14 of this Code; improper disposition of the personal property would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief or the petitioner has an immediate and pressing need for the possession of that property.

An ex parte domestic violence order of protection may not include the counseling, custody, or payment of support or monetary compensation remedies provided by paragraphs (4), (12), (13), and (16) of subsection (b) of Section 112A-14 of this Code.

(c) Issuance of ex parte civil no contact order in cases involving sexual offenses. An ex parte civil no contact order shall be issued if the petitioner establishes that:

(1) the court has jurisdiction under Section 112A-9 of this Code;

(2) the requirements of subsection (a) of Section 112A-11.5 of this Code are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

The court may order any of the remedies under Section 112A-14.5 of this Code.

(d) Issuance of ex parte stalking no contact order in cases involving stalking offenses. An ex parte stalking no contact order shall be issued if the petitioner establishes that:

(1) the court has jurisdiction under Section 112A-9 of this Code;

(2) the requirements of subsection (a) of Section 112A-11.5 of this Code are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

The court may order any of the remedies under Section 112A-14.7 of this Code.

(e) Issuance of ex parte protective orders on court holidays and evenings.

When the court is unavailable at the close of business, the petitioner may file a petition for an ex parte protective order before any available circuit judge or associate judge who may grant relief under this Article. If the judge finds that petitioner has satisfied the prerequisites in subsection (b), (c), or (d) of this Section, the judge shall issue an ex parte protective order.

The chief judge of the circuit court may designate for each county in the circuit at least one judge to be reasonably available to issue orally, by telephone, by facsimile, or otherwise, an ex parte protective order at all times, whether or not the court is in session.

The judge who issued the order under this Section shall promptly communicate or convey the order to the sheriff to facilitate the entry of the order into the Law Enforcement Agencies Data System by the Illinois State Police under Section 112A-28 of this Code. Any order issued under this Section and any documentation in support of it shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with the court and enter the order of record and file it with the sheriff for service under subsection (f) of this Section. Failure to comply with the requirements of this subsection (e) shall not affect the validity of the order.

(f) Service of ex parte protective order on respondent.

(1) If an ex parte protective order is entered at the time a summons or arrest warrant is issued for the criminal charge, the petition for the protective order, any supporting affidavits, if any, and the ex parte protective order that has been issued shall be served with the summons or arrest warrant. The enforcement of a protective order under Section 112A-23 of this Code shall not be affected by the lack of service or delivery, provided the requirements of subsection (a) of Section 112A-23 of this Code are otherwise met.

(2) If an ex parte protective order is entered after a summons or arrest warrant is issued and before the respondent makes an initial appearance in the criminal case, the summons shall be in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require respondent to answer or appear within 7 days and shall be accompanied by the petition for the protective order, any supporting affidavits, if any, and the ex parte protective order that has been issued.

(3) If an ex parte protective order is entered after the respondent has been served notice of a petition for a final protective order and the respondent has requested a continuance to respond to the petition, the ex parte protective order shall be served: (A) in open court if the respondent is present at the proceeding at which the order was entered; or (B) by summons in the form prescribed by subsection (d) of Supreme Court Rule 101.

(4) No fee shall be charged for service of summons.

(5) The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers. In a county with a population over 3,000,000, a special process server may not be appointed if an ex parte protective order grants the surrender of a child, the surrender of a firearm or Firearm Owner's Identification Card, or the exclusive possession of a shared residence. Process may be served in court.

(g) Upon 7 days' notice to the petitioner, or a shorter notice period as the court may prescribe, a respondent subject to an ex parte protective order may appear and petition the court to re-hear the petition. Any petition to re-hear shall be verified and shall allege the following:

(1) that respondent did not receive prior notice of the initial hearing in which the ex parte protective order was entered under Section 112A-17.5 of this Code; and

(2) that respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized under this Article.

The verified petition and affidavit shall set forth the evidence of the meritorious defense that will be presented at a hearing. If the court finds that the evidence presented at the hearing on the petition establishes a meritorious defense by a preponderance of the evidence, the court may decide to vacate the protective order or modify the remedies.

(h) If the ex parte protective order granted petitioner exclusive possession of the residence and the petition of respondent seeks to re-open or vacate that grant, the court shall set a date for hearing within 14 days on all issues relating to exclusive possession. Under no circumstances shall a court continue a hearing concerning exclusive possession beyond the 14th day except by agreement of the petitioner and the respondent. Other issues raised by the pleadings may be consolidated for the hearing if the petitioner, the respondent, and the court do not object.

(i) Duration of ex parte protective order. An ex parte order shall remain in effect until the court considers the request for a final protective order after notice has been served on the respondent or a default final protective order is entered, whichever occurs first. If a court date is scheduled for the issuance of a default protective order and the petitioner fails to personally appear or appear through counsel or the prosecuting attorney, the petition shall be dismissed and the ex parte order terminated.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Duration and Extension of Final Protective Orders

725 ILCS 5/112A-20

(a) (Blank).

(b) A final protective order shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if, however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no domestic violence order of protection, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) until 2 years after the expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, aftercare release, or mandatory supervised release for domestic violence orders of protection and civil no contact orders;

(4) until 2 years after the date set by the court for expiration of any sentence of imprisonment and subsequent parole, aftercare release, or mandatory supervised release for domestic violence orders of protection and civil no contact orders;

(5) permanent for a stalking no contact order if a judgment of conviction for stalking is entered; or

(6) permanent for a civil no contact order at the victim's request if a judgment of conviction for criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, excluding a conviction under subsection (c) of Section 11-1.50 of the Criminal Code of 2012, or aggravated criminal sexual abuse is entered.

(c) Computation of time. The duration of a domestic violence order of protection shall not be reduced by the duration of any prior domestic violence order of protection.

(d) Law enforcement records. When a protective order expires upon the occurrence of a specified event, rather than upon a specified date as provided in subsection (b), no expiration date shall be entered in Illinois State Police records. To remove the protective order from those records, either the petitioner or the respondent shall request the clerk of the court to file a certified copy of an order stating that the specified event has occurred or that the protective order has been vacated or modified with the sheriff, and the sheriff shall direct that law enforcement records shall be promptly corrected in accordance with the filed order.

(e) Extension of Orders. Any domestic violence order of protection or civil no contact order that expires 2 years after the expiration of the defendant's sentence under paragraph (2), (3), or (4) of subsection (b) of Section 112A-20 of this Article may be extended one or more times, as required. The petitioner, petitioner's counsel, or the State's Attorney on the petitioner's behalf shall file the motion for an extension of the final protective order in the criminal case and serve the motion in accordance with Supreme Court Rules 11 and 12. The court shall transfer the motion to the appropriate court or division for consideration under subsection (e) of Section 220 of the Illinois Domestic Violence Act of 1986, subsection (c) of Section 216 of the Civil No Contact Order Act, or subsection (c) of Section 105 of the Stalking No Contact Order as appropriate.

(f) Termination date. Any final protective order which would expire on a court holiday shall instead expire at the close of the next court business day.

(g) Statement of purpose. The practice of dismissing or suspending a criminal prosecution in exchange for issuing a protective order undermines the purposes of this Article. This Section shall not be construed as encouraging that practice.

Current through P.A. 102-0813, eff. May 13, 2022.

Contents of Orders

725 ILCS 5/112A-21

(a) Any domestic violence order of protection shall describe, in reasonable detail and not by reference to any other document, the following:

(1) Each remedy granted by the court, in reasonable detail and not by reference to any other document, so that respondent may clearly understand what he or she

must do or refrain from doing. Pre-printed form orders of protection shall include the definitions of the types of abuse, as provided in Section 112A-3 of this Code. Remedies set forth in pre-printed form for domestic violence orders shall be numbered consistently with and corresponding to the numerical sequence of remedies listed in Section 112A-14 of this Code (at least as of the date the form orders are printed).

(2) The reason for denial of petitioner's request for any remedy listed in Section 112A-14 of this Code.

(b) A domestic violence order of protection shall further state the following:

(1) The name of each petitioner that the court finds is a victim of a charged offense, and that respondent is a member of the family or household of each such petitioner, and the name of each other person protected by the order and that such person is protected by this Code.

(2) For any remedy requested by petitioner on which the court has declined to rule, that that remedy is reserved.

(3) The date and time the domestic violence order of protection was issued.

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(c) Any domestic violence order of protection shall include the following notice, printed in conspicuous type:

"Any knowing violation of a domestic violence order of protection forbidding physical abuse, harassment, intimidation, interference with personal liberty, willful deprivation, or entering or remaining present at specified places when the protected person is present, or granting exclusive possession of the residence or household, or granting a stay away order is a Class A misdemeanor for a first offense, and a Class 4 felony for persons with a prior conviction for certain offenses under subsection (d) of Section 12-3.4 of the Criminal Code of 2012. Grant of exclusive possession of the residence or household shall constitute notice forbidding trespass to land. Any knowing violation of an order awarding legal custody or physical care of a child or prohibiting removal or concealment of a child may be a Class 4 felony. Any willful violation of any order is contempt of court. Any violation may result in fine or imprisonment."

(d) (Blank).

(e) A domestic violence order of protection shall state, "This Order of Protection is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories pursuant to the Violence Against Women Act (18 U.S.C. 2265). Violating this Order of Protection may subject the respondent to federal charges and punishment (18 U.S.C. 2261-2262). The respondent may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition under the Gun Control Act (18 U.S.C. 922(g)(8) and (9))."

Current through P.A. 100-0597, eff. June 29, 2018.

Contents of Civil No Contact Orders

725 ILCS 5/112A-21.5

(a) Any civil no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A civil no contact order shall further state the following:

(1) The name of each petitioner that the court finds is a victim of a charged offense and the name of each other person protected by the civil no contact order.

(2) The date and time the civil no contact order was issued.

(c) A civil no contact order shall include the following notice, printed in conspicuous type:

"Any knowing violation of a civil no contact order is a Class A misdemeanor. Any second or subsequent violation is a Class 4 felony."

"This Civil No Contact Order is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories under the Violence Against Women Act (18 U.S.C. 2265)."

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Contents of Stalking No Contact Orders

725 ILCS 5/112A-21.7

(a) Any stalking no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A stalking no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of stalking by the respondent.

(2) The date and time the stalking no contact order was issued.

(c) A stalking no contact order shall include the following notice, printed in conspicuous type:

"An initial knowing violation of a stalking no contact order is a Class A misdemeanor. Any second or subsequent knowing violation is a Class 4 felony."

"This Stalking No Contact Order is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories under the Violence Against Women Act (18 U.S.C. 2265)."

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Notice of Orders

725 ILCS 5/112A-22

(a) Entry and issuance. Upon issuance of any protective order, the clerk shall immediately, or on the next court day if an ex parte order is issued under subsection (e) of Section 112A-17.5 of this Code, (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to

respondent and to petitioner, if present, and to the State's Attorney. If the victim is not present the State's Attorney shall (i) as soon as practicable notify the petitioner the order has been entered and (ii) provide a file stamped copy of the order to the petitioner within 3 days.

(b) Filing with sheriff. The clerk of the issuing judge shall, on the same day that a protective order is issued, file a copy of that order with the sheriff or other law enforcement officials charged with maintaining Illinois State Police records or charged with serving the order upon respondent. If the order was issued under subsection (e) of Section 112A-17.5 of this Code, the clerk on the next court day shall file a certified copy of the order with the sheriff or other law enforcement officials charged with maintaining Illinois State Police records.

(c) (Blank).

(c-2) Service by sheriff. Unless respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon respondent and file proof of the service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent; however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 112A-22.1 of this Code may serve the respondent with a short form notification as provided in Section 112A-22.1 of this Code. If process has not yet been served upon the respondent, process shall be served with the order or short form notification if the service is made by the sheriff, other law enforcement official, or special process server.

(c-3) If the person against whom the protective order is issued is arrested and the written order is issued under subsection (e) of Section 112A-17.5 of this Code and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agency shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for a hearing on the petition for protective order or receipt of the order issued under Section 112A-17 of this Code.

(c-4) Extensions, modifications, and revocations. Any order extending, modifying, or revoking any protective order shall be promptly recorded, issued, and served as provided in this Section.

(c-5) (Blank).

(d) (Blank).

(e) Notice to health care facilities and health care practitioners. Upon the request of the petitioner, the clerk of the circuit court shall send a certified copy of the protective order to any specified health care facility or health care practitioner requested by the petitioner at the mailing address provided by the petitioner.

(f) Disclosure by health care facilities and health care practitioners. After receiving a certified copy of a protective order that prohibits a respondent's access to records, no health care facility or health care practitioner shall allow a respondent access to the records of any child who is a protected person under the protective order, or release information in those records to the respondent, unless the order has expired or the respondent shows a certified copy of the court order vacating the corresponding

protective order that was sent to the health care facility or practitioner. Nothing in this Section shall be construed to require health care facilities or health care practitioners to alter procedures related to billing and payment. The health care facility or health care practitioner may file the copy of the protective order in the records of a child who is a protected person under the protective order, or may employ any other method to identify the records to which a respondent is prohibited access. No health care facility or health care practitioner shall be civilly or professionally liable for reliance on a copy of a protective order, except for willful and wanton misconduct.

(g) Notice to schools. Upon the request of the petitioner, within 24 hours of the issuance of a protective order, the clerk of the issuing judge shall send a certified copy of the protective order to the day-care facility, pre-school or pre-kindergarten, or private school or the principal office of the public school district or any college or university in which any child who is a protected person under the protective order or any child of the petitioner is enrolled as requested by the petitioner at the mailing address provided by the petitioner. If the child transfers enrollment to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the petitioner may, within 24 hours of the transfer, send to the clerk written notice of the transfer, including the name and address of the institution to which the child is transferring. Within 24 hours of receipt of notice from the petitioner that a child is transferring to another day-care facility, pre-school, pre-kindergarten, private school, public school, college, or university, the clerk shall send a certified copy of the order to the institution to which the child is transferring.

(h) Disclosure by schools. After receiving a certified copy of a protective order that prohibits a respondent's access to records, neither a day-care facility, pre-school, pre-kindergarten, public or private school, college, or university nor its employees shall allow a respondent access to a protected child's records or release information in those records to the respondent. The school shall file the copy of the protective order in the records of a child who is a protected person under the order. When a child who is a protected person under the protective order transfers to another day-care facility, pre-school, pre-kindergarten, public or private school, college, or university, the institution from which the child is transferring may, at the request of the petitioner, provide, within 24 hours of the transfer, written notice of the protective order, along with a certified copy of the order, to the institution to which the child is transferring.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Short Form Notification

725 ILCS 5/112A-22.1

(a) Instead of personal service of a protective order under Section 112A-22 of this Code, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of the person's conditions of parole, aftercare release, or mandatory supervised release, may serve a respondent with a short form notification. The short form notification shall include the following:

(1) Respondent's name.

(2) Respondent's date of birth, if known.

(3) Petitioner's name.

(4) Names of other protected parties.

(5) Date and county in which the protective order was filed.

(6) Court file number.

(7) Hearing date and time, if known.

(8) Conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification shall contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement agencies in this State.

Current through P.A. 100-0597, eff. June 29, 2018.

Withdrawal or Dismissal of Charges or Petition

725 ILCS 5/112A-22.3

(a) Voluntary dismissal or withdrawal of any delinquency petition or criminal prosecution or a finding of not guilty shall not require dismissal or vacation of the protective order; instead, at the request of the petitioner, petitioner's counsel, or the State's Attorney on behalf of the petitioner, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division. Dismissal of any delinquency petition or criminal prosecution shall not affect the validity of any previously issued protective order.

(b) Withdrawal or dismissal of any petition for a protective order shall operate as a dismissal without prejudice.

Current through P.A. 100-0597, eff. June 29, 2018.

Enforcement of Protective Orders

725 ILCS 5/112A-23

(a) When violation is crime. A violation of any protective order, whether issued in a civil, quasi-criminal proceeding or by a military judge, shall be enforced by a criminal court when:

(1) The respondent commits the crime of violation of a domestic violence order of protection pursuant to Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, by having knowingly violated:

(i) remedies described in paragraph (1), (2), (3), (14), or (14.5) of subsection (b) of Section 112A-14 of this Code,

(ii) a remedy, which is substantially similar to the remedies authorized under paragraph (1), (2), (3), (14), or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe, or United States territory, or

(iii) any other remedy when the act constitutes a crime against the protected parties as defined by the Criminal Code of 1961 or the Criminal Code of 2012.

Prosecution for a violation of a domestic violence order of protection shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the domestic violence order of protection; or

(2) The respondent commits the crime of child abduction pursuant to Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012, by having knowingly violated:

(i) remedies described in paragraph (5), (6), or (8) of subsection (b) of Section 112A-14 of this Code, or

(ii) a remedy, which is substantially similar to the remedies authorized under paragraph (1), (5), (6), or (8) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid domestic violence order of protection, which is authorized under the laws of another state, tribe, or United States territory.

(3) The respondent commits the crime of violation of a civil no contact order when the respondent violates Section 12-3.8 of the Criminal Code of 2012. Prosecution for a violation of a civil no contact order shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the civil no contact order.

(4) The respondent commits the crime of violation of a stalking no contact order when the respondent violates Section 12-3.9 of the Criminal Code of 2012. Prosecution for a violation of a stalking no contact order shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the stalking no contact order.

(b) When violation is contempt of court. A violation of any valid protective order, whether issued in a civil or criminal proceeding or by a military judge, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless where the act or acts which violated the protective order were committed, to the extent consistent with the venue provisions of this Article. Nothing in this Article shall preclude any Illinois court from enforcing any valid protective order issued in another state. Illinois courts may enforce protective orders through both criminal prosecution

and contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(1) In a contempt proceeding where the petition for a rule to show cause sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction, conceal a child, or inflict physical abuse on the petitioner or minor children or on dependent adults in petitioner's care, the court may order the attachment of the respondent without prior service of the rule to show cause or the petition for a rule to show cause. Bond shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause for violation of a protective order shall be treated as an expedited proceeding.

(c) Violation of custody, allocation of parental responsibility, or support orders. A violation of remedies described in paragraph (5), (6), (8), or (9) of subsection (b) of Section 112A-14 of this Code may be enforced by any remedy provided by Section 607.5 of the Illinois Marriage and Dissolution of Marriage Act. The court may enforce any order for support issued under paragraph (12) of subsection (b) of Section 112A-14 of this Code in the manner provided for under Parts V and VII of the Illinois Marriage and Dissolution of Marriage Act.

(d) Actual knowledge. A protective order may be enforced pursuant to this Section if the respondent violates the order after the respondent has actual knowledge of its contents as shown through one of the following means:

(1) (Blank).

(2) (Blank).

(3) By service of a protective order under subsection (f) of Section 112A-17.5 or Section 112A-22 of this Code.

(4) By other means demonstrating actual knowledge of the contents of the order.

(e) The enforcement of a protective order in civil or criminal court shall not be affected by either of the following:

(1) The existence of a separate, correlative order entered under Section 112A-15 of this Code.

(2) Any finding or order entered in a conjoined criminal proceeding.

(e-5) If a civil no contact order entered under subsection (6) of Section 112A-20 of the Code of Criminal Procedure of 1963 conflicts with an order issued pursuant to the Juvenile Court Act of 1987 or the Illinois Marriage and Dissolution of Marriage Act, the conflicting order issued under subsection (6) of Section 112A-20 of the Code of Criminal Procedure of 1963 shall be void.

(f) Circumstances. The court, when determining whether or not a violation of a protective order has occurred, shall not require physical manifestations of abuse on the person of the victim.

(g) Penalties.

(1) Except as provided in paragraph (3) of this subsection (g), where the court finds the commission of a crime or contempt of court under subsection (a) or (b) of this

Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection (g).

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any protective order over any penalty previously imposed by any court for respondent's violation of any protective order or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any protective order; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of a protective order

unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of a protective order, a criminal court may consider evidence of any violations of a protective order:

(i) to modify the conditions of pretrial release on an underlying criminal charge pursuant to Section 110-6 of this Code;

(ii) to revoke or modify an order of probation, conditional discharge, or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections;

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

Current through P.A. 103-0407, eff. July 31, 2023.

Modification, Re-Opening, and Extension of Orders

725 ILCS 5/112A-24

(a) Except as otherwise provided in this Section, upon motion by petitioner, petitioner's counsel, or the State's Attorney on behalf of the petitioner, the court may modify a protective order:

(1) If respondent has abused petitioner since the hearing for that order, by adding or altering one or more remedies, as authorized by Section 112A-14, 112A-14.5, or 112A-14.7 of this Code; and

(2) Otherwise, by adding any remedy authorized by Section 112A-14, 112A-14.5, or 112A-14.7 which was:

(i) reserved in that protective order;

(ii) not requested for inclusion in that protective order; or

(iii) denied on procedural grounds, but not on the merits.

(a-5) A petitioner, petitioner's counsel, or the State's Attorney on the petitioner's behalf may file a motion to vacate or modify a final stalking no contact order. The motion shall be served in accordance with Supreme Court Rules 11 and 12.

(b) Upon motion by the petitioner, petitioner's counsel, State's Attorney, or respondent, the court may modify any prior domestic violence order of protection's remedy for custody, visitation or payment of support in accordance with the relevant provisions of the Illinois Marriage and Dissolution of Marriage Act.

(c) After 30 days following the entry of a protective order, a court may modify that order only when changes in the applicable law or facts since that final order was entered warrant a modification of its terms.

(d) (Blank).

(e) (Blank).

(f) (Blank).

(g) This Section does not limit the means, otherwise available by law, for vacating or modifying protective orders.

Current through P.A. 100-0597, eff. June 29, 2018.

Immunity from Prosecution

725 ILCS 5/112A-25

Any individual or organization acting in good faith to report the abuse of any person 60 years of age or older or to do any of the following in complying with the provisions of this Article shall not be subject to criminal prosecution or civil liability as a result of such action: providing any information to the appropriate law enforcement agency, providing that the giving of any information does not violate any privilege of confidentiality under law; assisting in any investigation; assisting in the preparation of any materials for distribution under this Article; or by providing services ordered under a protective order.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Arrest Without Warrant

725 ILCS 5/112A-26

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing any crime, including but not limited to violation of a domestic violence order of protection, under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, violation of a civil no contact order, under Section 11-1.75 of the Criminal Code of 2012, or violation of a stalking no contact order, under Section 12-7.5A of the Criminal Code of 2012, even if the crime was not committed in the presence of the officer.

(b) The law enforcement officer may verify the existence of a protective order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by petitioner or respondent.

Current through P.A. 100-0597, eff. June 29, 2018.

Note: To review the final five sections of this Act, please refer to www.ilga.gov:

Law Enforcement Policies - 725 ILCS 5/112A-27

Data Maintenance by Law Enforcement Agencies – 725 ILCS 5/112A-28

Reports by Law Enforcement Officers – 725 ILCS 5/112A-29

Assistance by Law Enforcement Officers – 725 ILCS 5/112A-30

Limited Law Enforcement Liability - 725 ILCS 5/112A-31

Article 114: Pretrial Motions (Selected Provisions)

725 ILCS 5/114

Motion for Continuance

725 ILCS 5/114-4(k) & (l)

(k) In prosecutions for violations of Section 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 involving a victim or witness who is a minor under 18 years of age, the court shall, in ruling on any motion or other request for a delay or continuance of proceedings, consider and give weight to the adverse impact the delay or continuance may have on the well-being of a child or witness.

(l) The court shall consider the age of the victim and the condition of the victim's health when ruling on a motion for a continuance.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Motion for Severance

725 ILCS 5/114-8(b)

(b) In the case of a prosecution of multiple defendants for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse arising out of the same course of conduct, the court, in deciding a motion to sever the charges and try the defendants separately, must consider, subject to constitutional limitations, the impact upon the alleged victim of multiple trials requiring the victim's testimony.

Current through P.A. 94-0668, eff. Jan. 1, 2006.

Article 115: Trial (Selected Sections)
725 ILCS 5/115

Prostitution; Affirmative Defense
725 ILCS 5/115-6.1

(a) In prosecutions for prostitution, when the accused intends to raise at trial the affirmative defense provided in subsection (c-5) of Section 11-14 of the Criminal Code of 2012 and has reason to believe that the evidence presented in asserting that defense may jeopardize the safety of the accused, courtroom personnel, or others impacted by human trafficking, the accused may file under seal a motion for an in camera hearing to review the accused's safety concerns. Upon receipt of the motion and notice to the parties, the court shall conduct an in camera hearing, with counsel present, limited to review of potential safety concerns. The court shall cause an official record of the in camera hearing to be made, which shall be kept under seal. The court shall not consider the merits of the affirmative defense during the in camera review.

(b) If the court finds by a preponderance of the evidence that the assertion of an affirmative defense under subsection (c-5) of Section 11-14 of the Criminal Code of 2012 by the accused in open court would likely jeopardize the safety of the accused, court personnel, or other persons, the court may clear the courtroom with the agreement of the accused, order additional in camera hearings, seal the records, prohibit court personnel from disclosing the proceedings without prior court approval, or take any other appropriate measure that in the court's discretion will enhance the safety of the proceedings and ensure the accused a full and fair opportunity to assert his or her affirmative defense.

(c) Statements made by the accused during the in camera hearing to review safety concerns shall not be admissible against the accused for the crimes charged.

Current through P.A. 99-0109, eff. July 22, 2015.

Prior Sexual Activity or Reputation as Evidence (*Rape Shield*)
725 ILCS 5/115-7

a. In prosecutions for predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons; and in prosecutions for battery and aggravated battery, when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 11-0.1 of the Criminal Code of 2012; and with the trial or retrial of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, and aggravated indecent liberties with a child, the prior sexual activity or the reputation of the alleged victim or corroborating witness under Section 115-7.3 of this Code is inadmissible except (1) as evidence concerning the past sexual conduct of the alleged victim or corroborating witness under Section 115-7.3 of this Code with the accused when this evidence is offered by the accused upon the issue of whether the alleged victim or corroborating witness under Section 115-7.3 of this Code consented to the sexual conduct with respect to which the offense is alleged; or (2) when constitutionally required to be admitted.

b. No evidence admissible under this Section shall be introduced unless ruled admissible by the trial judge after an offer of proof has been made at a hearing to be held in camera in order to determine whether the defense has evidence to impeach the witness in the event that prior sexual activity with the defendant is denied. Such offer of proof shall include reasonably specific information as to the date, time and place of the past sexual conduct between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. Unless the court finds that reasonably specific information as to date, time or place, or some combination thereof, has been offered as to prior sexual activity with the defendant, counsel for the defendant shall be ordered to refrain from inquiring into prior sexual activity between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. The court shall not admit evidence under this Section unless it determines at the hearing that the evidence is relevant and the probative value of the evidence outweighs the danger of unfair prejudice. The evidence shall be admissible at trial to the extent an order made by the court specifies the evidence that may be admitted and areas with respect to which the alleged victim or corroborating witness under Section 115-7.3 of this Code may be examined or cross examined.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Court May Not Order Mental Examination of Sex Victim

725 ILCS 5/115-7.1

Except where explicitly authorized by this Code or by the Rules of the Supreme Court of Illinois, no court may require or order a witness who is the victim of an alleged sex offense to submit to or undergo either a psychiatric or psychological examination.

Current through P.A. 83-0289, eff. Jan. 1, 1984.

Prosecution for Illegal Sexual Act Perpetrated Upon a Victim; Admissibility of Evidence; Post-traumatic Stress Syndrome

725 ILCS 5/115-7.2

In a prosecution for an illegal sexual act perpetrated upon a victim, including but not limited to prosecutions for violations of Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, or ritualized abuse of a child under Section 12-33 of the Criminal Code of 1961 or the Criminal Code of 2012, testimony by an expert, qualified by the court relating to any recognized and accepted form of post-traumatic stress syndrome shall be admissible as evidence.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Evidence in Certain Cases

725 ILCS 5/115-7.3

(a) This Section applies to criminal cases in which:

(1) the defendant is accused of predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, child sexual abuse material, aggravated child pornography, involuntary servitude, involuntary sexual servitude of a minor, trafficking in persons, or child abduction as defined in paragraph (10) of

subsection (b) of Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012;

(2) the defendant is accused of battery, aggravated battery, first degree murder, or second degree murder when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 11-0.1 of the Criminal Code of 2012; or

(3) the defendant is tried or retried for any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child.

(b) If the defendant is accused of an offense set forth in paragraph (1) or (2) of subsection (a) or the defendant is tried or retried for any of the offenses set forth in paragraph (3) of subsection (a), evidence of the defendant's commission of another offense or offenses set forth in paragraph (1), (2), or (3) of subsection (a), or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant.

(c) In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider:

(1) the proximity in time to the charged or predicate offense;

(2) the degree of factual similarity to the charged or predicate offense; or

(3) other relevant facts and circumstances.

(d) In a criminal case in which the prosecution intends to offer evidence under this Section, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

(e) In a criminal case in which evidence is offered under this Section, proof may be made by specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion, except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony.

(f) In prosecutions for a violation of Section 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-3.05, 12-4, 12-13, 12-14, 12-14.1, 12-15, 12-16, or 18-5 of the Criminal Code of 1961 or the Criminal Code of 2012, involving the involuntary delivery of a controlled substance to a victim, no inference may be made about the fact that a victim did not consent to a test for the presence of controlled substances.

Current through P.A. 104-0245, eff. Jan. 1, 2026

Evidence in Domestic Violence Cases

725 ILCS 5/115-7.4

(a) In a criminal prosecution in which the defendant is accused of an offense of domestic violence as defined in paragraphs (1) and (3) of Section 103 of the Illinois Domestic Violence Act of 1986, or first degree murder or second degree murder when the commission of the offense involves domestic violence, evidence of the defendant's

commission of another offense or offenses of domestic violence is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider:

(1) the proximity in time to the charged or predicate offense;

(2) the degree of factual similarity to the charged or predicate offense; or

(3) other relevant facts and circumstances.

(c) In a criminal case in which the prosecution intends to offer evidence under this Section, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

(d) In a criminal case in which evidence is offered under this Section, proof may be made by specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion, except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony.

Current through P.A. 97-1036, eff. Aug. 20, 2012.

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Certain Hearsay Exceptions

725 ILCS 5/115-10

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, a person with an intellectual disability, a person with a cognitive impairment, or a person with a developmental disability, including, but not limited to, prosecutions for violations of Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 10-9 (trafficking in persons, involuntary servitude, and related offenses), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-3.3 (aggravated domestic battery), 12-3.05 or 12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 or 12-6.5 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 or 12C-35 (tattooing the body of a minor), 12-11 or 19-6 (home invasion), 12-21.5 or 12C-10 (child abandonment), 12-21.6 or 12C-5 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or the Criminal Code of 2012 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or person with an intellectual disability, a cognitive impairment, or developmental disability either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the person with an intellectual disability, a cognitive impairment, or developmental disability, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

(f) For the purposes of this Section:

"Person with a cognitive impairment" means a person with a significant impairment of cognition or memory that represents a marked deterioration from a previous level of function. Cognitive impairment includes, but is not limited to, dementia, amnesia, delirium, or a traumatic brain injury.

"Person with a developmental disability" means a person with a disability that is attributable to (1) an intellectual disability, cerebral palsy, epilepsy, or autism, or (2) any other condition that results in an impairment similar to that caused by an intellectual disability and requires services similar to those required by a person with an intellectual disability.

"Person with an intellectual disability" means a person with significantly subaverage general intellectual functioning which exists concurrently with an impairment in adaptive behavior.

Current through P.A. 104-0159, eff. Jan. 1, 2026.

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Prosecution for Sex Offenses; Victims Under 18 Years; Persons Excluded from Proceedings

725 ILCS 5/115-11

In a prosecution for a criminal offense defined in Article 11 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, when the alleged victim of the offense was a minor under 18 years of age at the time of the offense, the court may exclude from the proceedings while the victim is testifying, regardless of the alleged victim's age at the time of the victim's courtroom testimony, all persons, who, in the opinion of the court, do not have a direct interest in the case, except the media. When the court publishes to the trier of fact videos, photographs, or any depiction of a minor under 18 years of age engaged in a sex act, the court may exclude from the proceedings all persons, who, in the opinion of the court, do not have a direct interest in the case, except the media. The court shall enter its finding that particular parties are disinterested and the basis for that finding into the record.

Current through P.A. 103-0154, eff. June 30, 2023.

Use of "Rape"

725 ILCS 5/115-11.1

The use of the word "rape", "rapist", or any derivative of "rape" by any victim, witness, State's Attorney, defense attorney, judge or other court personnel in any prosecutions of offenses in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 is not inadmissible.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

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Hearsay Exception; Statements by Victims of Sex Offenses to Medical Personnel

725 ILCS 5/115-13

In a prosecution for violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, statements made by the victim to medical personnel for purposes of medical diagnosis or treatment including descriptions of the cause of symptom, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment shall be admitted as an exception to the hearsay rule.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Witness Competency

725 ILCS 5/115-14

(a) Every person, irrespective of age, is qualified to be a witness and no person is disqualified to testify to any matter, except as provided in subsection (b).

(b) A person is disqualified to be a witness if he or she is:

(1) Incapable of expressing himself or herself concerning the matter so as to be understood, either directly or through interpretation by one who can understand him or her; or

(2) Incapable of understanding the duty of a witness to tell the truth.

(c) A party may move the court prior to a witness' testimony being received in evidence, requesting that the court make a determination if a witness is competent to testify. The hearing shall be conducted outside the presence of the jury and the burden of proof shall be on the moving party.

Current through P.A. 85-1190, eff. Jan. 1, 1989.

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Witness Disqualification (*and Testimony of Spouses*)

725 ILCS 5/115-16

No person shall be disqualified as a witness in a criminal case or proceeding by reason of his or her interest in the event of the case or proceeding, as a party or otherwise, or by reason of his or her having been convicted of a crime; but the interest or conviction may be shown for the purpose of affecting the credibility of the witness. A defendant in a criminal case or proceeding shall only at his or her own request be deemed a competent witness, and the person's neglect to testify shall not create a presumption against the person, nor shall the court permit a reference or comment to be made to or upon that neglect.

In criminal cases, husband and wife may testify for or against each other. Neither, however, may testify as to any communication or admission made by either of them to the other or as to any conversation between them during marriage, except in cases in which either is charged with an offense against the person or property of the other, in case of spouse abandonment, when the interests of their child or children or of any child or children in either spouse's care, custody, or control are directly involved, when either is charged with or under investigation for an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 and the victim is a minor under 18 years of age in either spouse's care, custody, or control at the time of the offense, or as to matters in which either has acted as agent of the other.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

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Subpoenas to Crime Victims (*Post Conviction*)

725 ILCS 5/115-17a

In a post conviction proceeding, before the crime victim may be subpoenaed by the defendant, the defendant must first petition the court and give notice to the victim. At the hearing on the petition, the victim shall be given the opportunity to appear and object to the requested

subpoena. At the request of the victim, the State's Attorney shall represent the victim in the proceeding. The court shall grant the request for the subpoena only if and to the extent it determines that the subpoena seeks evidence that is material and relevant to the post conviction hearing. For the purposes of this Section, "crime victim" has the meaning ascribed to it in Section 3 of the Rights of Crime Victims and Witnesses Act.

Current through P.A. 89-0626, eff. Aug 9, 1996.

Administrative Subpoenas (*Sexual Exploitation of Children*)

725 ILCS 5/115-17b

(a) Definitions. As used in this Section:

"Electronic communication services" and "remote computing services" have the same meaning as provided in the Electronic Communications Privacy Act in Chapter 121 (commencing with Section 2701) of Part I of Title 18 of the United States Code Annotated.

"Offense involving the sexual exploitation of children" means an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6, 11-9.1, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-23, 11-25, 11-26, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or any attempt to commit any of these offenses when the victim is under 18 years of age.

(b) Subpoenas duces tecum. In any criminal investigation of an offense involving the sexual exploitation of children, the Attorney General, or his or her designee, or a State's Attorney, or his or her designee, may issue in writing and cause to be served subpoenas duces tecum to providers of electronic communication services or remote computing services requiring the production of records relevant to the investigation. Any such request for records shall not extend beyond requiring the provider to disclose the information specified in 18 U.S.C. 2703(c)(2). Any subpoena duces tecum issued under this Section shall be made returnable to the Chief Judge of the Circuit Court for the Circuit in which the State's Attorney resides, or his or her designee, or for subpoenas issued by the Attorney General, the subpoena shall be made returnable to the Chief Judge of the Circuit Court for the Circuit to which the investigation pertains, or his or her designee, to determine whether the documents are privileged and whether the subpoena is unreasonable or oppressive.

(c) Contents of subpoena. A subpoena under this Section shall describe the records or other things required to be produced and prescribe a return date within a reasonable period of time within which the objects or records can be assembled and made available.

(c-5) Contemporaneous notice to Chief Judge. Whenever a subpoena is issued under this Section, the Attorney General or his or her designee or the State's Attorney or his or her designee shall be required to provide a copy of the subpoena to the Chief Judge of the county in which the subpoena is returnable.

(d) Modifying or quashing subpoena. At any time before the return date specified in the subpoena, the person or entity to whom the subpoena is directed may petition for an order modifying or quashing the subpoena on the grounds that the subpoena is

oppressive or unreasonable or that the subpoena seeks privileged documents or records.

(e) Ex parte order. An Illinois circuit court for the circuit in which the subpoena is or will be issued, upon application of the Attorney General, or his or her designee, or State's Attorney, or his or her designee, may issue an ex parte order that no person or entity disclose to any other person or entity (other than persons necessary to comply with the subpoena) the existence of such subpoena for a period of up to 90 days.

(1) Such order may be issued upon a showing that the things being sought may be relevant to the investigation and there is reason to believe that such disclosure may result in:

(A) endangerment to the life or physical safety of any person;

(B) flight to avoid prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(2) An order under this Section may be renewed for additional periods of up to 90 days upon a showing that the circumstances described in paragraph (1) of this subsection (e) continue to exist.

(f) Enforcement. A witness who is duly subpoenaed who neglects or refuses to comply with the subpoena shall be proceeded against and punished for contempt of the court. A subpoena duces tecum issued under this Section may be enforced pursuant to the Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings.

(g) Immunity from civil liability. Notwithstanding any federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this Section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of Illinois to any customer or other person for such production or for nondisclosure of that production to the customer.

Current through P.A. 99-0642, eff. July. 28, 2016.

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Article 116: Post-Trial Motions (Selected Sections)

725 ILCS 5/116

Motion to Vacate Prostitution Convictions for Sex Trafficking Victims

725 ILCS 5/116-2.1

(a) A motion under this Section may be filed at any time following the entry of a verdict or finding of guilty where the conviction was under Section 11-14 (prostitution) or Section 11-14.2 (first offender; felony prostitution) of the Criminal Code of 1961 or the Criminal Code of 2012 or a similar local ordinance and the defendant's participation in the offense was a result of having been a trafficking victim under Section 10-9 (involuntary

servitude, involuntary sexual servitude of a minor, or trafficking in persons) of the Criminal Code of 1961 or the Criminal Code of 2012; or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. Section 7102(13)); provided that:

(1) a motion under this Section shall state why the facts giving rise to this motion were not presented to the trial court, and shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking or has sought services for victims of such trafficking, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this Section; and

(2) reasonable notice of the motion shall be served upon the State.

(b) The court may grant the motion if, in the discretion of the court, the violation was a result of the defendant having been a victim of human trafficking. Evidence of such may include, but is not limited to:

(1) certified records of federal or State court proceedings which demonstrate that the defendant was a victim of a trafficker charged with a trafficking offense under Section 10-9 of the Criminal Code of 1961 or the Criminal Code of 2012, or under 22 U.S.C. Chapter 78;

(2) certified records of “approval notices” or “law enforcement certifications” generated from federal immigration proceedings available to such victims; or

(3) a sworn statement from a trained professional staff of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the defendant has sought assistance in addressing the trauma associated with being trafficked.

Alternatively, the court may consider such other evidence as it deems of sufficient credibility and probative value in determining whether the defendant is a trafficking victim or victim of a severe form of trafficking.

(c) If the court grants a motion under this Section, it must vacate the conviction and may take such additional action as is appropriate in the circumstances.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

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Preservation of Evidence for Forensic Testing

725 ILCS 5/116-4

(a) Before or after the trial in a prosecution for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or in a prosecution for an offense defined in Article 9 of that Code, or in a prosecution for an attempt in violation of Section 8-4 of that Code of any of the above-enumerated offenses, unless otherwise provided herein under subsection (b) or (c), a law enforcement agency or an agent acting on behalf of the law enforcement agency shall preserve, subject to a continuous chain of custody, any physical evidence in their possession or control that is reasonably likely to contain

forensic evidence, including, but not limited to, fingerprints or biological material secured in relation to a trial and with sufficient documentation to locate that evidence.

(b) After a judgment of conviction is entered, the evidence shall either be impounded with the Clerk of the Circuit Court or shall be securely retained by a law enforcement agency. Retention shall be until the completion of the sentence, including the period of mandatory supervised release for the offense, or January 1, 2006, whichever is later, for any conviction for an offense or an attempt of an offense defined in Article 9 of the Criminal Code of 1961 or the Criminal Code of 2012 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or for 7 years following any conviction for any other felony for which the defendant's genetic profile may be taken by a law enforcement agency and submitted for comparison in a forensic DNA database for unsolved offenses.

(c) After a judgment of conviction is entered, the law enforcement agency required to retain evidence described in subsection (a) may petition the court with notice to the defendant or, in cases where the defendant has died, his estate, his attorney of record, or an attorney appointed for that purpose by the court for entry of an order allowing it to dispose of evidence if, after a hearing, the court determines by a preponderance of the evidence that:

(1) it has no significant value for forensic science analysis and should be returned to its rightful owner, destroyed, used for training purposes, or as otherwise provided by law; or

(2) it has no significant value for forensic science analysis and is of a size, bulk, or physical character not usually retained by the law enforcement agency and cannot practicably be retained by the law enforcement agency; or

(3) there no longer exists a reasonable basis to require the preservation of the evidence because of the death of the defendant.

(d) The court may order the disposition of the evidence if the defendant is allowed the opportunity to take reasonable measures to remove or preserve portions of the evidence in question for future testing.

(d-5) Any order allowing the disposition of evidence pursuant to subsection (c) or (d) shall be a final and appealable order. No evidence shall be disposed of until 30 days after the order is entered, and if a notice of appeal is filed, no evidence shall be disposed of until the mandate has been received by the circuit court from the appellate court.

(d-10) All records documenting the possession, control, storage, and destruction of evidence and all police reports, evidence control or inventory records, and other reports cited in this Section, including computer records, must be retained for as long as the evidence exists and may not be disposed of without the approval of the Local Records Commission.

(e) In this Section, "law enforcement agency" includes any of the following or an agent acting on behalf of any of the following: a municipal police department, county sheriff's office, any prosecuting authority, the Illinois State Police, or any other State, university, county, federal, or municipal police unit or police force.

"Biological material" includes, but is not limited to, any blood, hair, saliva, or semen from which genetic marker groupings may be obtained.

Current through P.A. 103-0051, eff. Jan. 1, 2024.

CRIMINAL PROCEEDING INTERPRETER ACT

725 ILCS 140/1

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Victims and Witnesses; Sign Language Interpreters

725 ILCS 140/4

The right to a qualified court-appointed sign language interpreter as provided in this Act shall be afforded to persons with disabilities who are victims of, or are called as witnesses in proceedings relating to, a violation of any penal statute of this State.

Current through P.A. 95-0897, eff. Jan, 1, 2009.

PRIVACY OF CHILD VICTIMS OF CRIMINAL SEXUAL OFFENSES ACT

725 ILCS 190/1

Child

725 ILCS 190/2

As used in this Act, "Child" means any person under 18 years of age.

Current through P.A. 84-1428, eff. July 1, 1987.

Confidentiality of Law Enforcement and Court Records

725 ILCS 190/3

Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or all circuit court records maintained by any circuit clerk relating to any investigation or proceeding pertaining to a criminal sexual offense, by any person, except a judge, state's attorney, assistant state's attorney, Attorney General, Assistant Attorney General, psychologist, psychiatrist, social worker, doctor, parent, parole agent, aftercare specialist, probation officer, defendant, defendant's attorney, advocate, or victim's attorney (as defined in Section 3 of the Rights of Crime Victims and Witnesses Act) in any criminal proceeding or investigation related thereto, shall be restricted to exclude the identity of any child who is a victim of such criminal sexual offense or alleged criminal sexual offense unless a court order is issued authorizing the removal of such restriction as provided under this Section of a particular case record or particular records of cases maintained by any circuit court clerk. A court may, for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the minor's identity, the court shall consider:

(1) the best interest of the child; and

(2) whether such nondisclosure would further a compelling State interest.

When a criminal sexual offense is committed or alleged to have been committed by a school district employee or any individual contractually employed by a school district, a copy of the criminal history record information relating to the investigation of the offense or alleged offense shall be transmitted to the superintendent of schools of the district immediately upon request or if the law enforcement agency knows that a school district employee or any individual contractually employed by a school district has committed or is alleged to have committed a criminal sexual offense, the superintendent of schools of the district shall be immediately provided a copy of the criminal history record information. The copy of the criminal history record information to be provided under this Section shall exclude the identity of the child victim. The superintendent shall be restricted from revealing the identity of the victim. Nothing in this Article precludes or may be used to preclude a mandated reporter from reporting child abuse or child neglect as required under the Abused and Neglected Child Reporting Act.

For the purposes of this Act, “criminal history record information” means:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public, as defined in paragraph (1) of subsection (b) of Section 5 of the Court Record and Document Accessibility Act;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of Section 7 of the Freedom of Information Act.

Current through P.A. 103-0166, eff. Jan. 1, 2024.

PRIVACY OF ADULT VICTIMS OF CRIMINAL SEXUAL OFFENSES ACT

725 ILCS 191/1

Definitions

725 ILCS 191/5

“Adult victim” means any person 18 years of age or older.

“Criminal history record information” means:

(1) chronologically maintained arrest information, including, but not limited to, traditional arrest logs or blotters;

(2) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(3) court records that are public, and records that are otherwise available under State or local law; or

(4) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of Section 7 of the Freedom of Information Act.

Current through P.A. 102-0352, eff. Jan. 1, 2022.

Victim Privacy

725 ILCS 191/10

Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or all circuit court records maintained by any circuit clerk relating to any investigation or proceeding pertaining to a criminal sexual offense, by any person, except a judge, State's Attorney, Assistant State's Attorney, Attorney General, Assistant Attorney General, psychologist, psychiatrist, social worker, doctor, parole agent, aftercare specialist, probation officer, defendant, defendant's attorney, advocate, or victim's attorney (as defined in Section 3 of the Illinois Rights of Crime Victims and Witnesses Act) in any criminal proceeding or investigation related thereto shall be restricted to exclude the identity of any adult victim of such criminal sexual offense or alleged criminal sexual offense unless a court order is issued authorizing the removal of such restriction as provided under this Section of a particular case record or particular records of cases maintained by any circuit court clerk.

A court may, for the adult victim's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the adult victim's identity. A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the adult victim's identity, the court shall consider:

(1) the best interest of the adult victim; and

(2) whether such nondisclosure would further a compelling State interest.

Current through P.A. 102-0813, eff. May 13, 2022.

Criminal Sexual Offense and School Districts

725 ILCS 191/15

When a criminal sexual offense is committed or alleged to have been committed by a school district employee or any individual contractually employed by a school district, a copy of the criminal history record information relating to the investigation of the offense or alleged offense shall be transmitted to the superintendent of schools of the district immediately upon request or if the law enforcement agency knows that a school district employee or any individual contractually employed by a school district has committed or is alleged to have committed a criminal sexual offense, the superintendent of schools of the district shall be immediately provided a copy of the criminal history record information. The copy of the criminal history record information that is to be provided under this Section shall exclude the identity of the adult victim. The superintendent shall be restricted from revealing the identity of the adult victim.

Current through P.A. 102-0652, eff. Jan. 1, 2022.

SEX OFFENSE VICTIM POLYGRAPH ACT

725 ILCS 200/0.01

Lie Detector Tests

725 ILCS 200/1

(a) No law enforcement officer, State's Attorney or other official shall ask or require an alleged victim of an offense described in Sections 11-1.20 through 11-1.60 or 12-13

through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 to submit to a polygraph examination or any form of a mechanical or electrical lie detector test.

(b) A victim's refusal to submit to a polygraph or any form of a mechanical or electrical lie detector test shall not mitigate against the investigation, charging or prosecution of the pending case as originally charged.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

SEXUAL ASSAULT EVIDENCE SUBMISSION ACT

725 ILCS 202/1

Definitions

725 ILCS 202/5

In this Act:

"Commission" means the Sexual Assault Evidence Tracking and Reporting Commission.

"Law enforcement agencies" means local, county, State or federal law enforcement agencies involved in the investigation of sexual assault cases in Illinois.

"Sexual assault evidence" means evidence collected in connection with a sexual assault investigation, including, but not limited to, evidence collected using the Illinois State Police Evidence Collection Kits.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Submission of Evidence

725 ILCS 202/10

Law enforcement agencies that receive sexual assault evidence that the victim of a sexual assault or sexual abuse or a person authorized under Section 6.5 of the Sexual Assault Survivors Emergency Treatment Act has consented to allow law enforcement to test in connection with the investigation of a criminal case on or after the effective date of this Act must submit evidence from the case within 10 business days of receipt of the consent to test to an Illinois State Police forensic laboratory or a laboratory approved and designated by the Director of the Illinois State Police. The written report required under Section 20 of the Sexual Assault Incident Procedure Act shall include the date and time the sexual assault evidence was picked up from the hospital, the date consent to test the sexual assault evidence was given, and the date and time the sexual assault evidence was sent to the laboratory. Sexual assault evidence received by a law enforcement agency within 30 days prior to the effective date of this Act shall be submitted pursuant to this Section.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Analysis of Evidence; Notification

725 ILCS 202/15

(a) All sexual assault evidence submitted pursuant to Section 10 of this Act on or after the effective date of this Act shall be analyzed within 6 months after receipt of all necessary evidence and standards by the Illinois State Police Laboratory or other designated laboratory if sufficient staffing and resources are available.

(b) If a consistent DNA profile has been identified by comparing the submitted sexual assault evidence with a known standard from a suspect or with DNA profiles in the CODIS database, the Illinois State Police shall notify the investigating law enforcement agency of the results in writing, and the Illinois State Police shall provide an automatic courtesy copy of the written notification to the appropriate State's Attorney's Office for tracking and further action, as necessary.

Current through P.A. 102-0538, eff. Aug 20, 2021.

Inventory of Evidence

725 ILCS 202/20

(a) By October 15, 2010, each Illinois law enforcement agency shall provide written notice to the Illinois State Police, in a form and manner prescribed by the Illinois State Police, stating the number of sexual assault cases in the custody of the law enforcement agency that have not been previously submitted to a laboratory for analysis. Within 180 days after the effective date of this Act, appropriate arrangements shall be made between the law enforcement agency and the Illinois State Police, or a laboratory approved and designated by the Director of the Illinois State Police, to ensure that all cases that were collected prior to the effective date of this Act and are, or were at the time of collection, the subject of a criminal investigation, are submitted to the Illinois State Police, or a laboratory approved and designated by the Director of the Illinois State Police.

(b) By February 15, 2011, the Illinois State Police shall submit to the Governor, the Attorney General, and both houses of the General Assembly a plan for analyzing cases submitted pursuant to this Section. The plan shall include but not be limited to a timeline for completion of analysis and a summary of the inventory received, as well as requests for funding and resources necessary to meet the established timeline. Should the Illinois State Police determine it is necessary to outsource the forensic testing of the cases submitted in accordance with this Section, all such cases will be exempt from the provisions of subsection (n) of Section 5-4-3 of the Unified Code of Corrections.

(c) Beginning June 1, 2016 or on and after the effective date of this amendatory Act of the 99th General Assembly, whichever is later, each law enforcement agency must conduct an annual inventory of all sexual assault cases in the custody of the law enforcement agency and provide written notice of its annual findings to the State's Attorney's Office having jurisdiction to ensure sexual assault cases are being submitted as provided by law.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Failure of a Law Enforcement Agency to Submit the Sexual Assault Evidence

725 ILCS 202/25

The failure of a law enforcement agency to submit the sexual assault evidence collected on or after the effective date of this Act within 10 business days after receipt shall in no way alter the authority of the law enforcement agency to submit the evidence or the authority of the Illinois State Police forensic laboratory or designated laboratory to accept and analyze the evidence

or specimen or to maintain or upload the results of genetic marker grouping analysis information into a local, State, or national database in accordance with established protocol.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Required Certification

725 ILCS 202/30

Each submission of sexual assault evidence submitted for analysis pursuant to this Act shall be accompanied by the following signed certification:

“This evidence is being submitted by (name of investigating law enforcement agency) in connection with a prior or current criminal investigation.”

Current through P.A. 96-1011, eff. Sept. 1, 2010.

Expungement

725 ILCS 202/35

If the Illinois State Police receives written confirmation from the investigating law enforcement agency or State’s Attorney’s office that a DNA record that has been uploaded pursuant to this Act into a local, State or national DNA database was not connected to a criminal investigation, the DNA record shall be expunged from the DNA database and the Illinois State Police shall, by rule, prescribe procedures to ensure that written confirmation is sent to the submitting law enforcement agency verifying the expungement.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Failure to Expunge

725 ILCS 202/40

The failure to expunge a DNA record or strictly comply with the provisions of Section 35 of this Act shall not be grounds for challenging the validity of a database match or database information, and evidence based upon or derived from the DNA record may not be excluded by a court.

Current through P.A. 96-1011, eff. Sept. 1, 2010.

Reporting

725 ILCS 202/42

Beginning January 1, 2017 and each year thereafter, the Illinois State Police shall publish a quarterly report on its website, indicating a breakdown of the number of sexual assault case submissions from every law enforcement agency.

Current through P.A 102-0538, eff. Aug. 20, 2021.

Rules

725 ILCS 202/45

The Illinois State Police shall promulgate rules that prescribe the procedures for the operation of this Act, including expunging a DNA record.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Sexual Assault Evidence Tracking System

725 ILCS 202/50

(a) On June 26, 2018, the Sexual Assault Evidence Tracking and Reporting Commission issued its report as required under Section 43. It is the intention of the General Assembly in enacting the provisions of this amendatory Act of the 101st General Assembly to implement the recommendations of the Sexual Assault Evidence Tracking and Reporting Commission set forth in that report in a manner that utilizes the current resources of law enforcement agencies whenever possible and that is adaptable to changing technologies and circumstances.

(a-1) Due to the complex nature of a statewide tracking system for sexual assault evidence and to ensure all stakeholders, including, but not limited to, victims and their designees, health care facilities, law enforcement agencies, forensic labs, and State's Attorneys offices are integrated, the Commission recommended the purchase of an electronic off-the-shelf tracking system. The system must be able to communicate with all stakeholders and provide real-time information to a victim or his or her designee on the status of the evidence that was collected. The sexual assault evidence tracking system must:

(1) be electronic and web-based;

(2) be administered by the Illinois State Police;

(3) have help desk availability at all times;

(4) ensure the law enforcement agency contact information is accessible to the victim or his or her designee through the tracking system, so there is contact information for questions;

(5) have the option for external connectivity to evidence management systems, laboratory information management systems, or other electronic data systems already in existence by any of the stakeholders to minimize additional burdens or tasks on stakeholders;

(6) allow for the victim to opt in for automatic notifications when status updates are entered in the system, if the system allows;

(7) include at each step in the process, a brief explanation of the general purpose of that step and a general indication of how long the step may take to complete;

(8) contain minimum fields for tracking and reporting, as follows:

(A) for sexual assault evidence kit vendor fields:

(i) each sexual evidence kit identification number provided to each health care facility; and

(ii) the date the sexual evidence kit was sent to the health care facility.

(B) for health care facility fields:

(i) the date sexual assault evidence was collected; and

(ii) the date notification was made to the law enforcement agency that the sexual assault evidence was collected.

(C) for law enforcement agency fields:

(i) the date the law enforcement agency took possession of the sexual assault evidence from the health care facility, another law

enforcement agency, or victim if he or she did not go through a health care facility;

(ii) the law enforcement agency complaint number;

(iii) if the law enforcement agency that takes possession of the sexual assault evidence from a health care facility is not the law enforcement agency with jurisdiction in which the offense occurred, the date when the law enforcement agency notified the law enforcement agency having jurisdiction that the agency has sexual assault evidence required under subsection (c) of Section 20 of the Sexual Assault Incident Procedure Act;

(iv) an indication if the victim consented for analysis of the sexual assault evidence;

(v) if the victim did not consent for analysis of the sexual assault evidence, the date on which the law enforcement agency is no longer required to store the sexual assault evidence;

(vi) a mechanism for the law enforcement agency to document why the sexual assault evidence was not submitted to the laboratory for analysis, if applicable;

(vii) the date the law enforcement agency received the sexual assault evidence results back from the laboratory;

(viii) the date statutory notifications were made to the victim or documentation of why notification was not made; and

(ix) the date the law enforcement agency turned over the case information to the State's Attorney office, if applicable.

(D) for forensic lab fields:

(i) the date the sexual assault evidence is received from the law enforcement agency by the forensic lab for analysis;

(ii) the laboratory case number, visible to the law enforcement agency and State's Attorney office; and

(iii) the date the laboratory completes the analysis of the sexual assault evidence.

(E) for State's Attorney office fields:

(i) the date the State's Attorney office received the sexual assault evidence results from the laboratory, if applicable; and

(ii) the disposition or status of the case.

(a-2) The Commission also developed guidelines for secure electronic access to a tracking system for a victim, or his or her designee to access information on the status of the evidence collected. The Commission recommended minimum guidelines in order to safeguard confidentiality of the information contained within this statewide tracking system. These recommendations are that the sexual assault evidence tracking system must:

(1) allow for secure access, controlled by an administering body who can restrict user access and allow different permissions based on the need of that particular

user and health care facility users may include out-of-state border hospitals, if authorized by the Illinois State Police to obtain this State's kits from vendor;

(2) provide for users, other than victims, the ability to provide for any individual who is granted access to the program their own unique user ID and password;

(3) provide for a mechanism for a victim to enter the system and only access his or her own information;

(4) enable a sexual assault evidence to be tracked and identified through the unique sexual assault evidence kit identification number or barcode that the vendor applies to each sexual assault evidence kit per the Illinois State Police's contract;

(5) have a mechanism to inventory unused kits provided to a health care facility from the vendor;

(6) provide users the option to either scan the bar code or manually enter the sexual assault evidence kit number into the tracking program;

(7) provide a mechanism to create a separate unique identification number for cases in which a sexual evidence kit was not collected, but other evidence was collected;

(8) provide the ability to record date, time, and user ID whenever any user accesses the system;

(9) provide for real-time entry and update of data;

(10) contain report functions including:

(A) health care facility compliance with applicable laws;

(B) law enforcement agency compliance with applicable laws;

(C) law enforcement agency annual inventory of cases to each State's Attorney office; and

(D) forensic lab compliance with applicable laws; and

(11) provide automatic notifications to the law enforcement agency when:

(A) a health care facility has collected sexual assault evidence;

(B) unreleased sexual assault evidence that is being stored by the law enforcement agency has met the minimum storage requirement by law; and

(C) timelines as required by law are not met for a particular case, if not otherwise documented.

(b) The Illinois State Police may develop rules to implement a sexual assault evidence tracking system that conforms with subsections (a-1) and (a-2) of this Section. The Illinois State Police shall design the criteria for the sexual assault evidence tracking system so that, to the extent reasonably possible, the system can use existing technologies and products, including, but not limited to, currently available tracking systems. The sexual assault evidence tracking system shall be operational and shall begin tracking and reporting sexual assault evidence no later than one year after the effective date of this amendatory Act of the 101st General Assembly. The Illinois State Police may adopt additional rules as it deems necessary to ensure that the sexual assault evidence tracking system continues to be a useful tool for law enforcement.

(c) A treatment hospital, a treatment hospital with approved pediatric transfer, an out-of-state hospital approved by the Department of Public Health to receive transfers of Illinois sexual assault survivors, or an approved pediatric health care facility defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act shall participate in the sexual assault evidence tracking system created under this Section and in accordance with rules adopted under subsection (b), including, but not limited to, the collection of sexual assault evidence and providing information regarding that evidence, including, but not limited to, providing notice to law enforcement that the evidence has been collected.

(d) The operations of the sexual assault evidence tracking system shall be funded by moneys appropriated for that purpose from the State Crime Laboratory Fund and funds provided to the Illinois State Police through asset forfeiture, together with such other funds as the General Assembly may appropriate.

(e) To ensure that the sexual assault evidence tracking system is operational, the Illinois State Police may adopt emergency rules to implement the provisions of this Section under subsection (ff) of Section 5-45 of the Illinois Administrative Procedure Act.

(f) Information, including, but not limited to, evidence and records in the sexual assault evidence tracking system is exempt from disclosure under the Freedom of Information Act.

Current through P.A. 102-0813, eff. May 13, 2022.

SEXUAL ASSAULT INCIDENT PROCEDURE ACT

725 ILCS 203/1

Legislative Findings

725 ILCS 203/5

(1) Sexual assault and sexual abuse are personal and violent crimes that disproportionately impact women, children, lesbian, gay, bisexual, and transgender individuals in Illinois, yet only a small percentage of these crimes are reported, less than one in five, and even fewer result in a conviction.

(2) The trauma of sexual assault and sexual abuse often leads to severe mental, physical, and economic consequences for the victim.

(3) The diminished ability of victims to recover from their sexual assault or sexual abuse has been directly linked to the response of others to their trauma.

(4) The response of law enforcement can directly impact a victim’s ability to heal as well as his or her willingness to actively participate in the investigation by law enforcement.

(5) Research has shown that a traumatic event impacts memory consolidation and encoding. Allowing a victim to complete at least 2 full sleep cycles before an in-depth interview can improve the victim’s ability to provide a history of the sexual assault or sexual abuse.

(6) Victim participation is critical to the successful identification and prosecution of sexual predators. To facilitate victim participation, law enforcement should inform victims of the testing of physical evidence and the results of such testing.

(7) Identification and successful prosecution of sexual predators prevents new victimization. For this reason, improving the response of the criminal justice system to victims of sexual assault and sexual abuse is critical to protecting public safety.

Current through P.A. 99-0801, eff. Jan. 1, 2017.

Definitions

725 ILCS 203/10

“Board” means the Illinois Law Enforcement Training Standards Board.

“Evidence-based, trauma-informed, victim-centered” means policies, procedures, programs, and practices that have been demonstrated to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in a sexual assault or sexual abuse victim’s life and focusing on the needs and concerns of a victim that ensures compassionate and sensitive delivery of services in a nonjudgmental manner.

“Human trafficking” means a violation or attempted violation of Section 10-9 of the Criminal Code of 2012. “Human trafficking” includes trafficking of children and adults for both labor and sex services.

“Law enforcement agency having jurisdiction” means the law enforcement agency in the jurisdiction where an alleged sexual assault or sexual abuse occurred.

“Sexual assault evidence” means evidence collected in connection with a sexual assault or sexual abuse investigation, including, but not limited to, evidence collected using the Illinois State Police Sexual Assault Evidence Collection Kit as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act.

“Sexual assault or sexual abuse” means an act of nonconsensual sexual conduct or sexual penetration, as defined in Section 12-12 of the Criminal Code of 1961 or Section 11-0.1 of the Criminal Code of 2012, including, without limitation, acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961 or Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012.

Current through P.A. 104-0159, eff. Jan. 1, 2026.

Victim Notification

725 ILCS 203/11

When sexual assault evidence is collected from a sexual assault survivor, the health care provider or law enforcement officer who collects the evidence must notify a victim about the tracking system. Such notification is satisfied by providing the victim information regarding the Sexual Assault Evidence Tracking System and the victim’s unique log-in information contained within the sexual assault evidence kit or generated by the sexual assault evidence tracking system.

Current through P.A. 102-0022, eff. June 25, 2021.

Sexual Assault Incident Policies

725 ILCS 203/15

(a) On or before January 1, 2018, every law enforcement agency shall develop, adopt, and implement written policies regarding procedures for incidents of sexual assault or sexual

abuse consistent with the guidelines developed under subsection (b) of this Section. In developing these policies, each law enforcement agency is encouraged to consult with other law enforcement agencies, sexual assault advocates, and sexual assault nurse examiners with expertise in recognizing and handling sexual assault and sexual abuse incidents. These policies must include mandatory sexual assault and sexual abuse response training as required in Section 10.21 of the Illinois Police Training Act and Sections 2605-51 and 2605-53 of the Illinois State Police Law of the Civil Administrative Code of Illinois.

(a-5) On or before January 1, 2021, every law enforcement agency shall revise and implement its written policies regarding procedures for incidents of sexual assault or sexual abuse consistent with the guideline revisions developed under subsection (b-5) of this Section.

(b) On or before July 1, 2017, the Office of the Attorney General, in consultation with the Illinois Law Enforcement Training Standards Board and the Illinois State Police, shall develop and make available to each law enforcement agency, comprehensive guidelines for creation of a law enforcement agency policy on evidence-based, trauma-informed, victim-centered sexual assault and sexual abuse response and investigation.

These guidelines shall include, but not be limited to the following:

(1) dispatcher or call taker response;
(2) responding officer duties;
(3) duties of officers investigating sexual assaults and sexual abuse;
(4) supervisor duties;
(5) report writing;
(6) reporting methods;
(7) victim interviews;
(8) evidence collection;
(9) sexual assault medical forensic examinations;
(10) suspect interviews;
(11) suspect forensic exams;
(12) witness interviews;
(13) sexual assault response and resource teams, if applicable;
(14) working with victim advocates;
(15) working with prosecutors;
(16) victims' rights;
(17) victim notification; and
(18) consideration for specific populations or communities.

(b-5) On or before January 1, 2020, the Office of the Attorney General, in consultation with the Illinois Law Enforcement Training Standards Board and the Illinois State Police, shall revise the comprehensive guidelines developed under subsection (b) to include responding to victims who are under 13 years of age at the time the sexual assault or sexual abuse occurred.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Reports by Law Enforcement Officers

725 ILCS 203/20

(a) A law enforcement officer shall complete a written police report upon receiving the following, regardless of where the incident occurred:

(1) an allegation by a person that the person has been sexually assaulted or sexually abused regardless of jurisdiction;

(2) information from hospital or medical personnel provided under Section 3.2 of the Criminal Identification Act; or

(3) information from a witness who personally observed what appeared to be a sexual assault or sexual abuse or attempted sexual assault or sexual abuse.

(b) The written report shall include the following, if known:

(1) the victim's name or other identifier;

(2) the victim's contact information;

(3) time, date, and location of offense;

(4) information provided by the victim;

(5) the suspect's description and name, if known;

(6) names of persons with information relevant to the time before, during, or after the sexual assault or sexual abuse, and their contact information;

(7) names of medical professionals who provided a medical forensic examination of the victim and any information they provided about the sexual assault or sexual abuse;

(8) whether an Illinois State Police Sexual Assault Evidence Collection Kit was completed, the name and contact information for the hospital, and whether the victim consented to testing of the Evidence Collection Kit by law enforcement;

(9) whether a urine or blood sample was collected and whether the victim consented to testing of a toxicology screen by law enforcement;

(10) information the victim related to medical professionals during a medical forensic examination which the victim consented to disclosure to law enforcement; and

(11) other relevant information.

(c) If the sexual assault or sexual abuse occurred in another jurisdiction, the law enforcement officer taking the report must submit the report to the law enforcement agency having jurisdiction in person or via fax or email within 24 hours of receiving information about the sexual assault or sexual abuse.

(d) Within 24 hours of receiving a report from a law enforcement agency in another jurisdiction in accordance with subsection (c), the law enforcement agency having jurisdiction shall submit a written confirmation to the law enforcement agency that wrote the report. The written confirmation shall contain the name and identifier of the person and confirming receipt of the report and a name and contact phone number that will be given to the victim. The written confirmation shall be delivered in person or via fax or email.

(e) No law enforcement officer shall require a victim of sexual assault or sexual abuse to submit to an interview.

(f) No law enforcement agency may refuse to complete a written report as required by this Section on any ground. A law enforcement officer shall not discourage or attempt to discourage a victim from filing a police report concerning sexual assault or sexual abuse.

(g) All law enforcement agencies shall ensure that all officers responding to or investigating a complaint of sexual assault or sexual abuse have successfully completed training under Section 10.21 of the Illinois Police Training Act and Section 2605-51 of the Illinois State Police Law of the Civil Administrative Code of Illinois.

Current through P.A. 104-0173, eff. Jan. 1, 2026.

Third-Party Reports

725 ILCS 203/22

A victim of sexual assault or sexual abuse may give a person consent to provide information about the sexual assault or sexual abuse to a law enforcement officer, and the officer shall complete a written report unless:

(1) the person contacting law enforcement fails to provide the person's name and contact information; or

(2) the person contacting law enforcement fails to affirm that the person has the consent of the victim of the sexual assault or sexual abuse.

Current through P.A. 99-0801, eff. Jan. 1, 2017.

Report; Victim Notice

725 ILCS 203/25

(a) At the time of first contact with the victim, law enforcement shall:

(1) Advise the victim about the following by providing a form, the contents of which shall be prepared by the Office of the Attorney General and posted on its website, written in a language appropriate for the victim or in Braille, or communicating in appropriate sign language that includes, but is not limited to:

(A) information about seeking medical attention and preserving evidence, including specifically, collection of evidence during a medical forensic examination at a hospital and photographs of injury and clothing;

(B) notice that the victim will not be charged for hospital emergency and medical forensic services;

(C) information advising the victim that evidence can be collected at the hospital up to 7 days after the sexual assault or sexual abuse but that the longer the victim waits the likelihood of obtaining evidence decreases;

(C-5) notice that the sexual assault forensic evidence collected will not be used to prosecute the victim for any offense related to the use of alcohol, cannabis, or a controlled substance;

(D) the location of nearby hospitals that provide emergency medical and forensic services and, if known, whether the hospitals employ any sexual assault nurse examiners;

(E) a summary of the procedures and relief available to victims of sexual assault or sexual abuse under the Civil No Contact Order Act or the Illinois Domestic Violence Act of 1986;

(F) the law enforcement officer's name and badge number;

(G) at least one referral to an accessible service agency and information advising the victim that rape crisis centers can assist with obtaining civil no contact orders and orders of protection; and

(H) if the sexual assault or sexual abuse occurred in another jurisdiction, provide in writing the address and phone number of a specific contact at the law enforcement agency having jurisdiction.

(2) Offer to provide or arrange accessible transportation for the victim to a hospital for emergency and forensic services, including contacting emergency medical services.

(2.5) Notify victims about the Illinois State Police sexual assault evidence tracking system.

(3) Offer to provide or arrange accessible transportation for the victim to the nearest available circuit judge or associate judge so the victim may file a petition for an emergency civil no contact order under the Civil No Contact Order Act or an order of protection under the Illinois Domestic Violence Act of 1986 after the close of court business hours, if a judge is available.

(b) At the time of the initial contact with a person making a third-party report under Section 22 of this Act, a law enforcement officer shall provide the written information prescribed under paragraph (1) of subsection (a) of this Section to the person making the report and request the person provide the written information to the victim of the sexual assault or sexual abuse.

(c) If the first contact with the victim occurs at a hospital, a law enforcement officer may request the hospital provide interpretive services.

Current through P.A. 102-0022, eff. June 25, 2021.

Release and Storage of Sexual Assault Evidence

725 ILCS 203/30

(a) A law enforcement agency having jurisdiction that is notified by a hospital or another law enforcement agency that a victim of a sexual assault or sexual abuse has received a medical forensic examination and has completed an Illinois State Police Sexual Assault Evidence Collection Kit shall take custody of the sexual assault evidence as soon as practicable, but in no event more than 5 days after the completion of the medical forensic examination.

(a-5) A State's Attorney who is notified under subsection (d) of Section 6.6 of the Sexual Assault Survivors Emergency Treatment Act that a hospital is in possession of sexual assault evidence shall, within 72 hours, contact the appropriate law enforcement agency to request that the law enforcement agency take immediate physical custody of the sexual assault evidence.

(b) The written report prepared under Section 20 of this Act shall include the date and time the sexual assault evidence was picked up from the hospital and the date and time the sexual assault evidence was sent to the laboratory in accordance with the Sexual Assault Evidence Submission Act.

(c) If the victim of a sexual assault or sexual abuse or a person authorized under Section 6.5 of the Sexual Assault Survivors Emergency Treatment Act has consented to allow law enforcement to test the sexual assault evidence, the law enforcement agency having jurisdiction shall submit the sexual assault evidence for testing in accordance with the Sexual Assault Evidence Submission Act. No law enforcement agency having jurisdiction may refuse or fail to send sexual assault evidence for testing that the victim has released for testing.

(d) A victim shall have 10 years from the completion of an Illinois State Police Sexual Assault Evidence Collection Kit, or 10 years from the age of 18 years, whichever is longer, to sign a written consent to release the sexual assault evidence to law enforcement for testing. If the victim or a person authorized under Section 6.5 of the Sexual Assault Survivors Emergency Treatment Act does not sign the written consent at the completion of the medical forensic examination, the victim or person authorized by Section 6.5 of the Sexual Assault Survivors Emergency Treatment Act may sign the written release at the law enforcement agency having jurisdiction, or in the presence of a sexual assault advocate who may deliver the written release to the law enforcement agency having jurisdiction. The victim may also provide verbal consent to the law enforcement agency having jurisdiction and shall verify the verbal consent via email or fax. Upon receipt of written or verbal consent, the law enforcement agency having jurisdiction shall submit the sexual assault evidence for testing in accordance with the Sexual Assault Evidence Submission Act. No law enforcement agency having jurisdiction may refuse or fail to send the sexual assault evidence for testing that the victim has released for testing.

(e) The law enforcement agency having jurisdiction who speaks to a victim who does not sign a written consent to release the sexual assault evidence prior to discharge from the hospital shall provide a written notice to the victim that contains the following information:

(1) where the sexual assault evidence will be stored for 10 years;

(2) notice that the victim may sign a written release to test the sexual assault evidence at any time during the 10-year period by contacting the law enforcement agency having jurisdiction or working with a sexual assault advocate;

(3) the name, phone number, and email address of the law enforcement agency having jurisdiction; and

(4) the name and phone number of a local rape crisis center.

Each law enforcement agency shall develop a protocol for providing this information to victims as part of the written policies required in subsection (a) of Section 15 of this Act.

(f) A law enforcement agency must develop a protocol for responding to victims who want to sign a written consent to release the sexual assault evidence and to ensure that victims who want to be notified or have a designee notified prior to the end of the 10-year period are provided notice.

(g) Nothing in this Section shall be construed as limiting the storage period to 10 years. A law enforcement agency having jurisdiction may adopt a storage policy that provides for a period of time exceeding 10 years. If a longer period of time is adopted, the law enforcement agency having jurisdiction shall notify the victim or designee in writing of the longer storage period.

Current through P.A. 100-1087, eff. Jan. 1, 2019.

Release of Information

725 ILCS 203/35

(a) Upon the request of the victim who has consented to the release of sexual assault evidence for testing, the law enforcement agency having jurisdiction shall notify the victim about the Illinois State Police sexual assault evidence tracking system and provide the following information in writing:

(1) the date the sexual assault evidence was sent to an Illinois State Police forensic laboratory or designated laboratory;

(2) test results provided to the law enforcement agency by an Illinois State Police forensic laboratory or designated laboratory, including, but not limited to:

(A) whether a DNA profile was obtained from the testing of the sexual assault evidence from the victim's case;

(B) whether the DNA profile developed from the sexual assault evidence has been searched against the DNA Index System or any state or federal DNA database;

(C) whether an association was made to an individual whose DNA profile is consistent with the sexual assault evidence DNA profile, provided that disclosure would not impede or compromise an ongoing investigation; and

(D) whether any drugs were detected in a urine or blood sample analyzed for drug facilitated sexual assault and information about any drugs detected.

(b) The information listed in paragraph (1) of subsection (a) of this Section shall be provided to the victim within 7 days of the transfer of the evidence to the laboratory. The information listed in paragraph (2) of subsection (a) of this Section shall be provided to the victim within 7 days of the receipt of the information by the law enforcement agency having jurisdiction.

(c) At the time the sexual assault evidence is released for testing, the victim shall be provided written information by the law enforcement agency having jurisdiction or the hospital providing emergency services and forensic services to the victim informing him or her of the right to request information under subsection (a) of this Section. A victim may designate another person or agency to receive this information.

(d) The victim or the victim's designee shall keep the law enforcement agency having jurisdiction informed of the name, address, telephone number, and email address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and email address, if an email address is available.

Current through P.A. 102-0813, eff. May 13, 2022.

THE SEXUALLY DANGEROUS PERSONS ACT

725 ILCS 205/0.01

Sexually Dangerous Persons; Definition

725 ILCS 205/1.01

As used in this Act:

All persons suffering from a mental disorder, which mental disorder has existed for a period of not less than one year, immediately prior to the filing of the petition hereinafter provided for, coupled with criminal propensities to the commission of sex offenses, and who have demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children, are hereby declared sexually dangerous persons.

Current through Laws 1955, p. 1144, § 1, eff. July 7, 1955.

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Petition; Contents

725 ILCS 205/3

When any person is charged with a criminal offense and it shall appear to the Attorney General or to the State's Attorney of the county wherein such person is so charged, that such person is a sexually dangerous person, within the meaning of this Act, then the Attorney General or State's Attorney of such county may file with the clerk of the court in the same proceeding wherein such person stands charged with criminal offense, a petition in writing setting forth facts tending to show that the person named is a sexually dangerous person.

Current through Laws 1955, p. 1144, § 1, eff. July 7, 1955.

Civil Nature of Proceedings; Burden of Proof; Procedure

725 ILCS 205/3.01

The proceedings under this Act shall be civil in nature, however, the burden of proof required to commit a defendant to confinement as a sexually dangerous person shall be the standard of proof required in a criminal proceedings of proof beyond a reasonable doubt. The provisions of the Civil Practice Law, and all existing and future amendments of that Law and modifications thereof1 and the Supreme Court Rules now or hereafter adopted in relation to that Law shall apply to all proceedings hereunder except as otherwise provided in this Act.

Current through P.A. 82-0783, eff. July 13, 1982.

Examination by Evaluator

725 ILCS 205/4

After the filing of the petition, the court shall appoint two qualified evaluators to make a personal examination of the alleged sexually dangerous person, to ascertain whether the person is sexually dangerous, and the evaluators shall file with the court a report in writing of the result of their examination, a copy of which shall be delivered to the respondent.

Current through P.A. 98-0088, eff. July 15, 2013.

“Qualified Evaluator”; Defined

725 ILCS 205/4.01

“Qualified evaluator” means a reputable physician or psychologist licensed in Illinois or any other state to practice medicine or psychology, or any other licensed professional who specializes in the evaluation of sex offenders.

Current through P.A. 98-0088, eff. July 15, 2013.

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Mental Disorder

725 ILCS 205/4.03

“Mental disorder” means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

Current through P.A. 94-0705, eff. June 1, 2006.

Examination

725 ILCS 205/4.04

“Examination” means an examination conducted in conformance with the standards developed under the Sex Offender Management Board Act and by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act.

Current through by P.A. 98-0088, eff. July 15, 2013.

Criminal Propensities to the Commission of Sex Offenses

725 ILCS 205/4.05

For the purposes of this Act, “criminal propensities to the commission of sex offenses” means that it is substantially probable that the person subject to the commitment proceeding will engage in the commission of sex offenses in the future if not confined.

Current through P.A. 98-0088, eff. July 15, 2013.

Jury Trial, Right to; Evidence

725 ILCS 205/5

The respondent in any proceedings under this Act shall have the right to demand a trial by jury and to be represented by counsel. The cost of representation by counsel for an indigent respondent shall be paid by the county in which the proceeding is brought. At the hearing on the petition it shall be competent to introduce evidence of the commission by the respondent of any number of crimes together with whatever punishments, if any, were inflicted.

Current through P.A. 98-0088, eff. July 15, 2013.

Director of Corrections as Guardian

725 ILCS 205/8

If the respondent is found to be a sexually dangerous person then the court shall appoint the Director of Corrections guardian of the person found to be sexually dangerous and such person shall stand committed to the custody of such guardian. The Director of Corrections as guardian shall keep safely the person so committed until the person has recovered and is

released as hereinafter provided. The Director of Corrections as guardian shall provide care and treatment for the person committed to him designed to effect recovery. Any treatment provided under this Section shall be in conformance with the standards promulgated by the Sex Offender Management Board Act and conducted by a treatment provider licensed under the Sex Offender Evaluation and Treatment Provider Act. The Director may place that ward in any facility in the Department of Corrections or portion thereof set aside for the care and treatment of sexually dangerous persons. The Department of Corrections may also request another state Department or Agency to examine such person and upon such request, such Department or Agency shall make such examination and the Department of Corrections may, with the consent of the chief executive officer of such other Department or Agency, thereupon place such person in the care and treatment of such other Department or Agency.

Current through P.A. 97-1098, eff. July 1, 2014.

Recovery; Examination and Hearing

725 ILCS 205/9

(a) An application in writing setting forth facts showing that the sexually dangerous person or criminal sexual psychopathic person has recovered may be filed before the committing court. Upon receipt thereof, the clerk of the court shall cause a copy of the application to be sent to the Director of the Department of Corrections. The Director shall then cause to be prepared and sent to the court a socio-psychiatric report concerning the applicant. The report shall be prepared by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act. The court shall set a date for the hearing upon the application and shall consider the report so prepared under the direction of the Director of the Department of Corrections and any other relevant information submitted by or on behalf of the applicant.

(b) At a hearing under this Section, the Attorney General or State's Attorney who filed the original application shall represent the State. The sexually dangerous person or the State may elect to have the hearing before a jury. The State has the burden of proving by clear and convincing evidence that the applicant is still a sexually dangerous person.

(c) If the applicant refuses to speak to, communicate with, or otherwise fails to cooperate with the State's examiner, the applicant may only introduce evidence and testimony from any expert or professional person who is retained to conduct an examination based upon review of the records and may not introduce evidence resulting from an examination of the person. Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted under this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held under this Act.

(d) If a person has previously filed an application in writing setting forth facts showing that the sexually dangerous person or criminal sexual psychopathic person has recovered and the court determined either at a hearing or following a jury trial that the applicant is still a sexually dangerous person, or if the application is withdrawn, no additional application may be filed for 2 years after a finding that the person is still sexually dangerous or after the application is withdrawn, except if the application is accompanied by a statement from the treatment provider that the applicant has made exceptional progress and the application contains facts upon which a court could find that the condition of the person had so changed that a hearing is warranted.

(e) If the person is found to be no longer dangerous, the court shall order that he or she be discharged. If the court finds that the person appears no longer to be dangerous but that it is impossible to determine with certainty under conditions of institutional care that the person has fully recovered, the court shall enter an order permitting the person to go at large subject to the conditions and supervision by the Director as in the opinion of the court will adequately protect the public. In the event the person violates any of the conditions of the order, the court shall revoke the conditional release and recommit the person under Section 5-6-4 of the Unified Code of Corrections under the terms of the original commitment. Upon an order of discharge every outstanding information and indictment, the basis of which was the reason for the present detention, shall be quashed.

Current through P.A. 98-0088, eff. July 15, 2013.

Conditional Release; Petition; Revocation and Re-Commitment

725 ILCS 205/10

Whenever the Director finds that any person committed to him under this Act as now or hereafter amended, appears no longer to be dangerous but that it is impossible to determine with certainty under conditions of institutional care that such person has fully recovered, the Director of the Department of Corrections may petition the committing court for an order authorizing the conditional release of any person committed to him under this Act and the court may enter an order permitting such person to go at large subject to such conditions and such supervision by the Director as in the opinion of the court will adequately protect the public. In the event the person violates any of the conditions of such order, the court shall revoke such conditional release and re-commit the person pursuant to Section 5-6-4 of the Unified Code of Corrections under the terms of the original commitment.

Current through P.A. 77-2477, eff. Jan. 1, 1973.

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THE SEXUALLY VIOLENT PERSONS COMMITMENT ACT

725 ILCS 207/1

Definitions

725 ILCS 207/5

As used in this Act, the term:

(a) “Department” means the Department of Human Services.

(b) “Mental disorder” means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

(c) “Secretary” means the Secretary of Human Services.

(d) “Sexually motivated” means that one of the purposes for an act is for the actor’s sexual arousal or gratification.

(e) “Sexually violent offense” means any of the following:

(1) Any crime specified in Section 11-1.20, 11-1.30, 11-1.40, 11-1.60, 11-6, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012; or

(1.5) Any former law of this State specified in Section 11-1 (rape), 11-3 (deviate sexual assault), 11-4 (indecent liberties with a child) or 11-4.1 (aggravated indecent liberties with a child) of the Criminal Code of 1961; or

(2) First degree murder, if it is determined by the agency with jurisdiction to have been sexually motivated; or

(3) Any solicitation, conspiracy or attempt to commit a crime under paragraph (e)(1) or (e)(2) of this Section.

(f) "Sexually violent person" means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Sexually Violent Person Review; Written Notification to State's Attorney

725 ILCS 207/9

The Illinois Department of Corrections or the Department of Juvenile Justice, not later than 6 months prior to the anticipated release from imprisonment or the anticipated entry into mandatory supervised release of a person who has been convicted or adjudicated delinquent of a sexually violent offense, shall send written notice to the State's Attorney in the county in which the person was convicted or adjudicated delinquent of the sexually violent offense informing the State's Attorney of the person's anticipated release date and that the person will be considered for commitment under this Act prior to that release date.

Current through P.A. 94-0992, eff. Jan. 1, 2007.

Notice to the Attorney General and State's Attorney

725 ILCS 207/10

(a) In this Act, "agency with jurisdiction" means the agency with the authority or duty to release or discharge the person.

(b) If an agency with jurisdiction has control or custody over a person who may meet the criteria for commitment as a sexually violent person, the agency with jurisdiction shall inform the Attorney General and the State's Attorney in a position to file a petition under paragraph (a)(2) of Section 15 of this Act regarding the person as soon as possible beginning 3 months prior to the applicable date of the following:

(1) The anticipated release from imprisonment or the anticipated entry into mandatory supervised release of a person who has been convicted of a sexually violent offense.

(2) The anticipated release from a Department of Corrections correctional facility or juvenile correctional facility of a person adjudicated delinquent under Section 5-20 of the Juvenile Court Act of 1987 (now repealed) or found guilty under Section 5-620 of that Act, on the basis of a sexually violent offense.

(3) The discharge or conditional release of a person who has been found not guilty of a sexually violent offense by reason of insanity under Section 5-2-4 of the Unified Code of Corrections.

(c) The agency with jurisdiction shall provide the Attorney General and the State's Attorney with all of the following:

(1) The person's name, identifying factors, anticipated future residence and offense history;

(2) A comprehensive evaluation of the person's mental condition, the basis upon which a determination has been made that the person is subject to commitment under subsection (b) of Section 15 of this Act and a recommendation for action in furtherance of the purposes of this Act. The evaluation shall be conducted in conformance with the standards developed under the Sex Offender Management Board Act and by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act; and

(3) If applicable, documentation of any treatment and the person's adjustment to any institutional placement.

(d) Any agency or officer, employee or agent of an agency is immune from criminal or civil liability for any acts or omissions as the result of a good faith effort to comply with this Section.

Current through P.A. 97-1098, eff. Jan. 1, 2014.

Sexually Violent Person Petition; Contents; Filing

725 ILCS 207/15

(a) A petition alleging that a person is a sexually violent person must be filed before the release or discharge of the person or within 30 days of placement onto parole, aftercare release, or mandatory supervised release for an offense enumerated in paragraph (e) of Section 5 of this Act. A petition may be filed by the following:

(1) The Attorney General on his or her own motion, after consulting with and advising the State's Attorney of the county in which the person was convicted of a sexually violent offense, adjudicated delinquent for a sexually violent offense or found not guilty of or not responsible for a sexually violent offense by reason of insanity, mental disease, or mental defect; or

(2) The State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section, on his or her own motion; or

(3) The Attorney General and the State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section may jointly file a petition on their own motion; or

(4) A petition may be filed at the request of the agency with jurisdiction over the person, as defined in subsection (a) of Section 10 of this Act, by:

(a) the Attorney General;

(b) the State's Attorney of the county referenced in paragraph (1)(a)(1) of this Section; or

(c) the Attorney General and the State's Attorney jointly.

(b) A petition filed under this Section shall allege that all of the following apply to the person alleged to be a sexually violent person:

(1) The person satisfies any of the following criteria:

(A) The person has been convicted of a sexually violent offense;

(B) The person has been found delinquent for a sexually violent offense; or

(C) The person has been found not guilty of a sexually violent offense by reason of insanity, mental disease, or mental defect.

(2) & (3) (Blank).

(4) The person has a mental disorder.

(5) The person is dangerous to others because the person's mental disorder creates a substantial probability that he or she will engage in acts of sexual violence.

(b-5) The petition must be filed no more than 90 days before discharge or entry into mandatory supervised release from a Department of Corrections or aftercare release from the Department of Juvenile Justice correctional facility for a sentence that was imposed upon a conviction for a sexually violent offense. For inmates sentenced under the law in effect prior to February 1, 1978, the petition shall be filed no more than 90 days after the Prisoner Review Board's order granting parole pursuant to Section 3-3-5 of the Unified Code of Corrections.

(b-6) The petition must be filed no more than 90 days before discharge or release:

(1) from a Department of Juvenile Justice juvenile correctional facility if the person was placed in the facility for being adjudicated delinquent under Section 5-20 of the Juvenile Court Act of 1987 or found guilty under Section 5-620 of that Act on the basis of a sexually violent offense; or

(2) from a commitment order that was entered as a result of a sexually violent offense.

(b-7) A person convicted of a sexually violent offense remains eligible for commitment as a sexually violent person pursuant to this Act under the following circumstances: (1) the person is in custody for a sentence that is being served concurrently or consecutively with a sexually violent offense; (2) the person returns to the custody of the Illinois Department of Corrections or the Department of Juvenile Justice for any reason during the term of parole, aftercare release, or mandatory supervised release being served for a sexually violent offense; or (3) the person is convicted or adjudicated delinquent for any offense committed during the term of parole, aftercare release, or mandatory supervised release being served for a sexually violent offense, regardless of whether that conviction or adjudication was for a sexually violent offense.

(c) A petition filed under this Section shall state with particularity essential facts to establish probable cause to believe the person is a sexually violent person. If the petition alleges that a sexually violent offense or act that is a basis for the allegation under paragraph (b)(1) of this Section was an act that was sexually motivated as provided under paragraph (e)(2) of Section 5 of this Act, the petition shall state the grounds on which the offense or act is alleged to be sexually motivated.

(d) A petition under this Section shall be filed in either of the following:

(1) The circuit court for the county in which the person was convicted of a sexually violent offense, adjudicated delinquent for a sexually violent offense or found not

guilty of a sexually violent offense by reason of insanity, mental disease or mental defect.

(2) The circuit court for the county in which the person is in custody under a sentence, a placement to a Department of Corrections correctional facility or a Department of Juvenile Justice juvenile correctional facility, or a commitment order.

(e) The filing of a petition under this Act shall toll the running of the term of parole or mandatory supervised release until:

(1) dismissal of the petition filed under this Act;

(2) a finding by a judge or jury that the respondent is not a sexually violent person; or

(3) the sexually violent person is discharged under Section 65 of this Act.

(f) The State has the right to have the person evaluated by experts chosen by the State. The agency with jurisdiction as defined in Section 10 of this Act shall allow the expert reasonable access to the person for purposes of examination, to the person's records, and to past and present treatment providers and any other staff members relevant to the examination.

Current through P.A. 99-0628, eff. Jan. 1, 2017.

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Detention; Probable Cause Hearing; Transfer for Examination

725 ILCS 207/30

(a) Upon the filing of a petition under Section 15 of this Act, the court shall review the petition to determine whether to issue an order for detention of the person who is the subject of the petition. The person shall be detained only if there is cause to believe that the person is eligible for commitment under subsection (f) of Section 35 of this Act. A person detained under this Section shall be held in a facility approved by the Department. The Department may elect to place persons who have been ordered by the court to be detained in a State-operated mental health facility or a portion of that facility. Persons placed in a State-operated mental health facility under this Act shall be separated and shall not comingle with the recipients of the mental health facility. The portion of a State-operated mental health facility that is used for the persons detained under this Act shall not be a part of the mental health facility for the enforcement and implementation of the Mental Health and Developmental Disabilities Code nor shall their care and treatment be subject to the provisions of the Mental Health and Developmental Disabilities Code. The changes added to this Section by Public Act 98-79 are inoperative on and after June 30, 2015. If the person is serving a sentence of imprisonment, is in a Department of Corrections correctional facility or juvenile correctional facility or is committed to institutional care, and the court orders detention under this Section, the court shall order that the person be transferred to a detention facility approved by the Department. A detention order under this Section remains in effect until the person is discharged after a trial under Section 35 of this Act or until the effective date of a commitment order under Section 40 of this Act, whichever is applicable.

(b) Whenever a petition is filed under Section 15 of this Act, the court shall hold a hearing to determine whether there is probable cause to believe that the person named in the

petition is a sexually violent person. If the person named in the petition is in custody, the court shall hold the probable cause hearing within 72 hours after the petition is filed, excluding Saturdays, Sundays and legal holidays. The court may grant a continuance of the probable cause hearing for no more than 7 additional days upon the motion of the respondent, for good cause. If the person named in the petition has been released, is on parole, is on aftercare release, is on mandatory supervised release, or otherwise is not in custody, the court shall hold the probable cause hearing within a reasonable time after the filing of the petition. At the probable cause hearing, the court shall admit and consider all relevant hearsay evidence.

(c) If the court determines after a hearing that there is probable cause to believe that the person named in the petition is a sexually violent person, the court shall order that the person be taken into custody if he or she is not in custody and shall order the person to be transferred within a reasonable time to an appropriate facility for an evaluation as to whether the person is a sexually violent person. If the person who is named in the petition refuses to speak to, communicate with, or otherwise fails to cooperate with the examining evaluator from the Department of Human Services or the Department of Corrections, that person may only introduce evidence and testimony from any expert or professional person who is retained or court-appointed to conduct an examination of the person that results from a review of the records and may not introduce evidence resulting from an examination of the person. Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted pursuant to this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held pursuant to this Act, including the probable cause hearing and the trial.

If the court determines that probable cause does not exist to believe that the person is a sexually violent person, the court shall dismiss the petition.

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Current through P.A. 98-0756, eff. July 16, 2014.

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Notice Concerning Conditional Release, Discharge, Escape, Death, or Court-ordered Change in the Custody Status of a Detainee or Civilly Committed Sexually Violent Person

725 ILCS 207/75

(a) As used in this Section, the term:

(1) “Act of sexual violence” means an act or attempted act that is a basis for an allegation made in a petition under paragraph (b)(1) of Section 15 of this Act.

(2) “Member of the family” means spouse, child, sibling, parent, or legal guardian.

(3) “Victim” means a person against whom an act of sexual violence has been committed.

(b) If the court places a civilly committed sexually violent person on conditional release under Section 40 or 60 of this Act or discharges a person under Section 65, or if a detainee or civilly committed sexually violent person escapes, dies, or is subject to any court-ordered change in custody status of the detainee or sexually violent person, the

Department shall make a reasonable attempt, if he or she can be found, to notify all of the following who have requested notification under this Act or under the Rights of Crime Victims and Witnesses Act:

(1) Whichever of the following persons is appropriate in accordance with the provisions of subsection (a)(3):

(A) The victim of the act of sexual violence.

(B) An adult member of the victim's family, if the victim died as a result of the act of sexual violence.

(C) The victim's parent or legal guardian, if the victim is younger than 18 years old.

(2) The Department of Corrections or the Department of Juvenile Justice.

(c) The notice under subsection (b) of this Section shall inform the Department of Corrections or the Department of Juvenile Justice and the person notified under paragraph (b)(1) of this Section of the name of the person committed under this Act and the date the person is placed on conditional release, discharged, or if a detainee or civilly committed sexually violent person escapes, dies, or is subject to any court-ordered change in the custody status of the detainee or sexually violent person. The Department shall send the notice, postmarked within one business day of the court order requiring the preparation of a conditional release plan under paragraph (b)(3) of Section 40 or subsection (f) of Section 60 and another notice postmarked within one business day of the court order approving the conditional release, discharge, or any court-ordered change in the custody status of the detainee or sexually violent person, unless unusual circumstances do not permit advance written notification, or immediately if a detainee or civilly committed sexually violent person escapes or dies, to the Department of Corrections or the Department of Juvenile Justice and the last-known address of the person notified under paragraph (b)(1) of this Section.

(d) The Department shall design and prepare cards for persons specified in paragraph (b)(1) of this Section to send to the Department. The cards shall have space for these persons to provide their names and addresses, the name of the person committed under this Act and any other information the Department determines is necessary. The Department shall provide the cards, without charge, to the Attorney General and State's Attorneys. The Attorney General and State's Attorneys shall provide the cards, without charge, to persons specified in paragraph (b)(1) of this Section. These persons may send completed cards to the Department. All records or portions of records of the Department that relate to mailing addresses of these persons are not subject to inspection or copying under Section 3 of the Freedom of Information Act.

Current through P.A. 99-0299, eff. Aug. 6, 2015

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Note: To view omitted provisions of the Act, please refer to www.ilga.gov.

VIOLENT CRIME VICTIMS ASSISTANCE ACT

725 ILCS 240

Note: To view the Violent Crime Victims Assistance Act, please refer to www.ilga.gov.

V. SENTENCING DISPOSITIONS

SUMMARY OF DISPOSITIONS OF ADULT OFFENDERS FOR MAJOR SEX OFFENSES

Criminal Sexual Assault

Criminal Sexual Assault is a Class 1 felony punishable by a mandatory term of incarceration of 4 to 15 years. 730 ILCS 5/5-4.5-30(a). Conditional discharge, probation, and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(H). An extended term of from 15-30 years may be imposed if aggravating factors were found to be present. 730 ILCS 5/5-4.5-30(a). For example, if the defendant holds a position of trust, authority, or supervision in relation to a victim with an intellectual disability, the court may consider that as a factor in favor of an extended sentence. 730 ILCS 5/5-5-3.2(a)(29). Also, the court may extend the sentence if a minor victim was under the influence of alcohol when the sex crime was committed. 730 ILCS 5/5-5-3.2(e). Mandatory Supervised Release (MSR) is three years to natural life. 730 ILCS 5/5-8-1(d)(4).

A second or subsequent conviction is a Class X felony punishable by 6-30 years (720 ILCS 5/11-1.20(b)(1)(C), 730 ILCS 5/5-4.5-25(a)); 30-60 years (720 ILCS 5/11-1.20(b)(1)(A)); or natural life imprisonment (720 ILCS 5/11-1.20(b)(1)(B)), depending on the previous conviction.

For convictions for felony sex offenses, the court shall order an assessment at sentencing of $1,314, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15–20, Schedule 4(2)(C). A fine of up to $25,000 may also be imposed. 730 ILCS 5/5-4.5-50(b). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Aggravated Criminal Sexual Assault

Aggravated Criminal Sexual Assault is a Class X felony punishable by a mandatory term of incarceration of 6 to 30 years. 730 ILCS 5/5-4.5-25(a). Conditional discharge, probation and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(C). An extended term of 30-60 years is available if aggravating factors were found to be present. 730 ILCS 5/5-4.5-25(a). For example, if the defendant holds a position of trust, authority, or supervision in relation to a victim with an intellectual disability, the court may consider that as a factor in favor of an

extended sentence. 730 ILCS 5/5-5-3.2(a)(29). The court may extend the sentence if a minor victim was under the influence of alcohol when the sex crime was committed. 730 ILCS 5/5-5-3.2(e). If the accused displayed a weapon other than a firearm, this felony shall carry an additional 10 years, and if the accused is armed with a firearm, an additional 15 years. 720 ILCS 5/11-1.30(d)(1). If the accused discharges a firearm during the commission of the offense, this felony shall carry an additional 20 years, and if the accused discharges a firearm causing great bodily harm, permanent disability, permanent disfigurement, or death, an additional 25 years to natural life. *Id.* MSR is 3 years to natural life. 730 ILCS 5/5-8-1(d)(4).

A second or subsequent conviction is a Class X felony punishable by natural life imprisonment. 720 ILCS 5/11-1.30(d)(2).

For convictions for felony sex offenses, the court shall order an assessment at sentencing of $1,314, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15–20, Schedule 4 (2)(C). A fine of up to $25,000 may also be imposed. 730 ILCS 5/5-4.5-50(b). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Predatory Criminal Sexual Assault of a Child

Predatory Criminal Sexual Assault of a Child is a Class X felony punishable by a mandatory term of incarceration of 6 to 60 years. 720 ILCS 5/11-1.40(b)(1). Conditional discharge, probation and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(C). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). If the defendant holds a position of trust, authority, or supervision in relation to a victim with an intellectual disability, the court may consider that as a factor in sentencing the defendant to prison or imposing an extended sentence. 730 ILCS 5/5-5-3.2(a)(29). An extended 15-year term shall be imposed if the offender was armed with a firearm. 720 ILCS 5/11-1.40(b)(1). An extended 20-year term shall be added if the offender discharged a firearm during the offense. *Id.* An extended term of not less than 50 years or up to natural life shall be imposed if the offender was at least 18 years of age at the time of the offense and caused great bodily harm that resulted in permanent disability or was life threatening. *Id.* An extended term sentence shall be imposed of not less than 50 years and not more than 60 years if the offender delivered to the victim a controlled substance by any means, other than for medicinal purposes. 720 ILCS 5/11-1.40(b)(1.1). If an adult is convicted of this crime against two or more persons, the sentence shall be a term of natural life in prison. 720 ILCS 5/11-1.40(b)(1.2). MSR is three years to natural life. 730 ILCS 5/5-8-1(d)(4).

A second or subsequent conviction is punishable by natural life imprisonment. 720 ILCS 5/11-1.40(b)(2).

For convictions for felony sex offenses, the court shall order an assessment at sentencing of $1,314, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15-20, Schedule 4 (2)(C). A fine of up to $25,000 may also be imposed. 730 ILCS 5/5-4.5-50(b). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Criminal Sexual Abuse

Class A Misdemeanor:

A person commits Class A misdemeanor Criminal Sexual Abuse by committing sexual conduct or sexual penetration if the victim is 9 to 16 years old and the offender is 16 years old or younger, or if the victim is 13 to 16 years old and the offender is less than five years older than the victim. 720-ILCS 5/11-1.50(d).This Class A misdemeanor is punishable by a jail term of less than one year. 730 ILCS 5/5-4.5-55(a). Conditional discharge and probation are available to a length of 2 years. 730 ILCS 5/5-4.5-55(d). Periodic imprisonment of less than one year is available for this offense. 730 ILCS 5/5-4.5-55(b). There is no increased penalty for a second or subsequent offense. 720-ILCS 5/11-1.50(d).

For convictions for misdemeanor sex offenses, the court shall order an assessment at sentencing of $1,184, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15-40, Schedule 8 (2)(c). A fine of up to $2,500 may also be imposed for Class A misdemeanors. 730 ILCS 5/5-4.5-55(e). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Class 4 Felony:

A person commits a Class 4 felony Criminal Sexual Abuse by committing sexual conduct and (1) uses of force or threat of force or (2) knows that the victim was unable to understand the nature of the act or was unable to give knowing consent. This Class 4 felony is punishable by 1 to 3 years' incarceration. Conditional discharge and probation of up to 30 months are available. 730 ILCS 5/5-4.5-45(d). Periodic imprisonment of up to 18 months is available for this offense. 730 ILCS 5/5-4.5-45(b). An extended term of 3 to 6 years is available. 730 ILCS 5/5-4.5-45(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). If the defendant holds a position of trust, authority, or supervision in relation to a victim with an intellectual disability, the court may consider that in sentencing the defendant to prison or imposing an extended sentence. 730 ILCS 5/5-5-3.2(a)(29). MSR is 1 year 730 ILCS 5/5-4.5-45(*l*). An extended term of 7 to 14 years is available. 730 ILCS 5/5-4.5-35(a). If the victim is under 18 for a second and subsequent offense of felony criminal sexual abuse, MSR is 4 years, and the first 2 years of MSR must be served in an electronic monitoring or home detention program. 730 ILCS 5/5-8-1(d)(5).

A second or subsequent conviction is a Class 2 felony punishable by 3 to 7 years imprisonment. 720 ILCS 5/11-1.50(d); 730 ILCS 5/5-4.5-35(a).

For convictions for felony sex offenses, the court shall order an assessment at sentencing of $1,314, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15-20, Schedule 4 (2)(C). A fine of up to $25,000 may also be imposed. 730 ILCS 5/5-4.5-50(b). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Aggravated Criminal Sexual Abuse

Aggravated Criminal Sexual Abuse under 720 ILCS 5/11-1.60(a)-(e) is a Class 2 felony punishable by a term of incarceration of 3 to 7 years. 730 ILCS 5/5-4.5-35(a). Under 720 ILCS 5/11-1.60(f) ("an act of sexual conduct with a victim who is but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority or supervision in relation to the victim") it is a Class 1 felony punishable by 4-15 years of incarceration. 730 ILCS 5/5-4.5-30(a). Conditional discharge and probation may not exceed 4 years. 730 ILCS 5/5-4.5-35(d). Periodic imprisonment is allowed from 18-30 months for Class 2 felonies and 3-4 years for Class 1 felonies. 730 ILCS 5/5-4.5-35(b) and -30(b). To receive probation, family member offenders must comply with conditions set out in 730 ILCS 5/5-5-3(e). Probation, conditional discharge or periodic imprisonment are not allowed if the offender has been convicted of a Class 2 or greater felony sex offense that contained the same elements as the

current crime within 10 years of the date on which the offender committed the offense being sentenced. 730 ILCS 5/5-5-3(c)(2)(F-3). An extended term of 7 to 14 years may be imposed for Class 2 felonies, and 15-30 years for Class 1 felonies. 730 ILCS 5/5-4.5-35(a) and -30(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). If the defendant holds a position of trust, authority, or supervision in relation to a victim with an intellectual disability, the court may consider that as a factor in sentencing the defendant to prison or imposing an extended sentence. 730 ILCS 5/5-5-3.2(a)(29). MSR is two years. 730 ILCS 5/5-4.5-35(l).

The Aggravated Criminal Sexual Abuse statute does not provide for a higher level of penalty for a second or subsequent offense. 720 ILCS 5/11-1.60(g). However, a second conviction of a Class 2 or greater felony sex offense within 10 years is non-probationable, and extended term eligible. 730 ILCS 5/5-4.5-45; 730 ILCS 5/5-5-3(c)(2)(F-3). If the victim is under 18 for a second and subsequent offense of Aggravated Criminal Sexual Abuse or felony Criminal Sexual Abuse, MSR is 4 years, and the first 2 years of MSR must be served in an electronic monitoring or home detention program. 730 ILCS 5/5-8-1(d)(5).

For convictions for felony sex offenses, the court shall order an assessment at sentencing of $1,314, $200 of which is deposited into the Sexual Assault Services Fund. 705 ILCS 135/15–20, Schedule 4 (2)(C). A fine of up to $25,000 may also be imposed. 730 ILCS 5/5-4.5-50(b). The court may reduce or waive the fine if it would impose an undue burden on the victim. *Id.*

Restitution shall be ordered for offenses in which the victim was injured or experienced property damage or loss as a result of the criminal act. 730 ILCS 5/5-5-6. At sentencing, the defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the criminal conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). For victims of sex offenses, restitution may include all or any portion of the cost of treatment, including but not limited to, medical, psychiatric, or rehabilitative treatment or counseling prescribed for the victim. 730 ILCS 5/5-5-6(g). The court may require payments over five years, not including periods of incarceration. 730 ILCS 5/5-5-6(f) & (g). However, restitution is not to be ordered to be paid for pain and suffering. 730 ILCS 5/5-5-6(b).

Habitual Criminals

Habitual Criminals, as defined in 730 ILCS 5/5-4.5-95, shall be sentenced to a term of natural life. See Article 4.5, General Sentencing Provisions on page 334 for more details.

Summary of Major Sex Offense Dispositions (Adult Offenders)

Offense	Criminal Sexual Assault	Aggravated Criminal Sexual Assault	Predatory Criminal Sexual Assault	Criminal Sexual Abuse		Aggravated Criminal Sexual Abuse
Penalty	Class 1 felony	Class X felony	Class X felony	Class A misdemeanor	Class 4 felony	Class 2 felony; Class 1 for (f)*
Incarceration	4-15 years	6-30 years	6-60 years	Less than one year	1-3 years	3-7 Years; (f) = 4-15 years*
Mandatory Supervised Release	3 years-natural life	3 years-natural life	3 years-natural life	N/A	1 year	2 years; (f) = 3 years-natural life*
Extended Term or Penalty Enhancement	15-30 years	10; 15; 20; 25 years-natural life; 30-60	15; 20; 50 years-natural life; 50-60; natural life	N/A	3-6 years	7-14 years; (f) = 15-30 years*; no probation**
Conditional Discharge	N/A	N/A	N/A	Up to 2 years	30 months	Up to 4 years** (f) = N/A*
Periodic Imprisonment	N/A	N/A	N/A	Less than one year	18 months	18-30 months** (f) = N/A*
Probation	N/A	N/A	N/A	Up to 2 years	30 months	Up to 4 years** (family***) (f) = N/A*
Sexual Assault Assessment****	$200	$200	$200	$200	$200	$200
Fine*****	Up to $25,000	Up to $25,000	Up to $25,000	Up to $2,500	Up to $25,000	Up to $25,000
Restitution*****	Yes	Yes	Yes	Yes	Yes	Yes
2nd or Subsequent Offense	Class X felony	Class X felony	Class X felony	No increased level of offense	Class 2 felony	Extended-term eligible, if 2nd conviction within 10 years
Penalty for 2nd or Subsequent Offense	6-30; 30-60; or natural life	Natural life	Natural life	No increased penalty	3-7 years	See Extended Term above

* Class 1 felony if victim is under 17 and offender is 17+ and in a position of trust, authority, or supervision in relation to the victim. 720 ILCS 5/11-1.60(f).

** No probation, periodic imprisonment or conditional discharge if convicted of second Class 2 or greater felony within 10 years. 730 ILCS 5/5-5-3(c)(2)(F-3).

*** Special conditions of probation for family member offenders. 730 ILCS 5/5-5-3(e).

**** 705 ILCS 135/15-20, Schedule 4 (2)(c); 705 ILCS 135/15-40, Schedule 8 (2)(c).

***** Neither a fine nor restitution shall be the sole disposition for a felony, and either or both may be imposed for a felony only in conjunction with another disposition 730 ILCS 5/5-4.5-15(b).

CRIMINAL AND TRAFFIC ASSESSMENT ACT

705 ILCS 135/1-1

Note: To view the following sections of the Act, please refer to www.ilga.gov.

Schedule 4: Felony Sex Offenses
705 ILCS 135/15-20

Schedule 8: Misdemeanor Sex Offenses
705 ILCS 135/15-40

Chapter 730: Corrections
UNIFIED CODE OF CORRECTIONS (SELECTED SECTIONS)
CHAPTER 3: DEPARTMENT OF CORRECTIONS
Article 3: Prisoner Review Board

730 ILCS 5/3-3

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Sex Offender Restrictions

730 ILCS 5/3-3-11.5

(a) Definition. For purposes of this Act, a “sex offender” is any person who has ever been convicted of a sexual offense or attempt to commit a sexual offense, and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense; or adjudicated or found to be a sexually dangerous person under any law substantially similar to the Sexually Dangerous Persons Act.

(b) Residency restrictions. No sex offender shall be accepted for supervised or conditioned residency in Illinois under the Interstate Compact for Adult Offender Supervision unless he or she:

(1) Complies with any registration requirements imposed by the Sex Offender Registration Act within the times prescribed and with law enforcement agencies designated under that Act;

(2) Complies with the requirements of paragraph (a)(5) of Section 5-4-3 of the Unified Code of Corrections relating to the submission of blood specimens for genetic marker grouping by persons seeking transfer to or residency in Illinois; and

(3) Signs a written form approved by the Department of Corrections which, at a minimum, includes the substance of this Section or a summary of it and an acknowledgement that he or she agrees to abide by the conditions set forth in that document and this Section.

Current through P.A. 92-0571, eff. June 26, 2002.

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Article 6: Institutions; Facilities; and Programs

730 ILCS 5/3-6

Rules and Regulations for Sentence Credit

730 ILCS 5/3-6-3

(a) (1) The Department of Corrections shall prescribe rules and regulations for awarding and revoking sentence credit for persons committed to the Department of Corrections and the Department of Juvenile Justice shall prescribe rules and regulations for awarding and revoking sentence credit for persons committed to the Department of Juvenile Justice under Section 5-8-6 of the Unified Code of Corrections, which shall be subject to review by the Prisoner Review Board.

(1.5) As otherwise provided by law, sentence credit may be awarded for the following:

(A) successful completion of programming while in custody of the Department of Corrections or the Department of Juvenile Justice or while in custody prior to sentencing;

(B) compliance with the rules and regulations of the Department; or

(C) service to the institution, service to a community, or service to the State.

(2) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or with respect to offense listed in clause (vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or with respect to the offense of unlawful possession of a firearm by a repeat felony offender committed on or after August 2, 2005 (the effective date of Public Act 94-398) or with respect to the offenses listed in clause (v) of this paragraph (2) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or with respect to the offense of aggravated domestic battery committed on or after July 23, 2010 (the effective date of Public Act 96-1224) or with respect to the offense of attempt to commit terrorism committed on or after January 1, 2013 (the effective date of Public Act 97-990), the following:

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(ii) that a prisoner serving a sentence for attempt to commit terrorism, attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, unlawful possession of a firearm by a repeat felony offender, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05, or aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment;

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(vi) that a prisoner serving a sentence for a second or subsequent offense of luring a minor shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment; and

(vii) that a prisoner serving a sentence for aggravated domestic battery shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998 or subdivision (a)(2)(iv) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or subdivision (a)(2)(vii) committed on or after July 23, 2010 (the effective date of Public Act 96-1224), and other than the offense of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, and other than the offense of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (C) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code committed on or after January 1, 2011 (the effective date of Public Act 96-1230), the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of sentence credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of sentence credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9.

(2.2) A prisoner serving a term of natural life imprisonment shall receive no sentence credit.

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(4) (B) The Department shall award sentence credit under this paragraph (4) accumulated prior to January 1, 2020 (the effective date of Public Act 101-440) in an amount specified in subparagraph (C) of this paragraph (4) to an inmate serving a sentence for an offense committed prior to June 19, 1998, if the Department determines that the inmate is entitled to this sentence credit, based upon:

(i) documentation provided by the Department that the inmate engaged in any full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning provided by the Department under this paragraph (4) and satisfactorily completed the assigned program as determined by the standards of the Department during the inmate's current term of incarceration; or

(ii) the inmate's own testimony in the form of an affidavit or documentation, or a third party's documentation or testimony in the form of an affidavit that the inmate likely engaged in any full-time

substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning provided by the Department under paragraph (4) and satisfactorily completed the assigned program as determined by the standards of the Department during the inmate's current term of incarceration.

(C) If the inmate can provide documentation that he or she is entitled to sentence credit under subparagraph (B) in excess of 45 days of participation in those programs, the inmate shall receive 90 days of sentence credit. If the inmate cannot provide documentation of more than 45 days of participation in those programs, the inmate shall receive 45 days of sentence credit. In the event of a disagreement between the Department and the inmate as to the amount of credit accumulated under subparagraph (B), if the Department provides documented proof of a lesser amount of days of participation in those programs, that proof shall control. If the Department provides no documentary proof, the inmate's proof as set forth in clause (ii) of subparagraph (B) shall control as to the amount of sentence credit provided.

(D) If the inmate has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, sentencing credits under subparagraph (B) of this paragraph (4) shall be awarded by the Department only if the conditions set forth in paragraph (4.6) of subsection (a) are satisfied. No inmate serving a term of natural life imprisonment shall receive sentence credit under subparagraph (B) of this paragraph (4).

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(4.6) The rules and regulations on sentence credit shall also provide that a prisoner who has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act shall receive no sentence credit unless he or she either has successfully completed or is participating in sex offender treatment as defined by the Sex Offender Management Board. However, prisoners who are waiting to receive treatment, but who are unable to do so due solely to the lack of resources on the part of the Department, may, at either Director's sole discretion, be awarded sentence credit at a rate as the Director shall determine.

(4.7) On or after January 1, 2018 (the effective date of Public Act 100-3), sentence credit under paragraph (3), (4), or (4.1) of this subsection (a) may be awarded to a prisoner who is serving a sentence for an offense described in paragraph (2), (2.3), (2.4), (2.5), or (2.6) for credit earned on or after January 1, 2018 (the effective date of Public Act 100-3); provided, the award of the credits under this paragraph (4.7) shall not reduce the sentence of the prisoner to less than the following amounts:

(i) 85% of his or her sentence if the prisoner is required to serve 85% of his or her sentence; or

(ii) 60% of his or her sentence if the prisoner is required to serve 75% of his or her sentence, except if the prisoner is serving a sentence for gunrunning his or her sentence shall not be reduced to less than 75%.

(iii) 100% of his or her sentence if the prisoner is required to serve 100% of his or her sentence.

(5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of earned sentence credit under paragraph (3) of subsection (a) of this Section given at any time during the term, the Department shall give reasonable notice of the impending release not less than 14 days prior to the date of the release to the State's Attorney of the county where the prosecution of the inmate took place, and if applicable, the State's Attorney of the county into which the inmate will be released. The Department must also make identification information and a recent photo of the inmate being released accessible on the Internet by means of a hyperlink labeled "Community Notification of Inmate Early Release" on the Department's World Wide Web homepage. The identification information shall include the inmate's: name, any known alias, date of birth, physical characteristics, commitment offense, and county where conviction was imposed. The identification information shall be placed on the website within 3 days of the inmate's release and the information may not be removed until either: completion of the first year of mandatory supervised release or return of the inmate to custody of the Department.

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(f) Whenever the Department is to release any inmate who has been convicted of a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, earlier than it otherwise would because of a grant of sentence credit, the Department, as a condition of release, shall require that the person, upon release, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

Current through P.A. 103-0822, eff. Jan. 1, 2025.

Article 14: Parole and After-Care

730 ILCS 5/3-14

Extended Supervision of Sex Offenders

730 ILCS 5/3-14-2.5

(a) The Department shall retain custody of all sex offenders placed on mandatory supervised release pursuant to clause (d)(4) of Section 5-8-1 of this Code and shall supervise such persons during their term of supervised release in accord with the conditions set by the Prisoner Review Board pursuant to Section 3-3-7 of this Code.

(b) A copy of the conditions of mandatory supervised release shall be signed by the offender and given to him or her and to his or her supervising officer. Commencing 180 days after the offender's release date and continuing every 180 days thereafter for the duration of the supervision term, the supervising officer shall prepare a progress report detailing the offender's adjustment and compliance with the conditions of mandatory supervised release including the offender's participation and progress in sex offender treatment. The progress report shall be submitted to the Prisoner Review Board and copies provided to the chief of police and sheriff in the municipality and county in which the offender resides and is registered.

(c) Supervising officers shall receive specialized training in the supervision of sex offenders including the impact of sexual assault on its victims.

(d) Releasees serving extended mandatory supervised release terms pursuant to subsection (d) of Section 5-8-1 of this Code may request discharge from supervision as provided by subsection (b) of Section 3-3-8 of this Code. Requests for discharge from extended mandatory supervised release shall be supported by a recommendation by the releasee's supervising agent and an evaluation of the releasee completed no longer than 30 days prior to the request for discharge from supervision. The evaluation shall be conducted by a Sex Offender Management Board approved sex offender evaluator and shall be at the releasee's expense.

(e) The term of extended mandatory supervised release pursuant to paragraph (4) of subsection (d) of Section 5-8-1 of this Code shall toll during any period of incarceration.

Current through P.A. 94-0165, eff. July 11, 2005.

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Mental Health Treatment; Stalking and Aggravated Stalking

730 ILCS 5/3-14-5

Mental Health treatment; stalking and aggravated stalking. For defendants found guilty of stalking or aggravated stalking and sentenced to the custody of the Department of Corrections, the court may order the Prisoner Review Board to consider requiring the defendant to undergo mental health treatment by a mental health professional or at a community mental health center, hospital, or facility of the Department of Human Services as a condition of parole or mandatory supervised release.

Current through P.A. 89-0507, eff. July 1, 1997.

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Supervision of Domestic Violence Offenders

730 ILCS 5/3-14-7

A person convicted of a felony domestic battery, aggravated domestic battery, stalking, aggravated stalking, or a felony violation of an order of protection shall be supervised during his or her term of parole or mandatory supervised release by a supervising officer who has completed not less than 40 hours of domestic violence and partner abuse intervention training.

Current through P.A. 96-0282, eff. July 1, 2010.

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CHAPTER 5: SENTENCING
Article 3: Presentence Procedure

730 ILCS 5/5-3

Presentence Investigation

730 ILCS 5/5-3-1

A defendant shall not be sentenced for a felony before a written presentence report of investigation is presented to and considered by the court.

However, other than for felony sex offenders being considered for probation, the court need not order a presentence report of investigation where both parties agree to the imposition of a specific sentence, provided there is a finding made for the record as to the defendant's history of delinquency or criminality, including any previous sentence to a term of probation, periodic imprisonment, conditional discharge, or imprisonment.

The court may order a presentence investigation of any defendant.

Current through P.A. 93-0970, eff. Aug. 20, 2004.

Presentence Report

730 ILCS 5/5-3-2

(a) In felony cases, the presentence report shall set forth:

(1) the defendant's history of delinquency or criminality, physical and mental history and condition, family situation and background, economic status, education, occupation and personal habits;

(2) information about special resources within the community which might be available to assist the defendant's rehabilitation, including treatment centers, residential facilities, vocational training services, correctional manpower programs, employment opportunities, special educational programs, alcohol and drug abuse programming, psychiatric and marriage counseling, and other programs and facilities which could aid the defendant's successful reintegration into society;

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

(3.5) information provided by the victim's spouse, guardian, parent, grandparent, and other immediate family and household members about the effect the offense committed has had on the victim and on the person providing the information; if the victim's spouse, guardian, parent, grandparent, or other immediate family or household member has provided a written statement, the statement shall be attached to the report;

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(b-5) In cases involving felony sex offenses in which the offender is being considered for probation only or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in which the offender is being considered for probation only, the investigation shall include a sex offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act. In cases in which the offender is being considered for any mandatory prison sentence, the investigation shall not include a sex offender evaluation.

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Current through P.A. 101-0652, eff. Jan. 1, 2023.

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Disclosure of Reports

730 ILCS 5/5-3-4

(a) Any report made pursuant to this Article or Section 5-705 of the Juvenile Court Act of 1987 shall be filed of record with the court in a sealed envelope.

(b) Presentence reports shall be open for inspection only as follows:

(1) to the sentencing court;

(2) to the state's attorney and the defendant's attorney at least 3 days prior to the imposition of sentence, unless such 3 day requirement is waived;

(3) to an appellate court in which the conviction or sentence is subject to review;

(4) to any department, agency or institution to which the defendant is committed;

(5) to any probation department of whom courtesy probation is requested;

(6) to any probation department assigned by a court of lawful jurisdiction to conduct a presentence report;

(6.5) to the victim of a crime under paragraph (13) of subsection (c-5) of Section 4.5 of the Rights of Crime Victims and Witnesses Act;

(7) to any other person only as ordered by the court; and

(8) to any mental health professional on behalf of the Illinois Department of Corrections or the Department of Human Services or to a prosecutor who is evaluating or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of a presentence report or the respondent to a petition brought under the Sexually Violent Persons Commitment Act who is the subject of the presentence report sought. Any records and any information obtained from those records under this paragraph (8) may be used only in sexually violent persons commitment proceedings.

(c) Presentence reports shall be filed of record with the court within 60 days of a verdict or finding of guilty for any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961 or the Criminal Code of 2012, or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act.

(d) A complaint, information or indictment shall not be quashed or dismissed nor shall any person in custody for an offense be discharged from custody because of noncompliance with subsection (c) of this Section.

Current through P.A. 99-0413, eff. Aug. 20, 2015.

Article 4: Sentencing

730 ILCS 5/5-4

Sentencing Hearing

730 ILCS 5/5-4-1

(a) After a determination of guilt, a hearing shall be held to impose the sentence. However, prior to the imposition of sentence on an individual being sentenced for an offense based upon a charge for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the individual must undergo a professional evaluation to determine if an alcohol or other drug abuse problem exists and the extent of such a problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may, in its discretion, accept an evaluation from a program in the state of such individual's residence. The court shall make a specific finding about whether the defendant is eligible for participation in a Department impact incarceration program as provided in Section 5-8-1.1 or 5-8-1.3, and if not, provide an explanation as to why a sentence to impact incarceration is not an appropriate sentence. The court may in its sentencing order recommend a defendant for placement in a Department of Corrections substance abuse treatment program as provided in paragraph (a) of subsection (1) of Section 3-2-2 conditioned upon the defendant being accepted in a program by the Department of Corrections. At the hearing the court shall:

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

(2) consider any presentence reports;

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

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

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

(5) hear arguments as to sentencing alternatives;

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

(7) afford the victim of a violent crime or a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, the opportunity to present an oral or written statement, as guaranteed by Article I, Section 8.1 of the Illinois Constitution and provided in Section 6 of the Rights of Crime Victims and Witnesses 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 or written statement. An oral or written 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 the Rights of Crime Victims and Witnesses 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. All statements offered under this paragraph (7)

shall become part of the record of the court. In this paragraph (7), "victim of a violent crime" means a person who is a victim of a violent crime for which the defendant has been convicted after a bench or jury trial or a person who is the victim of a violent crime with which the defendant was charged and the defendant has been convicted under a plea agreement of a crime that is not a violent crime as defined in subsection (c) of 3 of the Rights of Crime Victims and Witnesses Act;

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

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

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Current through P.A. 104-0234, eff. Aug. 15, 2025.

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Specimens; Genetic Marker Groups

730 ILCS 5/5-4-3

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois State Police in accordance with the provisions of this Section, provided such person is:

(1) convicted of a qualifying offense or attempt of a qualifying offense on or after July 1, 1990 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997;

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990;

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002;

(4) presently institutionalized as a sexually dangerous person or presently institutionalized as a person found guilty but mentally ill of a sexual offense or attempt to commit a sexual offense; or

(4.5) ordered committed as a sexually violent person on or after January 1, 1998 (the effective date of the Sexually Violent Persons Commitment Act).

(a-1) Any person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years or natural life, who has not yet submitted a specimen of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. A person incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) shall be required to submit a specimen within 45 days of incarceration, or prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

(a-2) Any person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after June 13, 2005 (the effective date of Public Act 94-16) shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on June 13, 2005 (the effective date of Public Act 94-16) or any person who is under a sentence of death on June 13, 2005 (the effective date of Public Act 94-16) shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois State Police.

(a-3) Any person seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of this Code, the Interstate Compact for Adult Offender Supervision, or the Interstate Agreements on Sexually Dangerous Persons Act shall be required to provide a specimen of blood, saliva, or tissue within 45 days after transfer to or residency in Illinois at a collection site designated by the Illinois State Police.

(a-3.1) Any person required by an order of the court to submit a DNA specimen shall be required to provide a specimen of blood, saliva, or tissue within 45 days after the court order at a collection site designated by the Illinois State Police.

(a-3.2) On or after January 1, 2012 (the effective date of Public Act 97-383), any person arrested for any of the following offenses, after an indictment has been returned by a grand jury, or following a hearing pursuant to Section 109-3 of the Code of Criminal Procedure of 1963 and a judge finds there is probable cause to believe the arrestee has committed one of the designated offenses, or an arrestee has waived a preliminary hearing shall be required to provide a specimen of blood, saliva, or tissue within 14 days after such indictment or hearing at a collection site designated by the Illinois State Police:

(A) first degree murder;

(B) home invasion;

(C) predatory criminal sexual assault of a child;

(D) aggravated criminal sexual assault; or

(E) criminal sexual assault.

(a-3.3) Any person required to register as a sex offender under the Sex Offender Registration Act, regardless of the date of conviction as set forth in subsection (c-5.2) shall be required to provide a specimen of blood, saliva, or tissue within the time period prescribed in subsection (c-5.2) at a collection site designated by the Illinois State Police.

(a-5) Any person who was otherwise convicted of or received a disposition of court supervision for any other offense under the Criminal Code of 1961 or the Criminal Code of 2012 or who was found guilty or given supervision for such a violation under the Juvenile Court Act of 1987, may, regardless of the sentence imposed, be required by an order of the court to submit specimens of blood, saliva, or tissue to the Illinois State Police in accordance with the provisions of this Section.

(b) Any person required by paragraphs (a)(1), (a)(1.5), (a)(2), (a)(3.5), and (a-5) to provide specimens of blood, saliva, or tissue shall provide specimens of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois State Police.

(c) Any person required by paragraphs (a)(3), (a)(4), and (a)(4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such specimens prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

(c-5) Any person required by paragraph (a-3) to provide specimens of blood, saliva, or tissue shall, where feasible, be required to provide the specimens before being accepted for conditioned residency in Illinois under the interstate compact or agreement, but no later than 45 days after arrival in this State.

(c-5.2) Unless it is determined that a registered sex offender has previously submitted a specimen of blood, saliva, or tissue that has been placed into the State DNA database, a person registering as a sex offender shall be required to submit a specimen at the time of his or her initial registration pursuant to the Sex Offender Registration Act or, for a person registered as a sex offender on or prior to January 1, 2012 (the effective date

of Public Act 97-383), within one year of January 1, 2012 (the effective date of Public Act 97-383) or at the time of his or her next required registration.

(c-6) The Illinois State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis. The Illinois State Police may require the submission of fingerprints from anyone required to give a specimen under this Act.

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(e) The genetic marker groupings shall be maintained by the Illinois State Police, Division of Forensic Services.

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

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(g) For the purposes of this Section, “qualifying offense” means any of the following:

(1) any violation or inchoate violation of Section 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012;

(1.1) any violation or inchoate violation of Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3, 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of 1961 or the Criminal Code of 2012 for which persons are convicted on or after July 1, 2001;

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

(4) any inchoate violation of Section 9-3.1, 9-3.4, 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or the Criminal Code of 2012; or

(5) any violation or inchoate violation of Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012.

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(i) (1) A person required to provide a blood, saliva, or tissue specimen shall cooperate with the collection of the specimen and any deliberate act by that person intended to impede, delay or stop the collection of the blood, saliva, or tissue specimen is a Class 4 felony.

(2) In the event that a person's DNA specimen is not adequate for any reason, the person shall provide another DNA specimen for analysis. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases in which an individual refuses to provide a DNA specimen required under this Act.

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(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois State Police or persons designated by the Illinois State Police to collect the specimen, or the authority of the Illinois State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

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(o) Mistake does not invalidate a database match. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the specimen was obtained or placed in the database by mistake.

(p) This Section may be referred to as the Illinois DNA Database Law of 2011.

Current through P.A. 103-0605, eff. July 1, 2024.

DNA Testing Backlog Accountability

730 ILCS 5/5-4-3a

(a) On or before August 1 of each year, the Illinois State Police shall report to the Governor and both houses of the General Assembly the following information:

(1) the extent of the backlog of cases awaiting testing or awaiting DNA analysis by the Illinois State Police, including, but not limited to, those tests conducted under Section 5-4-3, as of June 30 of the previous fiscal year, with the backlog being defined as all cases awaiting forensic testing whether in the physical custody of the Illinois State Police or in the physical custody of local law enforcement, provided that the Illinois State Police have written notice of any evidence in the physical custody of local law enforcement prior to June 1 of that year; and

(2) what measures have been and are being taken to reduce that backlog and the estimated costs or expenditures in doing so.

(b) The information reported under this Section shall be made available to the public, at the time it is reported, on the official website of the Illinois State Police.

(c) Beginning January 1, 2016, the Illinois State Police shall quarterly report on the status of the processing of biology submitted to the Illinois State Police Laboratory for analysis. The report shall be submitted to the Governor and the General Assembly, and shall be posted on the Illinois State Police website. The report shall include the following for each Illinois State Police Laboratory location and any laboratory to which the Illinois State Police has outsourced evidence for testing:

(1) For biology submissions, report both total assignment and sexual assault or abuse assignment (as defined by the Sexual Assault Evidence Submission Act) figures for:

(A) The number of assignments received in the preceding quarter.

(B) The number of assignments completed in the preceding quarter.

(C) The number of assignments awaiting analysis.

(D) The number of assignments sent for outsourcing.

(E) The number of assignments awaiting analysis that were received within the past 30 days.

(F) The number of assignments awaiting analysis that were received 31 to 90 days prior.

(G) The number of assignments awaiting analysis that were received 91 to 180 days prior.

(H) The number of assignments awaiting analysis that were received 181 to 365 days prior.

(I) The number of assignments awaiting analysis that were received more than 365 days prior.

(J) (Blank).

(2) (Blank).

(3) For all other categories of testing (e.g., drug chemistry, firearms/toolmark, footwear/tire track, latent prints, toxicology, and trace chemistry analysis):

(A) The number of assignments received in the preceding quarter.

(B) The number of assignments completed in the preceding quarter.

(C) The number of assignments awaiting analysis.

(D) The number of cases entered in the National Integrated Ballistic Information Network (NIBIN).

(E) The number of investigative leads developed from National Integrated Ballistic Information Network (NIBIN) analysis.

(4) For the Combined DNA Index System (CODIS), report both total assignment and sexual assault or abuse assignment (as defined by the Sexual Assault Evidence Submission Act) figures for subparagraphs (D), (E), and (F) of this paragraph (4):

(A) The number of new offender samples received in the preceding quarter.

(B) The number of offender samples uploaded to CODIS in the preceding quarter.

(C) The number of offender samples awaiting analysis.

(D) The number of unknown DNA case profiles uploaded to CODIS in the preceding quarter.

(E) The number of CODIS hits in the preceding quarter.

(F) The number of forensic evidence submissions submitted to confirm a previously reported CODIS hit.

(5) For each category of testing, report the number of trained forensic scientists and the number of forensic scientists in training.

As used in this subsection (c), “completed” means completion of both the analysis of the evidence and the provision of the results to the submitting law enforcement agency.

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Current through P.A. 102-0813, eff. May 13, 2022.

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Sentencing Hearing for Sex Offenses

730 ILCS 5/5-4-3.1

(a) Except for good cause shown by written motion, any person adjudged guilty of any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961 or the Criminal Code of 2012, or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act, shall be sentenced within 65 days of a verdict or finding of guilt for the offense.

(b) The court shall set the sentencing date at the time the verdict or finding of guilt is entered by the court.

(c) Any motion for continuance shall be in writing and supported by affidavit and in compliance with Section 114-4 of the Code of Criminal Procedure of 1963, and the victim shall be notified of the date and time of hearing and shall be provided an opportunity to address the court on the impact the continuance may have on the victim’s well-being.

(d) A complaint, information or indictment shall not be quashed or dismissed, nor shall any person in custody for an offense be discharged from custody because of non-compliance with this Section.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Article 4.5: General Sentencing Provision

730 ILCS 5/5-4.5

For information about sentences for the various Sex Offenses, please see the Summary of Sentencing Dispositions of Adult Offenders at the beginning of this section or refer to the General Sentencing Provision Article of the Unified Code of Corrections at www.ilga.gov

General Recidivism Provisions

730 ILCS 5/5-4.5-95

(a) HABITUAL CRIMINALS.

(1) Every person who has been twice convicted in any state or federal court of an offense that contains the same elements as an offense now (the date of the offense committed after the 2 prior convictions) classified in Illinois as a Class X

felony, criminal sexual assault, aggravated kidnapping, or first degree murder, and who is thereafter convicted of a Class X felony, criminal sexual assault, or first degree murder, committed after the 2 prior convictions, shall be adjudged an habitual criminal.

(2) The 2 prior convictions need not have been for the same offense.

(3) Any convictions that result from or are connected with the same transaction, or result from offenses committed at the same time, shall be counted for the purposes of this Section as one conviction.

(4) This Section does not apply unless each of the following requirements are satisfied:

(A) The third offense was committed after July 3, 1980.

(B) The third offense was committed within 20 years of the date that judgment was entered on the first conviction; provided, however, that time spent in custody shall not be counted.

(C) The third offense was committed after conviction on the second offense.

(D) The second offense was committed after conviction on the first offense.

(E) The first offense was committed when the person was 21 years of age or older.

(5) Anyone who is adjudged an habitual criminal shall be sentenced to a term of natural life imprisonment.

(6) A prior conviction shall not be alleged in the indictment, and no evidence or other disclosure of that conviction shall be presented to the court or the jury during the trial of an offense set forth in this Section unless otherwise permitted by the issues properly raised in that trial. After a plea or verdict or finding of guilty and before sentence is imposed, the prosecutor may file with the court a verified written statement signed by the State's Attorney concerning any former conviction of an offense set forth in this Section rendered against the defendant. The court shall then cause the defendant to be brought before it; shall inform the defendant of the allegations of the statement so filed, and of his or her right to a hearing before the court on the issue of that former conviction and of his or her right to counsel at that hearing; and unless the defendant admits such conviction, shall hear and determine the issue, and shall make a written finding thereon. If a sentence has previously been imposed, the court may vacate that sentence and impose a new sentence in accordance with this Section.

(7) A duly authenticated copy of the record of any alleged former conviction of an offense set forth in this Section shall be prima facie evidence of that former conviction; and a duly authenticated copy of the record of the defendant's final release or discharge from probation granted, or from sentence and parole supervision (if any) imposed pursuant to that former conviction, shall be prima facie evidence of that release or discharge.

(8) Any claim that a previous conviction offered by the prosecution is not a former conviction of an offense set forth in this Section because of the existence of any exceptions described in this Section, is waived unless duly raised at the hearing

on that conviction, or unless the prosecution's proof shows the existence of the exceptions described in this Section.

(9) If the person so convicted shows to the satisfaction of the court before whom that conviction was had that he or she was released from imprisonment, upon either of the sentences upon a pardon granted for the reason that he or she was innocent, that conviction and sentence shall not be considered under this Section.

(b) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 forcible felony after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now (the date the Class 1 or Class 2 forcible felony was committed) classified in Illinois as a Class 2 or greater Class forcible felony and those charges are separately brought and tried and arise out of different series of acts, that defendant shall be sentenced as a Class X offender. This subsection does not apply unless:

(1) the first forcible felony was committed after February 1, 1978 (the effective date of Public Act 80-1099);

(2) the second forcible felony was committed after conviction on the first;

(3) the third forcible felony was committed after conviction on the second; and

(4) the first offense was committed when the person was 21 years of age or older.

(c) (Blank).

A person sentenced as a Class X offender under this subsection (b) is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Substance Use Disorder Act (20 ILCS 301/40-10).

Current through P.A. 101-0652, eff. July 1, 2021.

Article 5: Authorized Dispositions

730 ILCS 5/5-5

Disposition

730 ILCS 5/5-5-3

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(*Not Less Than Minimum Term of Imprisonment*)

730 ILCS 5/5-5-3(c)(2)

(c) (2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

(A) First degree murder.

(B) Attempted first degree murder.

(C) A Class X felony.

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(F) A Class 1 or greater felony if the offender had been convicted of a Class 1 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 1 or greater felony) classified as a Class 1 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.

(F-3) A Class 2 or greater felony sex offense or felony firearm offense if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.

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(H) Criminal sexual assault.

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(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012.

(P-5) A violation of paragraph (6) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012 if the victim is a household or family member of the defendant.

(P-6) A violation of paragraph (2) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012.

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(V) A violation of paragraph (4) of subsection (c) of Section 11–20.1B or paragraph (4) of subsection (c) of Section 11–20.3 of the Criminal Code of 1961, or paragraph (6) of subsection (a) of Section 11–20.1 of the Criminal Code of 2012 when the victim is under 13 years of age and the defendant has previously been convicted under the laws of this State or any other state of the offense of child sexual abuse material or child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses.

(V-5) A violation of paragraph (1) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012 when the purported child depicted is indistinguishable from an actual child is under 13 years of age and the

defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child if the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses.

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(*Family Member Probation*)

730 ILCS 5/5-5-3(e)

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 11-1.60 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan, including, but not limited to, the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 11-0.1 of the Criminal Code of 2012.

(f) (Blank).

(*HIV Testing Upon Conviction*)

730 ILCS 5/5-5-3(g)

(g) Whenever a defendant is convicted of an offense under Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14, 11-14.3, 11-14.4 except for an offense that involves keeping a place of commercial sexual exploitation of a child, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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(Child Care and School Workers)

730 ILCS 5/5-5-3(j)

(j) In cases when prosecution for any violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9, 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 11-20.4, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the

Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

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(Annual Driver's License Renewal for Sex Offenders)

730 ILCS 5/5-5-3(o)

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

Current through P.A. 104-0245, eff. Jan 1. 2026.

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Factors in Aggravation and Extended-Term Sentencing

730 ILCS 5/5-5-3.2

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who has a physical disability or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" has the meaning

ascribed to it in paragraph (O-1) of Section 1-103 of the Illinois Human Rights Act;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, “place of worship” shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was on pretrial release or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

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(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 11-0.1 of the Criminal Code of 2012, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11, 11-14.4 except for an offense that involves keeping a place of commercial sexual exploitation of a child, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, “organized gang” has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 or the Criminal Code of 2012;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 or the Criminal Code of 2012;

• • •

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act;

• • •

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly or infirm or who was a person with a disability by taking advantage of a family or fiduciary relationship with the elderly or infirm person or person with a disability;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation;

(26) the defendant committed the offense of child sexual abuse material or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1B or Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context;

(26.5) the defendant committed the offense of obscene depiction of a purported child, specifically including paragraph (2) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012 if a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context;

• • •

(29) the defendant committed the offense of criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse against a victim with an intellectual disability, and the defendant holds a position of trust, authority, or supervision in relation to the victim;

(30) the defendant committed the offense of promoting commercial sexual exploitation of a child, patronizing a person engaged in the sex trade, or patronizing a

sexually exploited child and at the time of the commission of the offense knew that the person engaged in the sex trade or sexually exploited child was in the custody or guardianship of the Department of Children and Family Services;

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(33) the defendant was found guilty of an administrative infraction related to an act or acts of public indecency or sexual misconduct in the penal institution. In this paragraph (33), "penal institution" has the same meaning as in Section 2-14 of the Criminal Code of 2012; or

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For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Intellectual disability" means significantly subaverage intellectual functioning which exists concurrently with impairment in adaptive behavior.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

"Traffic control devices" means all signs, signals, markings, and devices that conform to the Illinois Manual on Uniform Traffic Control Devices, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person who had a physical disability at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite,

initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 26-7 of the Criminal Code of 2012; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged; or

(9) When a defendant commits any felony and the defendant knowingly video or audio records the offense with the intent to disseminate the recording.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery or aggravated domestic battery committed on the same victim or after having been previously convicted of

violation of an order of protection in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 11-1.40 or subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012.

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(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

Current through P.A. 104-0417, eff. Aug. 15, 2025, & P.A. 104-0245, eff. Jan. 1, 2026.

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Restitution

730 ILCS 5/5-5-6

In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 2012 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the Court shall determine the restitution as hereinafter set forth:

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

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. 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. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.

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

(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.

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

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

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

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(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years, except for violations of Sections 16-1.3 and 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012, or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

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

(2) The victim’s estimate of long-term physical health care costs may be made as part of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the

financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961 or the Criminal Code of 2012, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

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

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

(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender's ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

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

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

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

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

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

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

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

When a restitution order is issued under this Section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

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

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

(2) Other damages suffered by the victim.

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

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

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

Current through P.A. 101-0081, eff. July 12, 2019.

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Article 6: Sentence of Probation and Conditional Discharge

730 ILCS 5/5-6

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Incidents of Probation and of Conditional Discharge

730 ILCS 5/5-6-2

(a) When an offender is sentenced to probation or conditional discharge, the court shall impose a period as provided in Article 4.5 of Chapter V, and shall specify the conditions under Section 5-6-3.

(b) Multiple terms of probation imposed at the same time shall run concurrently.

(c) The court may at any time terminate probation or conditional discharge if warranted by the conduct of the offender and the ends of justice, as provided in Section 5-6-4.

(c-1) For purposes of this subsection (c-1), a "violent offense" means an offense in which bodily harm is inflicted or force is used against any person or threatened against any person; an offense involving sexual conduct, sexual penetration, or sexual exploitation; an offense involving domestic violence; an offense of domestic battery, violation of an order of protection, stalking, or hate crime; an offense of driving under the influence of

drugs or alcohol; or an offense involving the possession of a firearm or dangerous weapon. An offender, other than an offender sentenced on a violent offense, shall be entitled to a time credit toward the completion of the offender's probation or conditional discharge as follows:

(1) For obtaining a high school diploma or GED: 90 days.

(2) For obtaining an associate's degree, career certificate, or vocational technical certification: 120 days.

(3) For obtaining a bachelor's degree: 180 days.

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(e-5) If payment of restitution as ordered has not been made, the victim shall file a petition notifying the sentencing court, any other person to whom restitution is owed, and the State's Attorney of the status of the ordered restitution payments unpaid at least 90 days before the probation or conditional discharge expiration date. If payment as ordered has not been made, the court shall hold a review hearing prior to the expiration date, unless the hearing is voluntarily waived by the defendant with the knowledge that waiver may result in an extension of the probation or conditional discharge period or in a revocation of probation or conditional discharge. If the court does not extend probation or conditional discharge, it shall issue a judgment for the unpaid restitution and direct the clerk of the circuit court to file and enter the judgment in the judgment and lien docket, without fee, unless it finds that the victim has recovered a judgment against the defendant for the amount covered by the restitution order. If the court issues a judgment for the unpaid restitution, the court shall send to the defendant at his or her last known address written notification that a civil judgment has been issued for the unpaid restitution.

(f) The court may impose a term of probation that is concurrent or consecutive to a term of imprisonment so long as the maximum term imposed does not exceed the maximum term provided under Article 4.5 of Chapter V or Article 8 of this Chapter. The court may provide that probation may commence while an offender is on mandatory supervised release, participating in a day release program, or being monitored by an electronic monitoring device.

(g) The court may extend a term of probation or conditional discharge that was concurrent to, consecutive to, or otherwise interrupted by a term of imprisonment for the purpose of providing additional time to complete an order of restitution.

Current through P.A. 99-0078, eff. July 20, 2015.

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Article 7: Sentence of Periodic Imprisonment

730 ILCS 5/5-7

Sentence of Periodic Imprisonment

730 ILCS 5/5-7-1

(a) A sentence of periodic imprisonment is a sentence of imprisonment during which the committed person may be released for periods of time during the day or night or for periods of days, or both, or if convicted of a felony, other than first degree murder, a

Class X or Class 1 felony, committed to any county, municipal, or regional correctional or detention institution or facility in this State for such periods of time as the court may direct. Unless the court orders otherwise, the particular times and conditions of release shall be determined by the Department of Corrections, the sheriff, or the Superintendent of the house of corrections, who is administering the program.

(b) A sentence of periodic imprisonment may be imposed to permit the defendant to:

(1) seek employment;

(2) work;

(3) conduct a business or other self-employed occupation including housekeeping;

(4) attend to family needs;

(5) attend an educational institution, including vocational education;

(6) obtain medical or psychological treatment;

(7) perform work duties at a county, municipal, or regional correctional or detention institution or facility;

(8) continue to reside at home with or without supervision involving the use of an approved electronic monitoring device, subject to Article 8A of Chapter V; or

(9) for any other purpose determined by the court.

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(f) The court may issue an order of protection pursuant to the Illinois Domestic Violence Act of 1986 as a condition of a sentence of periodic imprisonment. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement and recording of orders of protection issued under this Section. A copy of the order of protection shall be transmitted to the person or agency having responsibility for the case.

(f-5) An offender sentenced to a term of periodic imprisonment for a felony sex offense as defined in the Sex Offender Management Board Act shall be required to undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act.

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Current through P.A. 101-0081, eff. July 12, 2019.

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Article 8: Imprisonment

730 ILCS 5/5-8

Natural Life Imprisonment; Enhancements for Use of a Firearm; Mandatory Supervised Release Terms

730 ILCS 5/5-8-1

(a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V, a sentence of imprisonment for a felony shall be a determinate sentence set

by the court under this Section, subject to Section 5-4.5-115 of this Code, according to the following limitations:

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(2.5) for a person who has attained the age of 18 years at the time of the commission of the offense and who is convicted under the circumstances described in subdivision (b)(1)(B) of Section 11-1.20 or paragraph (3) of subsection (b) of Section 12-13, subdivision (d)(2) of Section 11-1.30 or paragraph (2) of subsection (d) of Section 12-14, subdivision (b)(1.2) of Section 11-1.40 or paragraph (1.2) of subsection (b) of Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012, the sentence shall be a term of natural life imprisonment.

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(d) Subject to earlier termination under Section 3-3-8, the parole or mandatory supervised release term shall be written as part of the sentencing order and shall be as follows:

(1) for first degree murder or for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or before December 12, 2005, 3 years;

(1.5) except as provided in paragraph (7) of this subsection (d), for a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009, and except for the offense of obscene depiction of a purported child with sentencing under subsection (d) of Section 11-20.4 of the Criminal Code of 2012, 18 months;

(2) except as provided in paragraph (7) of this subsection (d), for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offenses of manufacture and dissemination of child sexual abuse material under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009, and except for the offense of obscene depiction of a purported child under paragraph (2) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012, 12 months;

(3) except as provided in paragraph (4), (6), or (7) of this subsection (d), for a Class 3 felony or a Class 4 felony, 6 months; no later than 45 days after the onset of the term of mandatory supervised release, the Prisoner Review Board shall conduct a discretionary discharge review pursuant to the provisions of Section 3-3-8, which shall include the results of a standardized risk and needs assessment tool administered by the Department of Corrections; the changes to this paragraph (3) made by Public Act 102-1104 apply to all individuals released on mandatory supervised release on or after December 6, 2022 (the effective date

of Public Act 102-1104), including those individuals whose sentences were imposed prior to December 6, 2022 (the effective date of Public Act 102-1104);

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after December 13, 2005 (the effective date of Public Act 94-715), or who commit the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, manufacture of child sexual abuse material, or dissemination of child sexual abuse material after January 1, 2009, or who commit the offense of obscene depiction of a purported child under paragraph (2) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012 or who commit the offense of obscene depiction of a purported child with sentencing under subsection (d) of Section 11-20.4 of the Criminal Code of 2012, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic monitoring or home detention program under Article 8A of Chapter V of this Code;

(6) for a felony domestic battery, aggravated domestic battery, stalking, aggravated stalking, and a felony violation of an order of protection, 4 years;

(7) for any felony described in paragraph (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(vi), (a)(2.1), (a)(2.3), (a)(2.4), (a)(2.5), or (a)(2.6) of Article 5, Section 3-6-3 of the Unified Code of Corrections requiring an inmate to serve a minimum of 85% of their court-imposed sentence, except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009, and except for the offense of obscene depiction of a purported child with sentencing under subsection (d) of Section 11-20.4 of the Criminal Code of 2012, and except as provided in paragraph (4) or paragraph (6) of this subsection (d), the term of mandatory supervised release shall be as follows:

(A) Class X felony, 3 years;

(B) Class 1 or Class 2 felonies, 2 years;

(C) Class 3 or Class 4 felonies, 1 year.

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(g) Notwithstanding any other provisions of this Act and of Public Act 101-652: (i) the provisions of paragraph (3) of subsection (d) are effective on July 1, 2022 and shall apply to all individuals convicted on or after the effective date of paragraph (3) of subsection (d); and (ii) the provisions of paragraphs (1.5) and (2) of subsection (d) are

effective on July 1, 2021 and shall apply to all individuals convicted on or after the effective date of paragraphs (1.5) and (2) of subsection (d).

Current through P.A. 104-0417, eff. Aug. 15, 2025, & P.A. 104-0245, eff. Jan. 1, 2026.

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Concurrent and Consecutive Terms of Imprisonment

730 ILCS 5/5-8-4

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

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(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), or 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/11-20.1, 5/11-20.1B, 5/11-20.3, 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or 5/12-14.1).

(2.5) The defendant was convicted of a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 (child sexual abuse material or child pornography) or of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1B or 11-20.3 (aggravated child pornography) of the Criminal Code of 1961 or the Criminal Code of 2012; or the defendant was convicted of a violation of paragraph (6) of subsection (a) of Section 11-20.1 (child sexual abuse material or child pornography) or of paragraph (6) of subsection (a) of Section 11-20.1B or 11-20.3 (aggravated child pornography) of the Criminal Code of 1961 or the Criminal Code of 2012, when the child depicted is under the age of 13.

(2.6) The defendant was convicted of:

(A) a violation of paragraph (2) of subsection (b) of Section 11-20.4 of the Criminal Code of 2012; or

(B) a violation of paragraph (1) of Section 11-20.4 of the Criminal Code of 2012 when the purported child depicted is indistinguishable from an actual child under the age of 13.

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

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(f) Consecutive terms; aggregate maximums and minimums. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

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(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Article 4.5 of Chapter V for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

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Current through P.A. 104-0245, eff. Jan. 1, 2026.

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Article 8a: Electronic Monitoring and Home Detention Law

730 ILCS 5/5-8a

Electronic Monitoring of Certain Sex Offenders

730 ILCS 5/5-8A-6

Electronic monitoring of certain sex offenders. For a sexual predator subject to electronic monitoring under paragraph (7.7) of subsection (a) of Section 3-3-7, the Department of

Corrections must use a system that actively monitors and identifies the offender's current location and timely reports or records the offender's presence and that alerts the Department of the offender's presence within a prohibited area described in Section 11-9.3 of the Criminal Code of 2012, in a court order, or as a condition of the offender's parole, mandatory supervised release, or extended mandatory supervised release and the offender's departure from specified geographic limitations. To the extent that he or she is able to do so, which the Department of Corrections by rule shall determine, the offender must pay for the cost of the electronic monitoring. Fines and assessments, such as fees or administrative costs, authorized under this Section shall not be ordered or imposed on a minor subject to Article III, IV, or V of the Juvenile Court Act of 1987, or a minor under the age of 18 transferred to adult court or excluded from juvenile court jurisdiction under Article V of the Juvenile Court Act of 1987, or the minor's parent, guardian, or legal custodian.

Current through P.A. 103-0379, eff. July 28, 2023.

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Article 9: Fines

730 ILCS 5/5-9

Sexual Assault Fines

730 ILCS 5/5-9-1.7

(a) Definitions. The terms used in this Section shall have the following meanings ascribed to them:

(1) "Sexual assault" means the commission or attempted commission of the following: sexual exploitation of a child, criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, indecent solicitation of a child, public indecency, sexual relations within families, promoting commercial sexual exploitation of a child, soliciting for a sexually exploited child, keeping a place of commercial sexual exploitation of a child, patronizing a sexually exploited child, juvenile pimping, exploitation of a child, obscenity, child sexual abuse material, aggravated child pornography, harmful material, or ritualized abuse of a child, as those offenses are defined in the Criminal Code of 1961 or the Criminal Code of 2012.

(2) (Blank).

(3) "Sexual assault organization" means any not-for-profit organization providing comprehensive, community-based services to victims of sexual assault. "Community-based services" include, but are not limited to, direct crisis intervention through a 24-hour response, medical and legal advocacy, counseling, information and referral services, training, and community education.

(b) (Blank).

(c) Sexual Assault Services Fund; administration. There is created in the State treasury a special fund known as the Sexual Assault Services Fund. Moneys deposited into the Fund under Sections 15-20, 15-40, and 15-70 of the Criminal and Traffic Assessment Act and Section 6b-4 of the State Finance Act shall be expended as provided in Section 10-5 of the Criminal and Traffic Assessment Act.

Current through P.A. 104-0245, eff. Jan 1, 2026.

ACT 105: OPEN PAROLE HEARINGS ACT

730 ILCS 105

Definitions

730 ILCS 105/5

As used in this Act:

(a) "Applicant" means an inmate who is being considered for parole by the Prisoner Review Board.

(a-1) "Aftercare releasee" means a person released from the Department of Juvenile Justice on aftercare release subject to aftercare revocation proceedings.

(b) "Board" means the Prisoner Review Board as established in Section 3-3-1 of the Unified Code of Corrections.

(c) "Parolee" means a person subject to parole revocation proceedings.

(d) "Parole hearing" means the formal hearing and determination of an inmate being considered for release from incarceration on parole, including medical release hearings pursuant to Section 3-3-14.

(e) "Parole, aftercare release, or mandatory supervised release revocation hearing" means the formal hearing and determination of allegations that a parolee, aftercare releasee, or mandatory supervised releasee has violated the conditions of his or her release.

(f) "Victim" means a victim or witness of a violent crime as defined in subsection (a) of Section 3 of the Rights of Crime Victims and Witnesses Act, or any person legally related to the victim by blood, marriage, adoption, or guardianship, or any friend of the victim, or any concerned citizen.

(g) "Violent crime" means a crime defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

Current through P.A. 102-0558, eff. Aug. 20, 2021

Victim Statements

730 ILCS 105/10

(a) The Board shall receive and consider victim statements.

(a-5) Pursuant to paragraph (19) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act, the State's Attorney shall forward a copy of any statement presented at the time of trial to the Prisoner Review Board to be considered at the time of a parole hearing.

(b) The victim has the right to submit a victim statement for consideration by the Prisoner Review Board in writing, on film, videotape, or other electronic means, or in the form of a recording prior to the parole hearing, or orally at the parole hearing, or by calling the toll-free number established in subsection (f) of Section 4.5 of the Rights of Crime Victims and Witnesses Act. Victim statements shall not be considered public documents under provisions of the Freedom of Information Act.

(b-5) Other than as provided in subsection (c), the Board shall not release any material to the inmate, the inmate's attorney, any third party, or any other person that contains any

information from a victim who has provided a victim statement to the Board, unless provided with a waiver from that victim. The Board shall not release the names or addresses of any person on its victim registry to any other person except the victim, a law enforcement agency, or other victim notification system. 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) The inmate or his or her attorney shall be informed of the existence of a victim statement and its contents under provisions of Board rules. This shall not be construed to permit disclosure to an inmate of any information which might result in the risk of threats or physical harm to a victim or complaining witness.

(d) The inmate shall be given the opportunity to answer a victim statement, either orally or in writing.

(e) All victim statements, except if the statement was an oral statement made by the victim at a hearing open to the public, shall be part of the applicant's, releasee's, or parolee's parole file.

Current through P.A. 101-0288, eff. Jan. 1, 2020.

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Notification of Future Parole Hearings

730 ILCS 105/25

(a) The Board shall notify the State's Attorney of the committing county of the pending hearing and the victim of all forthcoming parole hearings at least 15 days in advance. Written notification shall contain:

(1) notification of the place of the hearing;

(2) the date and approximate time of the hearing;

(3) their right to enter a statement, to appear in person, and to submit other information by video tape, tape recording, or other electronic means in the form and manner described by the Board or by calling the toll-free number established in subsection (f) of Section 4.5 of the Rights of Crime Victims and Witnesses Act.

Notification to the victims shall be at the last known address of the victim. It shall be the responsibility of the victim to notify the board of any changes in address and name.

(b) However, at any time the victim may request by a written certified statement that the Prisoner Review Board stop sending notice under this Section.

(c) (Blank).

(d) No later than 7 days after a parole hearing the Board shall send notice of its decision to the State's Attorney and victim. If parole is denied, the Board shall within a reasonable period of time notify the victim of the month and year of the next scheduled hearing.

Current through P.A. 101-0288, eff. Jan. 1, 2020

ACT 110: PROBATION AND PROBATION OFFICERS ACT

730 ILCS 110

Verification of Sex Offender's Address

730 ILCS 110/16.2

A probation officer supervising a person who has been placed on probation for a sex offense as defined in the Sex Offender Management Board Act shall periodically, but not less than once a month, verify that the person is in compliance with paragraph (8.6) of subsection (a) of Section 5-6-3 of the Unified Code of Corrections.

Current through P.A. 94-0161, eff. July 11, 2005

ACT 150: SEX OFFENDER REGISTRATION ACT

730 ILCS 150/1

Definitions

730 ILCS 150/2

(A) As used in this Article, "sex offender" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) declared as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, “convicted” shall have the same meaning as “adjudicated”.

(B) As used in this Article, “sex offense” means:

(1) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

11-20.1 (child sexual abuse material or child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-6 (indecent solicitation of a child),

11-9.1 (sexual exploitation of a child),

11-9.2 (custodial sexual misconduct),

11-9.5 (sexual misconduct with a person with a disability),

11-14.4 (promoting commercial sexual exploitation of a child),

11-15.1 (soliciting for a sexually exploited child),

11-18.1 (patronizing a sexually exploited child),

11-17.1 (keeping a place of commercial sexual exploitation of a child),

11-19.1 (juvenile pimping),

11-19.2 (exploitation of a child),

11-25 (grooming),

11-26 (traveling to meet a minor or traveling to meet a child),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.50 or 12-15 (criminal sexual abuse),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Evaluation and Treatment Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

If the offense was committed before January 1, 1996, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961 or the Criminal Code of 2012, and the offense was committed on or after June 1, 1997. If the offense was committed before June 1, 1997, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act. If the offense was committed before January 1, 1998, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),

11-14.3 that involves soliciting for a person engaged in the sex trade, or 11-15 (soliciting for a person engaged in the sex trade, if the victim is under 18 years of age),

subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3, or Section 11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a person engaged in the sex trade, if the victim is under 18 years of age),

subdivision (a)(2)(C) of Section 11-14.3, or Section 11-19 (pimping, if the victim is under 18 years of age).

If the offense was committed before July 1, 1999, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012 when the offense was committed on or after August 22, 2002:

11-9 or 11-30 (public indecency for a third or subsequent conviction).

If the third or subsequent conviction was imposed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012 (permitting sexual abuse) when the offense was committed on or after August 22, 2002. If the offense was committed before August 22, 2002, it is a sex offense requiring registration only when the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), (E), and (E-5) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 if: (i) the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977), or (ii) subparagraph (i) does not apply and the person is convicted of any felony after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(C-6) A person who is convicted or adjudicated delinquent of first degree murder as defined in Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012, against a person 18 years of age or over, shall be required to register for his or her natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-6) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-6) does not apply to those individuals released from incarceration more than 10 years prior to January 1, 2012 (the effective date of Public Act 97-154).

(D) As used in this Article, “law enforcement agency having jurisdiction” means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. “Law enforcement agency having jurisdiction” includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, “supervising officer” means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, “sexual predator” means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) or (E-5) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

10-5.1 (luring of a minor),

11-14.4 that involves keeping a place of commercial sexual exploitation of a child, or 11-17.1 (keeping a place of commercial sexual exploitation of a child),

subdivision (a)(2) or (a)(3) of Section 11-14.4, or Section 11-19.1 (juvenile pimping),

subdivision (a)(4) of Section 11-14.4, or Section 11-19.2 (exploitation of a child),

11-20.1 (child sexual abuse material or child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child);

(2) (blank);

(3) declared as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law;

(6) (blank); or

(7) if the person was convicted of an offense set forth in this subsection (E) on or before July 1, 1999, the person is a sexual predator for whom registration is required only when the person is convicted of a felony offense after July 1, 2011, and paragraph (2.1) of subsection (c) of Section 3 of this Act applies.

(E-5) As used in this Article, "sexual predator" also means a person convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 or the Criminal Code of 2012:

(1) Section 9-1 (first degree murder, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act);

(2) Section 11-9.5 (sexual misconduct with a person with a disability);

(3) when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996: (A) Section 10-1 (kidnapping), (B) Section 10-2 (aggravated kidnapping), (C) Section 10-3 (unlawful restraint), and (D) Section 10-3.1 (aggravated unlawful restraint); and

(4) Section 10-5(b)(10) (child abduction committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act).

(E-10) As used in this Article, “sexual predator” also means a person required to register in another State due to a conviction, adjudication or other action of any court triggering an obligation to register as a sex offender, sexual predator, or substantially similar status under the laws of that State.

(F) As used in this Article, “out-of-state student” means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, “out-of-state employee” means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, “school” means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, “fixed residence” means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, “Internet protocol address” means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

Duty to Register

730 ILCS 150/3

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Illinois State Police. Such information shall include a current photograph, current address, current place of employment, the sex offender’s or sexual predator’s telephone number, including cellular telephone number, the employer’s telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include a copy of the terms and conditions of parole or release signed by the sex offender and given to the sex offender by his or her supervising officer or aftercare specialist, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal

Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, the sex offender shall report to the registering agency whether he or she is living in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 3 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 3 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall also register:

(i) with:

(A) the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(B) the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists; and

(ii) with the public safety or security director of the institution of higher education which he or she is employed at or attends.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 3 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

A sex offender or sexual predator who is temporarily absent from his or her current address of registration for 3 or more days shall notify the law enforcement agency having jurisdiction of his or her current registration, including the itinerary for travel, in the manner provided in Section 6 of this Act for notification to the law enforcement agency having jurisdiction of change of address.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Illinois State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Illinois State Police. Such information will include current place of employment, school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with:

(A) the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at a fixed location designated by the Superintendent of the Chicago Police Department; or

(B) the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists; and

(2) with the public safety or security director of the institution of higher education he or she is employed at or attends for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during a calendar year.

The registration fees shall only apply to the municipality or county of primary registration, and not to campus registration.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Illinois State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 or the Criminal Code of 2012, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(2.1) or (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.1) A sex offender or sexual predator, who has never previously been required to register under this Act, has a duty to register if the person has been convicted of any felony offense after July 1, 2011. A person who previously was required to register under this Act for a period of 10 years and successfully completed that registration period has a duty to register if: (i) the person has been convicted of any felony offense after July 1, 2011, and (ii) the offense for which the 10 year registration was served currently requires a registration period of more than 10 years. Notification of an offender's duty to register under this subsection shall be pursuant to Section 5-7 of this Act.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. Except as provided in subsection (c)(2.1), if notification is not made within the offender's 10 year registration requirement, and the Illinois State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a $100 initial registration fee and a $100 annual renewal fee to the registering law enforcement agency having jurisdiction. The registering agency may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Thirty-five dollars for the initial registration fee and $35 of the annual renewal fee shall be retained and used by the registering agency for official purposes. Having retained $35 of the initial registration fee and $35 of the annual renewal fee, the registering agency shall

remit the remainder of the fee to State agencies within 30 days of receipt for deposit into the State funds as follows:

(A) Five dollars of the initial registration fee and $5 of the annual fee shall be remitted to the State Treasurer who shall deposit the moneys into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used by the Board to comply with the provisions of the Sex Offender Management Board Act.

(B) Thirty dollars of the initial registration fee and $30 of the annual renewal fee shall be remitted to the Illinois State Police which shall deposit the moneys into the State Police Operations Assistance Fund.

(C) Thirty dollars of the initial registration fee and $30 of the annual renewal fee shall be remitted to the Attorney General who shall deposit the moneys into the Attorney General Sex Offender Awareness, Training, and Education Fund. Moneys deposited into the Fund shall be used by the Attorney General to administer the I-SORT program and to alert and educate the public, victims, and witnesses of their rights under various victim notification laws and for training law enforcement agencies, State's Attorneys, and medical providers of their legal duties concerning the prosecution and investigation of sex offenses.

The registering agency shall establish procedures to document the receipt and remittance of the $100 initial registration fee and $100 annual renewal fee.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

Current through P.A. 104-0131, eff. Sept. 1, 2026.

Application of Act to Adjudicated Juvenile Delinquents

730 ILCS 150/3-5

(a) In all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender as set forth in paragraph (5) of subsection (A) of Section 2 of this Act, the court shall order the minor to register as a sex offender.

(b) Once an adjudicated juvenile delinquent is ordered to register as a sex offender, the adjudicated juvenile delinquent shall be subject to the registration requirements set forth in Sections 3, 6, 6-5, 8, 8-5, and 10 for the term of his or her registration.

(c) For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a felony, no less than 5 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for the termination of the term of registration. For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a misdemeanor, no less than 2 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for termination of the term of registration.

(d) The court may upon a hearing on the petition for termination of registration, terminate registration if the court finds that the registrant poses no risk to the community by a preponderance of the evidence based upon the factors set forth in subsection (e).

Notwithstanding any other provisions of this Act to the contrary, no registrant whose registration has been terminated under this Section shall be required to register under the provisions of this Act for the offense or offenses which were the subject of the successful petition for termination of registration. This exemption shall apply only to those offenses which were the subject of the successful petition for termination of registration, and shall not apply to any other or subsequent offenses requiring registration under this Act.

(e) To determine whether a registrant poses a risk to the community as required by subsection (d), the court shall consider the following factors:

(1) a risk assessment performed by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act;

(2) the sex offender history of the adjudicated juvenile delinquent;

(3) evidence of the adjudicated juvenile delinquent's rehabilitation;

(4) the age of the adjudicated juvenile delinquent at the time of the offense;

(5) information related to the adjudicated juvenile delinquent's mental, physical, educational, and social history;

(6) victim impact statements; and

(7) any other factors deemed relevant by the court.

(f) At the hearing set forth in subsections (c) and (d), a registrant shall be represented by counsel and may present a risk assessment conducted by an evaluator who is licensed under the Sex Offender Evaluation and Treatment Provider Act.

(g) After a registrant completes the term of his or her registration, his or her name, address, and all other identifying information shall be removed from all State and local registries.

(h) This Section applies retroactively to cases in which adjudicated juvenile delinquents who registered or were required to register before the effective date of this amendatory Act of the 95th General Assembly. On or after the effective date of this amendatory Act of the 95th General Assembly, a person adjudicated delinquent before the effective date of this amendatory Act of the 95th General Assembly may request a hearing regarding status of registration by filing a Petition Requesting Registration Status with the clerk of the court. Upon receipt of the Petition Requesting Registration Status, the clerk of the court shall provide notice to the parties and set the Petition for hearing pursuant to subsections (c) through (e) of this Section.

(i) This Section does not apply to minors prosecuted under the criminal laws as adults.

Current through P.A. 97-1098, eff. Jan. 1, 2014.

Discharge of Sex Offender, as Defined in Section 2 of this Act, or Sexual Predator from Department of Corrections Facility or Other Penal Institution; Duties of Official in Charge

730 ILCS 150/4

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is discharged, paroled or released from a Department of Corrections or Department of Juvenile Justice facility, a facility where such person was placed by the Department of Corrections or Department of Juvenile Justice or another penal institution, and whose liability for registration has not terminated under Section 7 shall, prior to discharge, parole or release from the facility or institution, be informed of his or her duty to register in person within 3 days of release by the facility or institution in which he or she was confined. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school.

The facility shall require the person to read and sign such form as may be required by the Illinois State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall further advise the person in writing that the failure to register or other violation of this Article shall result in revocation of parole, aftercare release, mandatory supervised release or conditional release. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole or release and shall report the information to the Illinois State Police. The facility shall give one copy of the form to the person and shall send one copy to each of the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her discharge, parole or release and retain one copy for the files. Electronic data files which includes all notification form information and photographs of sex offenders being released from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility will be shared on a regular basis as determined between the Illinois State Police, the Department of Corrections, and Department of Juvenile Justice.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Release of Sex Offender, as Defined in Section 2 of this Act, or Sexual Predator; Duties of the Court

730 ILCS 150/5

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is released on probation or discharged upon payment of a fine because of the commission of one of the offenses defined in subsection (B) of Section 2 of this Article, shall, prior to such release be informed of his or her duty to register under this Article by the Court in which he or she was convicted. The Court shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school. The Court shall require the person to read and sign such form as may be required by

the Illinois State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The Court shall further advise the person in writing that the failure to register or other violation of this Article shall result in probation revocation. The Court shall obtain information about where the person expects to reside, work, and attend school upon his or her release, and shall report the information to the Illinois State Police. The Court shall give one copy of the form to the person and retain the original in the court records. The Illinois State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work and attend school upon his or her release.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Discharge of Sex Offender or Sexual Predator from a Hospital or Other Treatment Facility; Duties of the Official in Charge

730 ILCS 150/5-5

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined in this Article, who is discharged or released from a hospital or other treatment facility where he or she was confined shall be informed by the hospital or treatment facility in which he or she was confined, prior to discharge or release from the hospital or treatment facility, of his or her duty to register under this Article.

The facility shall require the person to read and sign such form as may be required by the Illinois State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall give one copy of the form to the person, retain one copy for their records, and forward the original to the Illinois State Police. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole, or release and shall report the information to the Illinois State Police within 3 days. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning school, or beginning employment. The Illinois State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her release.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Notification and Release or Discharge of Sex Offender or Sexual Predator Upon Conviction for a Felony Offense Committed After July 1, 2011

730 ILCS 150/5-7

A person with a duty to register under paragraph (2.1) of subsection (c) of Section 3, who is released on probation or conditional discharge for conviction on a felony offense committed on or after July 1, 2011, shall, prior to release be notified of his or her duty to register as set forth in Section 5 of this Act. A person with a duty to register under paragraph (2.1) of subsection (c) of Section 3 who is discharged, paroled, or released from a Department of Corrections facility or other penal institution shall be notified of his or her duty to register as set forth in Section 4

of this Act. Any other person with a duty to register under paragraph (2.1) of subsection (c) of Section 3, who is unable to comply with the registration requirements because he or she is otherwise confined or institutionalized shall register in person within 3 days after release or discharge.

Current through P.A. 97-0578, eff. Jan. 1, 2012.

Nonforwardable Verification Letters

730 ILCS 150/5-10

The Illinois State Police shall mail a quarterly nonforwardable verification letter to each registered person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, beginning 90 days from the date of his or her last registration. To any other person registered under this Article, the Illinois State Police shall mail an annual nonforwardable verification letter, beginning one year from the date of his or her last registration. A person required to register under this Article who is mailed a verification letter shall complete, sign, and return the enclosed verification form to the Illinois State Police postmarked within 10 days after the mailing date of the letter. A person's failure to return the verification form to the Illinois State Police within 10 days after the mailing date of the letter shall be considered a violation of this Article.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Duty to Report; Change of Address, School, or Employment; Duty to Inform

730 ILCS 150/6

A person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, or convicted of a violation of this Act after July 1, 2005, shall report in person to the law enforcement agency with whom he or she last registered no later than 90 days after the date of his or her last registration and every 90 days thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. Such sexually dangerous or sexually violent person must report all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sexually dangerous or sexually violent person uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sexually dangerous or sexually violent person, and all new or changed blogs and other Internet sites maintained by the sexually dangerous or sexually violent person or to which the sexually dangerous or sexually violent person has uploaded any content or posted any messages or information. Any person who lacks a fixed residence must report weekly, in person, to the appropriate law enforcement agency where the sex offender is located. Any other person who is required to register under this Article shall report in person to the appropriate law enforcement agency with whom he or she last registered within one year from the date of last registration and every year thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. If any person required to register under this Article lacks a fixed residence or temporary domicile, he or she must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence and if the offender leaves the

last jurisdiction of residence, he or she, must within 3 days after leaving register in person with the new agency of jurisdiction. If any other person required to register under this Article changes his or her residence address, place of employment, telephone number, cellular telephone number, or school, he or she shall report in person, to the law enforcement agency with whom he or she last registered, his or her new address, change in employment, telephone number, cellular telephone number, or school, all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and register, in person, with the appropriate law enforcement agency within the time period specified in Section 3. If any person required to register under this Article is granted a legal name change pursuant to subsection (b) of Section 21-101 of the Code of Civil Procedure, the person shall report, in person, within 3 days of the legal name change, to the law enforcement agency with whom the person last registered. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, the sex offender shall within 3 days after beginning to reside in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense, report that information to the registering law enforcement agency. The law enforcement agency shall, within 3 days of the reporting in person by the person required to register under this Article, notify the Illinois State Police of the new place of residence, change in employment, telephone number, cellular telephone number, or school.

If any person required to register under this Article intends to establish a residence or employment outside of the State of Illinois, at least 10 days before establishing that residence or employment, he or she shall report in person to the law enforcement agency with which he or she last registered of his or her out-of-state intended residence or employment. The law enforcement agency with which such person last registered shall, within 3 days after the reporting in person of the person required to register under this Article of an address or employment change, notify the Illinois State Police. The Illinois State Police shall forward such information to the out-of-state law enforcement agency having jurisdiction in the form and manner prescribed by the Illinois State Police.

Current through P.A. 103-0605, eff. July 1, 2024

Out-of-State Employee or Student; Duty to Report Change

730 ILCS 150/6-5

Every out-of-state student or out-of-state employee must notify the agency having jurisdiction of any change of employment or change of educational status, in writing, within 3 days of the change. The law enforcement agency shall, within 3 days after receiving the notice, enter the appropriate changes into LEADS.

Current through P.A. 95-0640, eff. June 1, 2008.

Duration of Registration

730 ILCS 150/7

A person who has been adjudicated to be sexually dangerous and is later released or found to be no longer sexually dangerous and discharged, shall register for the period of his or her natural life. A sexually violent person or sexual predator shall register for the period of his or her natural life after conviction or adjudication if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. A person who becomes subject to registration under paragraph (2.1) of subsection (c) of Section 3 of this Article who has previously been subject to registration under this Article shall register for the period currently required for the offense for which the person was previously registered if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the same period after parole, discharge, or release from any such facility. Except as otherwise provided in this Section, a person who becomes subject to registration under this Article who has previously been subject to registration under this Article or under the Murderer and Violent Offender Against Youth Registration Act or similar registration requirements of other jurisdictions shall register for the period of his or her natural life if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. Any other person who is required to register under this Article shall be required to register for a period of 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of 10 years after parole, discharge or release from any such facility. A sex offender who is allowed to leave a county, State, or federal facility for the purposes of work release, education, or overnight visitations shall be required to register within 3 days of beginning such a program. Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility and if confined, at the expiration of 10 years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of this Article. Reconfinement due to a violation of parole or other circumstances that relates to the original conviction or adjudication shall extend the period of registration to 10 years after final parole, discharge, or release. Reconfinement due to a violation of parole, a conviction reviving registration, or other circumstances that do not relate to the original conviction or adjudication shall toll the running of the balance of the 10-year period of registration, which shall not commence running until after final parole, discharge, or release. The Director of the Illinois State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this Act, who fails to comply with the provisions of this Article. The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Illinois State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Illinois State Police.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Registration and DNA Submission Requirements

730 ILCS 150/8

(a) Registration. Registration as required by this Article shall consist of a statement in writing signed by the person giving the information that is required by the Illinois State Police, which may include the fingerprints and must include a current photograph of the person, to be updated annually. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 or the Criminal Code of 2012, he or she shall sign a statement that he or she understands that according to Illinois law as a child sex offender he or she may not reside within 500 feet of a school, park, or playground. The offender may also not reside within 500 feet of a facility providing services directed exclusively toward persons under 18 years of age unless the sex offender meets specified exemptions. The registration information must include whether the person is a sex offender as defined in the Sex Offender Community Notification Law. Within 3 days, the registering law enforcement agency shall forward any required information to the Illinois State Police. The registering law enforcement agency shall enter the information into the Law Enforcement Agencies Data System (LEADS) as provided in Sections 6 and 7 of the Intergovernmental Missing Child Recovery Act of 1984.

(b) DNA submission. Every person registering as a sex offender pursuant to this Act, regardless of the date of conviction or the date of initial registration who is required to submit specimens of blood, saliva, or tissue for DNA analysis as required by subsection (a) of Section 5-4-3 of the Unified Code of Corrections shall submit the specimens as required by that Section. Registered sex offenders who have previously submitted a DNA specimen which has been uploaded to the Illinois DNA database shall not be required to submit an additional specimen pursuant to this Section.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Verification Requirements

730 ILCS 150/8-5

(a) Address verification. The agency having jurisdiction shall verify the address of sex offenders, as defined in Section 2 of this Act, or sexual predators required to register with their agency at least once per year. The verification must be documented in LEADS in the form and manner required by the Illinois State Police.

(a-5) Internet Protocol address verification. The agency having jurisdiction may verify the Internet protocol (IP) address of sex offenders, as defined in Section 2 of this Act, who are required to register with their agency under Section 3 of this Act. A copy of any such verification must be sent to the Attorney General for entrance in the Illinois Cyber-crimes Location Database pursuant to Section 5-4-3.2 of the Unified Code of Corrections.

(b) Registration verification. The supervising officer or aftercare specialist, shall, within 15 days of sentencing to probation or release from an Illinois Department of Corrections or Illinois Department of Juvenile Justice facility or other penal institution, contact the law enforcement agency in the jurisdiction in which the sex offender or sexual predator designated as his or her intended residence and verify compliance with the requirements of this Act. Revocation proceedings shall be immediately commenced

against a sex offender or sexual predator on probation, parole, aftercare release, or mandatory supervised release who fails to comply with the requirements of this Act.

(c) In an effort to ensure that sexual predators and sex offenders who fail to respond to address-verification attempts or who otherwise abscond from registration are located in a timely manner, the Illinois State Police shall share information with local law enforcement agencies. The Department shall use analytical resources to assist local law enforcement agencies to determine the potential whereabouts of any sexual predator or sex offender who fails to respond to address-verification attempts or who otherwise absconds from registration. The Department shall review and analyze all available information concerning any such predator or offender who fails to respond to address-verification attempts or who otherwise absconds from registration and provide the information to local law enforcement agencies in order to assist the agencies in locating and apprehending the sexual predator or sex offender.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Public Inspection of Registration Data

730 ILCS 150/9

Except as provided in the Sex Offender Community Notification Law, the statements or any other information required by this Article shall not be open to inspection by the public, or by any person other than by a law enforcement officer or other individual as may be authorized by law and shall include law enforcement agencies of this State, any other state, or of the federal government. Similar information may be requested from any law enforcement agency of another state or of the federal government for purposes of this Act. It is a Class B misdemeanor to permit the unauthorized release of any information required by this Article.

Current through P.A. 94-0945, eff. June 27, 2006.

Penalty

730 ILCS 150/10

(a) Any person who is required to register under this Article who violates any of the provisions of this Article and any person who is required to register under this Article who seeks to change his or her name under Article XXI of the Code of Civil Procedure is guilty of a Class 3 felony, unless, as provided under Section 21-101 of the Code of Civil Procedure, that person verifies under oath that the petition for the name change is due to marriage, religious beliefs, status as a victim of trafficking or gender-related identity as defined by the Illinois Human Rights Act. Any person who is convicted for a violation of this Act for a second or subsequent time is guilty of a Class 2 felony, unless, as provided under Section 21-101 of the Code of Civil Procedure, that person verifies under oath that the petition for the name change is due to marriage, religious beliefs, status as a victim of trafficking or gender-related identity as defined by the Illinois Human Rights Act. Any person who is required to register under this Article who knowingly or willfully gives material information required by this Article that is false is guilty of a Class 3 felony. Any person convicted of a violation of any provision of this Article shall, in addition to any other penalty required by law, be required to serve a minimum period of 7 days confinement in the local county jail. The court shall impose a mandatory minimum fine of $500 for failure to comply with any provision of this Article. These fines shall be deposited in the State Police Operations Assistance Fund. Any sex

offender, as defined in Section 2 of this Act, or sexual predator who violates any provision of this Article may be arrested and tried in any Illinois county where the sex offender can be located. The local police department or sheriff's office is not required to determine whether the person is living within its jurisdiction.

(b) Any person, not covered by privilege under Part 8 of Article VIII of the Code of Civil Procedure or the Illinois Supreme Court's Rules of Professional Conduct, who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this Article and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this Article is guilty of a Class 3 felony if he or she:

(1) provides false information to the law enforcement agency having jurisdiction about the sexual predator's noncompliance with the requirements of this Article, and, if known, the whereabouts of the sexual predator;

(2) harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator; or

(3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator.

(c) Subsection (b) does not apply if the sexual predator is incarcerated in or is in the custody of a State correctional facility, a private correctional facility, a county or municipal jail, a State mental health facility or a State treatment and detention facility, or a federal correctional facility.

(d) Subsections (a) and (b) do not apply if the sex offender accurately registered his or her Internet protocol address under this Act, and the address subsequently changed without his or her knowledge or intent.

Current through P.A. 104-0131, eff. Sept. 1, 2026.

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ACT 152: SEX OFFENDER COMMUNITY NOTIFICATION LAW

730 ILCS 152/101

Definitions

730 ILCS 152/105

As used in this Article, the following definitions apply:

"Child care facilities" has the meaning set forth in the Child Care Act of 1969, but does not include licensed foster homes.

"Law enforcement agency having jurisdiction" means the Chief of Police in the municipality in which the sex offender expects to reside (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where

out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

“Sex offender” means any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

“Sex offender” also means any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

“Juvenile sex offender” means any person who is adjudicated a juvenile delinquent as the result of the commission of or attempt to commit a violation set forth in item (B), (C), or (C-5) of Section 2 of the Sex Offender Registration Act, or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, and whose adjudication occurred on or after the effective date of this amendatory Act of the 91st General Assembly.

Current through P.A. 92-0828, eff. Aug. 22, 2002.

Registration

730 ILCS 152/110

At the time a sex offender registers under Section 3 of the Sex Offender Registration Act or reports a change of address or employment under Section 6 of that Act, the offender shall notify the law enforcement agency having jurisdiction with whom the offender registers or reports a change of address or employment that the offender is a sex offender.

Current through P.A. 91-0394, eff. Jan. 1, 2000.

Sex Offender Database

730 ILCS 152/115

(a) The Illinois State Police shall establish and maintain a Statewide Sex Offender Database for the purpose of identifying sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984. The Illinois State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act and shall identify those who

are sex offenders and shall add all the information, including photographs if available, on those sex offenders to the Statewide Sex Offender Database.

(b) The Illinois State Police must make the information contained in the Statewide Sex Offender Database accessible on the Internet by means of a hyperlink labeled “Sex Offender Information” on the Department’s World Wide Web home page. The Department must make the information contained in the Statewide Sex Offender Database searchable via a mapping system which identifies registered sex offenders living within 5 miles of an identified address. The Illinois State Police must update that information as it deems necessary.

The Illinois State Police may require that a person who seeks access to the sex offender information submit biographical information about himself or herself before permitting access to the sex offender information. The Illinois State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Illinois State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Sex Offender Registration Program.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Missing Sex Offender Database

730 ILCS 152/116

(a) The Illinois State Police shall establish and maintain a Statewide Missing Sex Offender Database for the purpose of identifying missing sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984. The Illinois State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act and shall identify those who are sex offenders and who have not complied with the provisions of Section 6 of that Act or whose address can not be verified under Section 8-5 of that Act and shall add all the information, including photographs if available, on those missing sex offenders to the Statewide Sex Offender Database.

(b) The Illinois State Police must make the information contained in the Statewide Missing Sex Offender Database accessible on the Internet by means of a hyperlink labeled “Missing Sex Offender Information” on the Department’s World Wide Web home page and on the Attorney General’s I-SORT page. The Illinois State Police must update that information as it deems necessary. The Internet page shall also include information that rewards may be available to persons who inform the Illinois State Police or a local law enforcement agency of the whereabouts of a missing sex offender.

The Illinois State Police may require that a person who seeks access to the missing sex offender information submit biographical information about himself or herself before permitting access to the missing sex offender information. The Illinois State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Illinois State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Missing Sex Offender Registration Program.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Promulgation of Rules

730 ILCS 152/117

The Illinois State Police shall promulgate rules to develop a list of sex offenders covered by this Act and a list of child care facilities, schools, and institutions of higher education eligible to receive notice under this Act, so that the list can be disseminated in a timely manner to law enforcement agencies having jurisdiction.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Community Notification of Sex Offenders

730 ILCS 152/120

(a) The sheriff of the county, except Cook County, shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(2) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the county where the sex offender is required to register or is employed;

(3) Child care facilities located in the county where the sex offender is required to register or is employed;

(4) Libraries located in the county where the sex offender is required to register or is employed;

(5) Public libraries located in the county where the sex offender is required to register or is employed;

(6) Public housing agencies located in the county where the sex offender is required to register or is employed;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the county where the sex offender is required to register or is employed;

(9) Volunteer organizations providing services to minors located in the county where the sex offender is required to register or is employed; and

(10) A victim of a sex offense residing in the county where the sex offender is required to register or is employed, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-2) The sheriff of Cook County shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located within the region of Cook County, as those public school districts and nonpublic schools are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(2) Child care facilities located within the region of Cook County, as those child care facilities are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(4) Libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(5) Public libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(6) Public housing agencies located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(9) Volunteer organizations providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; and

(10) A victim of a sex offense residing in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attends an

institution of higher education, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-3) The Chicago Police Department shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(2) Child care facilities located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(4) Libraries located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(5) Public libraries located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(6) Public housing agencies located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(9) Volunteer organizations providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; and

(10) A victim of a sex offense residing in the police district where the sex offender is required to register, resides, is employed, or attends an institution of higher education in the City of Chicago, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-4) The Illinois State Police shall provide a list of sex offenders required to register to the Illinois Department of Children and Family Services.

(b) The Illinois State Police and any law enforcement agency may disclose, in the Department's or agency's discretion, the following information to any person likely to encounter a sex offender, or sexual predator:

(1) The offender's name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information.

(2) The offense for which the offender was convicted.

(3) Adjudication as a sexually dangerous person.

(4) The offender's photograph or other such information that will help identify the sex offender.

(5) Offender employment information, to protect public safety.

(c) The name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, offense or adjudication, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender for sex offenders required to register under Section 3 of the Sex Offender Registration Act shall be open to inspection by the public as provided in this Section. Every municipal police department shall make available at its headquarters the information on all sex offenders who are required to register in the municipality under the Sex Offender Registration Act. The sheriff shall also make available at his or her headquarters the information on all sex offenders who are required to register under that Act and who live in unincorporated areas of the county. Sex offender information must be made available for public inspection to any person, no later than 72 hours or 3 business days from the date of the request. The request must be made in person, in writing, or by telephone. Availability must include giving the inquirer access to a facility where the information may be copied. A department or sheriff may charge a fee, but the fee may not exceed the actual costs of copying the information. An inquirer must be allowed to copy this information in his or her own handwriting. A department or sheriff must allow access to the information during normal public working hours. The sheriff or a municipal police department may publish the photographs of sex offenders where any victim was 13 years of age or younger and who are required to register in the municipality or county under the Sex Offender Registration Act in a newspaper or magazine of general circulation in the municipality or county or may disseminate the photographs of those sex offenders on the Internet or on television. The law enforcement agency may make available the information on all sex offenders residing within any county.

(d) The Illinois State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, place the information specified in subsection (b) on the Internet or in other media.

(e) (Blank).

(f) The administrator of a transitional housing facility for sex offenders shall comply with the notification procedures established in paragraph (4) of subsection (b) of Section 3-17-5 of the Unified Code of Corrections.

(g) A principal or teacher of a public or private elementary or secondary school shall notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in this Act.

(h) In order to receive notice under paragraph (10) of subsection (a), paragraph (10) of subsection (a-2), or paragraph (10) of subsection (a-3), the victim of the sex offense must notify the appropriate sheriff or the Chicago Police Department in writing, by facsimile transmission, or by e-mail that the victim desires to receive such notice.

(i) For purposes of this Section, "victim of a sex offense" means:

(1) the victim of the sex offense; or

(2) a single representative who may be the spouse, parent, child, or sibling of a person killed during the course of a sex offense perpetrated against the person killed or the spouse, parent, child, or sibling of any victim of a sex offense who is physically or mentally incapable of comprehending or requesting notice.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Notification Regarding Juvenile Offenders

730 ILCS 152/121

(a) The Illinois State Police and any law enforcement agency having jurisdiction may, in the Illinois State Police's or agency's discretion, only provide the information specified in subsection (b) of Section 120 of this Act, with respect to an adjudicated juvenile delinquent, to any person when that person's safety may be compromised for some reason related to the juvenile sex offender.

(b) The local law enforcement agency having jurisdiction to register the juvenile sex offender shall ascertain from the juvenile sex offender whether the juvenile sex offender is enrolled in school; and if so, shall provide a copy of the sex offender registration form only to the principal or chief administrative officer of the school and any school counselor designated by him or her. The registration form shall be kept separately from any and all school records maintained on behalf of the juvenile sex offender.

Current through P.A. 102-0813, eff. May 13, 2022.

Special Alerts

730 ILCS 152/122

A law enforcement agency having jurisdiction may provide to the public a special alert list warning parents to be aware that sex offenders may attempt to contact children during holidays involving children, such as Halloween, Christmas, and Easter and to inform parents

that information containing the names and addresses of registered sex offenders are accessible on the Internet by means of a hyperlink labeled “Sex Offender Information” on the Department of State Police’s World Wide Web home page and are available for public inspection at the agency’s headquarters.

Current through P.A. 95-0331, eff. Aug. 21, 2007.

Immunity

730 ILCS 152/130

Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information relevant to the procedures set forth in this Law shall not be liable in any civil or criminal action. This immunity extends to the secondary release of any of this information legally obtained in conjunction with procedures set forth in this Law.

Current through P.A. 89-0707, eff. June 1, 1997.

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VI. JUVENILE OFFENDERS

JUVENILE COURT ACT OF 1987(SELECTED SECTIONS)
ARTICLE III: MINORS REQUIRING AUTHORITATIVE INTERVENTION

705 ILCS 405/3-1

Minors Involved in Electronic Dissemination of Indecent Visual Depictions in Need of Supervision (*Sexting*)

705 ILCS 405/3-40

(a) For the purposes of this Section:

"Computer" has the meaning ascribed to it in Section 17-0.5 of the Criminal Code of 2012.

"Electronic communication device" means an electronic device, including but not limited to a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures.

"Indecent visual depiction" means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person.

"Minor" means a person under 18 years of age.

(b) A minor shall not distribute or disseminate an indecent visual depiction of another minor through the use of a computer or electronic communication device.

(c) Adjudication. A minor who violates subsection (b) of this Section may be subject to a petition for adjudication and adjudged a minor in need of supervision.

(d) Kinds of dispositional orders. A minor found to be in need of supervision under this Section may be:

(1) ordered to obtain counseling or other supportive services to address the acts that led to the need for supervision; or

(2) ordered to perform community service.

(e) Nothing in this Section shall be construed to prohibit a prosecution for disorderly conduct, public indecency, child sexual abuse material, a violation of Article 26.5 (Harassing and Obscene Communications) of the Criminal Code of 2012, or any other applicable provision of law.

Current through P.A. 104-0245, eff. Jan. 1, 2026.

ARTICLE V: DELINQUENT MINORS

705 ILCS 405/5

Definitions

705 ILCS 405/5-105

As used in this Article:

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(3) “Delinquent minor“ means any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance.

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(5) “Detention” means the temporary care of a minor who is alleged to be or has been adjudicated delinquent and who requires secure custody for the minor’s own protection or the community’s protection in a facility designed to physically restrict the minor’s movements, pending disposition by the court or execution of an order of the court for placement or commitment. Design features that physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object. In addition, “detention” includes the court ordered care of an alleged or adjudicated delinquent minor who requires secure custody pursuant to Section 5-125 of this Act.

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(10) “Minor” means a person under the age of 21 years subject to this Act.

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(13) “Sentencing hearing” means a hearing to determine whether a minor should be adjudged a ward of the court and to determine what sentence should be imposed on the minor. It is the intent of the General Assembly that the term “sentencing hearing” replace the term “dispositional hearing” and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

(17) “Trial” means a hearing to determine whether the allegations of a petition under Section 5-520 that a minor is delinquent are proved beyond a reasonable doubt. It is the intent of the General Assembly that the term “trial” replace the term “adjudicatory hearing” and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

Current through P.A. 103-0605, eff. July 1, 2024.

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Rights of Victims

705 ILCS 405/5-115

In all proceedings under this Article, victims shall have the same rights of victims in criminal proceedings as provided in the Bill of Rights for Children and the Rights of Crime Victims and Witnesses Act.

Current through P.A. 90-0590, eff. Jan. 1, 1999.

Exclusive Jurisdiction

705 ILCS 405/5-120

Proceedings may be instituted under the provisions of this Article concerning any minor who prior to the minor's18th birthday has violated or attempted to violate an Illinois State, county, or municipal law or ordinance. Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 18 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.

The changes made to this Section by Public Act 98-61 apply to violations or attempted violations committed on or after January 1, 2014 (the effective date of Public Act 98-61).

Current through P.A. 103-0605, eff. July 1, 2024.

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Excluded Jurisdiction

705 ILCS 405/5-130

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 16 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, or (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961 or the Criminal Code of 2012.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, the minor's right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961 or the Criminal Code of 2012.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or the minor's counsel. If the motion is made by the

State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections.

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(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 18 years of age shall be kept separate from confined adults.

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(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of the minor's counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

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Current through P.A. 103-0022, eff. Aug. 8, 2023.

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Arrest and Taking into Custody of a Minor

705 ILCS 405/5-401

(1) A law enforcement officer may, without a warrant,

(a) arrest a minor whom the officer with probable cause believes to be a delinquent minor; or

(b) take into custody a minor who has been adjudged a ward of the court and has escaped from any commitment ordered by the court under this Act; or

(c) take into custody a minor whom the officer reasonably believes has violated the conditions of probation or supervision ordered by the court.

(2) Whenever a petition has been filed under Section 5-520 and the court finds that the conduct and behavior of the minor may endanger the health, person, welfare, or property of the minor or others or that the circumstances of the minor's home environment may endanger the minor's health, person, welfare or property, a warrant may be issued immediately to take the minor into custody.

(3) Except for minors accused of violation of an order of the court, any minor accused of any act under federal or State law, or a municipal or county ordinance that would not be

illegal if committed by an adult, cannot be placed in a jail, municipal lockup, detention center, or secure correctional facility. Juveniles accused with underage consumption and underage possession of alcohol or cannabis cannot be placed in a jail, municipal lockup, detention center, or correctional facility.

Current through P.A. 103-0022, eff. Aug. 8, 2023.

Prohibition of Deceptive Tactics

705 ILCS 405/5-401.6

(a) In this Section:

"Custodial interrogation" means any interrogation (i) during which a reasonable person in the subject's position would consider the subject to be in custody and (ii) during which a question is asked that is reasonably likely to elicit an incriminating response.

"Deception" means the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law enforcement officer or juvenile officer to a subject of custodial interrogation.

"Person with a severe or profound intellectual disability" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired.

"Place of detention" means a building or a police station that is a place of operation for a municipal police department or county sheriff department or other law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons or allegations that those persons are delinquent minors.

"Protected person" means: a minor who, at the time of the commission of the offense, was under 18 years of age; or a person with a severe or profound intellectual disability.

(b) An oral, written, or sign language confession of a protected person made as a result of a custodial interrogation conducted at a police station or other place of detention on or after January 1, 2022 (the effective date of Public Act 102-101) shall be presumed to be inadmissible as evidence against the protected person making the confession in a criminal proceeding or a juvenile court proceeding for an act that if committed by an adult would be a misdemeanor offense under Article 11 of the Criminal Code of 2012 or a felony offense under the Criminal Code of 2012 if, during the custodial interrogation, a law enforcement officer or juvenile officer knowingly engages in deception.

(c) The presumption of inadmissibility of a confession of a protected person at a custodial interrogation at a police station or other place of detention, when such confession is procured through the knowing use of deception, may be overcome by a preponderance of the evidence that the confession was voluntarily given, based on the totality of the circumstances.

(d) The burden of going forward with the evidence and the burden of proving that a confession was voluntary shall be on the State. Objection to the failure of the State to call all material witnesses on the issue of whether the confession was voluntary must be made in the trial court.

Current through P.A. 103-0605, eff. July 1, 2024.

Trials

705 ILCS 405/5-705

(1) When a petition has been filed alleging that the minor is a delinquent, a trial must be held within 120 days of a written demand for such hearing made by any party, except that when the State, without success, has exercised due diligence to obtain evidence material to the case and there are reasonable grounds to believe that the evidence may be obtained at a later date, the court may, upon motion by the State, continue the trial for not more than 30 additional days.

(2) If a minor respondent has multiple delinquency petitions pending against the minor in the same county and simultaneously demands a trial upon more than one delinquency petition pending against the minor in the same county, the minor shall receive a trial or have a finding, after waiver of trial, upon at least one such petition before expiration relative to any of the pending petitions of the period described by this Section. All remaining petitions thus pending against the minor respondent shall be adjudicated within 160 days from the date on which a finding relative to the first petition prosecuted is rendered under Section 5-620 of this Article, or, if the trial upon the first petition is terminated without a finding and there is no subsequent trial, or adjudication after waiver of trial, on the first petition within a reasonable time, the minor shall receive a trial upon all of the remaining petitions within 160 days from the date on which the trial, or finding after waiver of trial, on the first petition is concluded. If either such period of 160 days expires without the commencement of trial, or adjudication after waiver of trial, of any of the remaining pending petitions, the petition or petitions shall be dismissed and barred for want of prosecution unless the delay is occasioned by any of the reasons described in this Section.

(3) When no such trial is held within the time required by subsections (1) and (2) of this Section, the court shall, upon motion by any party, dismiss the petition with prejudice.

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Current through P.A. 103-0605, eff. July 1, 2024.

Sentencing Hearing; Evidence; Continuance

705 ILCS 405/5-705

(1) In this subsection (1), “violent crime” has the same meaning ascribed to the term in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act. At the sentencing hearing, the court shall determine whether it is in the best interests of the minor or the public that the minor be made a ward of the court, and, if the minor is to be made a ward of the court, the court shall determine the proper disposition best serving the interests of the minor and the public. All evidence helpful in determining these questions, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the trial. A crime victim shall be allowed to present an oral or written statement, as guaranteed by Article I, Section 8.1 of the Illinois Constitution and as provided in Section 6 of the Rights of Crime Victims and Witnesses Act, in any case in which: (a) a juvenile has been adjudicated delinquent for a violent crime after a bench or jury trial; or (b) the petition alleged the commission of a violent crime and the juvenile has been adjudicated delinquent under a plea agreement of a crime that is not a violent crime. 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 the Rights of Crime Victims and Witnesses 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. A record of a prior continuance under supervision under Section 5-615, whether successfully completed or not, is admissible at the sentencing hearing. No order of commitment to the Department of Juvenile Justice shall be entered against a minor before a written report of social investigation, which has been completed within the previous 60 days, is presented to and considered by the court.

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Current through P.A. 103-0605, eff. July 1, 2024.

Transfer of Jurisdiction

705 ILCS 405/5-805

(1) (Blank).

(2) Presumptive transfer.

(a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to permit prosecution under the criminal laws and the petition alleges a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang, and, if the juvenile judge assigned to hear and determine motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the minor is not a fit and proper subject to be dealt with under the Juvenile Justice Reform Provisions of 1998 (Public Act 90-590), and that, except as provided in paragraph (b), the case should be transferred to the criminal court.

(b) The judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on clear and convincing evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor,

(C) any mental health, physical or educational history of the minor or combination of these factors, and

(D) any involvement of the minor in the child welfare system;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon,

(F) whether there is evidence the minor was subjected to outside pressure, including peer pressure, familial pressure, or negative influences, and

(G) the minor's degree of participation and specific role in the offense;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense, the minor's prior record of delinquency than to the other factors listed in this subsection.

(3) Discretionary transfer.

(a) If a petition alleges commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State and, on motion of the State's Attorney to permit prosecution of the minor under the criminal laws, a Juvenile Judge assigned by the Chief Judge of the Circuit to hear and determine those motions, after hearing but before commencement of the trial, finds that there is probable cause to believe that the allegations in the motion are true and that it is not in the best interests of the public to proceed under this Act, the court may enter an order permitting prosecution under the criminal laws.

(b) In making its determination on the motion to permit prosecution under the criminal laws, the court shall consider among other matters:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, and

(C) any mental health, physical, or educational history of the minor or combination of these factors, and

(D) any involvement of the minor in the child welfare system;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon,

(F) whether there is evidence the minor was subjected to outside pressure, including peer pressure, familial pressure, or negative influences, and

(G) the minor's degree of participation and specific role in the offense;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense, the minor's prior record of delinquency than to the other factors listed in this subsection.

(4) The rules of evidence for this hearing shall be the same as under Section 5-705 of this Act. A minor must be represented in court by counsel before the hearing may be commenced.

(5) If criminal proceedings are instituted, the petition for adjudication of wardship shall be dismissed insofar as the act or acts involved in the criminal proceedings. Taking of evidence in a trial on petition for adjudication of wardship is a bar to criminal proceedings based upon the conduct alleged in the petition.

(6) When criminal prosecution is permitted under this Section and a finding of guilt is entered, the criminal court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections.

(7) The changes made to this Section by this amendatory Act of the 99th General Assembly apply to a minor who has been taken into custody on or after the effective date of this amendatory Act of the 99th General Assembly.

Current through P.A. 103-0191, eff. Jan. 1, 2024.

Habitual Juvenile Offender

705 ILCS 405/5-815

(a) Definition. Any minor having been twice adjudicated a delinquent minor for offenses which, had the minor been prosecuted as an adult, would have been felonies under the laws of this State, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender where:

(1) the third adjudication is for an offense occurring after adjudication on the second; and

(2) the second adjudication was for an offense occurring after adjudication on the first; and

(3) the third offense occurred after January 1, 1980; and

(4) the third offense was based upon the commission of or attempted commission of the following offenses: first degree murder, second degree murder or involuntary manslaughter; criminal sexual assault or aggravated criminal sexual assault; aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm to the victim; burglary of a home or other residence intended for use as a temporary or permanent dwelling place for human beings; home invasion; robbery or armed robbery; or aggravated arson.

Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to prosecution as a habitual juvenile offender.

A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of any delinquency petition, adjudication upon which would mandate the minor's disposition as a Habitual Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as a Habitual Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which such Habitual Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on such petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without jury.

Except as otherwise provided herein, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Habitual Juvenile Offender proceedings.

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(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor a Habitual Juvenile Offender and commit the minor to the Department of Juvenile Justice for a period of time as provided in subsection (3) of Section 5–750, subject to the target release date

provisions as provided in subsection (c) of Section 3–2.5–85 of the Unified Code of Corrections.

Current through P.A. 103-0022, eff. Aug. 8, 2023.

Violent Juvenile Offender

705 ILCS 405/5-820

(a) Definition. A minor having been previously adjudicated a delinquent minor for an offense which, had the minor been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violence against an individual or a Class 2 or greater felony for which an element of the offense is possession or use of a firearm, and who is thereafter adjudicated a delinquent minor for a second time for any of those offenses shall be adjudicated a Violent Juvenile Offender if:

(1) The second adjudication is for an offense occurring after adjudication on the first; and

(2) The second offense occurred on or after January 1, 1995.

(b) Notice to minor. The State shall serve upon the minor written notice of intention to prosecute under the provisions of this Section within 5 judicial days of the filing of a delinquency petition, adjudication upon which would mandate the minor's disposition as a Violent Juvenile Offender.

(c) Petition; service. A notice to seek adjudication as a Violent Juvenile Offender shall be filed only by the State's Attorney.

The petition upon which the Violent Juvenile Offender notice is based shall contain the information and averments required for all other delinquency petitions filed under this Act and its service shall be according to the provisions of this Act.

No prior adjudication shall be alleged in the petition.

(d) Trial. Trial on the petition shall be by jury unless the minor demands, in open court and with advice of counsel, a trial by the court without a jury.

Except as otherwise provided in this Section, the provisions of this Act concerning delinquency proceedings generally shall be applicable to Violent Juvenile Offender proceedings.

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(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor a Violent Juvenile Offender and commit the minor to the Department of Juvenile Justice for a period of time as provided in subsection (3) of Section 5–750, subject to the target release date provisions in subsection (c) of Section 3–2.5–85 of the Unified Code of Corrections.

(g) Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as a habitual juvenile offender or as an adult as an alternative to prosecution as a Violent Juvenile Offender.

(h) A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

Current through P.A. 103-0022, eff. Aug. 8, 2023.

Court File

705 ILCS 405/5-901

(1) The Court file with respect to proceedings under this Article shall consist of the petitions, pleadings, victim impact statements, process, service of process, orders, writs and docket entries reflecting hearings held and judgments and decrees entered by the court. The court file shall be kept separate from other records of the court.

(a) The file, including information identifying the victim or alleged victim of any sex offense, shall be disclosed only to the following parties when necessary for discharge of their official duties:

(i) A judge of the circuit court and members of the staff of the court designated by the judge;

(ii) Parties to the proceedings and their attorneys;

(iii) Victims and their attorneys, except in cases of multiple victims of sex offenses in which case the information identifying the nonrequesting victims shall be redacted;

(iv) Probation officers, law enforcement officers or prosecutors or their staff;

(v) Adult and juvenile Prisoner Review Boards.

(b) The Court file redacted to remove any information identifying the victim or alleged victim of any sex offense shall be disclosed only to the following parties when necessary for discharge of their official duties:

(i) Authorized military personnel;

(ii) Persons engaged in bona fide research, with the permission of the judge of the juvenile court and the chief executive of the agency that prepared the particular recording: provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record;

(iii) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 or Section 6-205.1 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers;

(iv) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court;

(v) Any individual, or any public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile or any placement provider or potential placement provider as determined by the court.

(2) (Reserved)

(3) A minor who is the victim or alleged victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record. Information identifying victims and alleged victims of sex offenses, shall not be

disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing this identity.

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(5) Except as otherwise provided in this subsection (5), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The State's Attorney, the minor, the minor's parents, guardian and counsel shall at all times have the right to examine court files and records.

(a) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(i) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(ii) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (A) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an act involving the use of a firearm in the commission of a felony, (C) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (D) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, (E) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult, or (F) an act that would be an offense under the Methamphetamine Control and Community Protection Act if committed by an adult.

(b) The court shall allow the general public to have access to the name, address, and offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-805, under either of the following circumstances:

(i) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(ii) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (A) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an offense involving the use of a firearm in the commission of a felony, (C) a Class X felony offense under the Cannabis Control Act or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (D) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, (E) an offense under Section

401 of the Illinois Controlled Substances Act, or (F) an offense under the Methamphetamine Control and Community Protection Act.

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Current through P.A. 103-0022, eff. Aug. 8,2023.

Law Enforcement Records

705 ILCS 405/5-905

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(2) Information identifying victims and alleged victims of sex offenses, shall not be disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing this identity.

(2.5) If the minor is a victim of aggravated battery, battery, attempted first degree murder, or other non-sexual violent offense, the identity of the victim may be disclosed to appropriate school officials, for the purpose of preventing foreseeable future violence involving minors, by a local law enforcement agency pursuant to an agreement established between the school district and a local law enforcement agency subject to the approval by the presiding judge of the juvenile court.

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(4) Nothing in this Section shall prohibit the inspection or disclosure to victims and witnesses of photographs contained in the records of law enforcement agencies when the inspection or disclosure is conducted in the presence of a law enforcement officer for purposes of identification or apprehension of any person in the course of any criminal investigation or prosecution.

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(6) Except as otherwise provided in this subsection (6), law enforcement officers, and personnel of an independent agency created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers, may not disclose the identity of any minor in releasing information to the general public as to the arrest, investigation or disposition of any case involving a minor. Any victim or parent or legal guardian of a victim may petition the court to disclose the name and address of the minor and the minor's parents or legal guardian, or both. Upon a finding by clear and convincing evidence that the disclosure is either necessary for the victim to pursue a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor, then the court may order the disclosure of the information to the victim or to the parent or legal guardian of the victim only for the purpose of the victim pursuing a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor.

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Current through P.A. 103-1037, eff. Aug. 9, 2024.

Expungement of Juvenile Law Enforcement and Juvenile Court Records

705 ILCS 405/5-915(2.6-1)

(2.6-1) A trafficking victim, as defined by paragraph (10) of subsection (a) of Section 10-9 of the Criminal Code of 2012, may petition for vacation and expungement or immediate sealing of his or her juvenile court records and juvenile law enforcement records relating to events that resulted in the victim's adjudication of delinquency for an offense if committed by an adult would be a violation of the criminal laws occurring before the victim's 18th birthday upon the completion of his or her juvenile court sentence if his or her participation in the underlying offense was a result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

Current through 104-0417, eff. Aug. 15, 2025, and P.A. 104-0325, eff. Jan. 1, 2026.

Juvenile Offenders: Transfer to Criminal Court					
Age of Juvenile Offender	**Misdemeanor Criminal Sexual Abuse**	**Felony Criminal Sexual Abuse**	**Aggravated Criminal Sexual Abuse**	**Criminal Sexual Assault**	**Aggravated Criminal Sexual Assault**
13*	R	D	D	D	D
14	R	D	D	D	D
15	R	P/D	P/D	P/D	P/D
16	R	P/D	P/D	P/D	A
17	R	P/D	P/D	P/D	A
18**	N/A	N/A	N/A	N/A	N/A

R = Case is required to be prosecuted in juvenile court. 705 ILCS 405/5-120.
P = Presumptive transfer. Petition to transfer may be filed by prosecutor and will be presumed granted by Juvenile Judge when minor is accused of forcible felony and has a prior conviction or adjudication, and committed the act as part of gang activity. 705 ILCS 405/5-805(2) - (3).
D = Discretionary transfer. Petition to transfer may be filed by prosecutor and granted by Juvenile Judge. 705 ILCS 405/5-805(3).
A = Automatic transfer (case begins in criminal court). 705 ILCS 405/5-130(1)(a).
* Minors under 13 cannot be transferred to criminal court. 705 ILCS 405/5-805(3).
** An offender 18 or older is considered an adult and will be tried in criminal court for felonies. 705 ILCS 405/5-120.

NOTE: *An offender under 18 years at the time of the offense must be sentenced under §5-4.5-105 of the Unified Code of Corrections. 730 ILCS 5/5-4.5-105.*

UNIFIED CODE OF CORRECTIONS (SELECTED SECTIONS)
Chapter V – Sentencing
Article 4.5 – General Sentencing Provisions
730 ILCS 5/5-4.5

Sentencing of Individuals Under the Age of 18 at the Time of the Commission of an Offense
730 ILCS 5/5-4.5-105

(a) On or after January 1, 2016 (the effective date of Public Act 99-69), when a person commits an offense and the person is under 18 years of age at the time of the commission of the offense, the court, at the sentencing hearing conducted under Section 5-4-1, shall consider the following additional factors in mitigation in determining the appropriate sentence:

(1) the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;

(2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences;

(3) the person's family, home environment, educational and social background, including any history of parental neglect, domestic or sexual violence, sexual exploitation, physical abuse, or other childhood trauma including adverse childhood experiences (or ACEs);

(4) the person's potential for rehabilitation or evidence of rehabilitation, or both;

(5) the circumstances of the offense;

(6) the person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;

(7) whether the person was able to meaningfully participate in his or her defense;

(8) the person's prior juvenile or criminal history;

(9) the person's involvement in the child welfare system;

(10) involvement of the person in the community;

(11) if a comprehensive mental health evaluation of the person was conducted by a qualified mental health professional, the outcome of the evaluation; and

(12) any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an aggravating factor.

(b) The trial judge shall specify on the record its consideration of the factors under subsection (a) of this Section.

(c) Notwithstanding any other provision of law, if the court determines by clear and convincing evidence that the individual against whom the person is convicted of

committing the offense previously committed a crime under Section 10–9, Section 11–1.20, Section 11–1.30, Section 11–1.40, Section 11–1.50, Section 11–1.60, Section 11–6, Section 11–6.5, Section 11–6.6, Section 11–9.1, Section 11–14.3, Section 11–14.4 or Section 11–18.1 of the Criminal Code of 2012 against the person within 3 years before the offense in which the person was convicted, the court may, in its discretion:

(1) transfer the person to juvenile court for sentencing under Section 5–710 of the Juvenile Court Act of 1987;

(2) depart from any mandatory minimum sentence, maximum sentence, or sentencing enhancement; or

(3) suspend any portion of an otherwise applicable sentence.

(d) Subsection (c) shall be construed as prioritizing the successful treatment and rehabilitation of persons under 18 years of age who are sex crime victims who commit acts of violence against their abusers. It is the General Assembly's intent that these persons be viewed as victims and provided treatment and services in the community and in the juvenile or family court system.

(e) Except as provided in subsections (f) and (g), the court may sentence the defendant to any disposition authorized for the class of the offense of which he or she was found guilty as described in Article 4.5 of this Code, and may, in its discretion, decline to impose any otherwise applicable sentencing enhancement based upon firearm possession, possession with personal discharge, or possession with personal discharge that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(f) Notwithstanding any other provision of law, if the defendant is convicted of first degree murder and would otherwise be subject to sentencing under clause (iii), (iv), (v), or (vii) of subparagraph (c) of paragraph (1) of subsection (a) of Section 5-8-1 of this Code based on the category of persons identified therein, the court shall impose a sentence of not less than 40 years of imprisonment, except for persons convicted of first degree murder where subsection (c) applies. In addition, the court may, in its discretion, decline to impose the sentencing enhancements based upon the possession or use of a firearm during the commission of the offense included in subsection (d) of Section 5-8-1.

(g) Fines and assessments, such as fees or administrative costs, shall not be ordered or imposed against a minor subject to this Code or against the minor's parent, guardian, or legal custodian. For the purposes of this subsection (g), "minor" has the meaning provided in Section 1–3 of the Juvenile Court Act of 1987 and includes any minor under the age of 18 transferred to adult court or excluded from juvenile court jurisdiction under Article V of the Juvenile Court Act of 1987.

Current through P.A. 103-0605, eff. July 1. 2024.

Parole Review of Persons Under the Age of 21 at the Time of the Commission of an Offense

730 ILCS 5/5-4.5-115

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(b) A person under 21 years of age at the time of the commission of an offense or offenses, other than first degree murder, and who is not serving a sentence for first degree murder and who is sentenced on or after June 1, 2019 (the effective date of Public Act 100-1182) shall be eligible for parole review by the Prisoner Review Board after serving 10 years or more of his or her sentence or sentences, except for those serving a sentence or sentences for: (1) aggravated criminal sexual assault who shall be eligible for parole review by the Prisoner Review Board after serving 20 years or more of his or her sentence or sentences or (2) predatory criminal sexual assault of a child who shall not be eligible for parole review by the Prisoner Review Board under this Section. A person under 21 years of age at the time of the commission of first degree murder who is sentenced on or after June 1, 2019 (the effective date of Public Act 100-1182) shall be eligible for parole review by the Prisoner Review Board after serving 20 years or more of his or her sentence or sentences, except for those subject to a term of natural life imprisonment under Section 5-8-1 of this Code or any person subject to sentencing under subsection (c) of Section 5-4.5-105 of this Code, who shall be eligible for parole review by the Prisoner Review Board after serving 40 years or more of his or her sentence or sentences.

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(g) Not less than 12 months prior to the hearing, the Prisoner Review Board shall provide notification to the State's Attorney of the county from which the person was committed and written notification to the victim or family of the victim of the scheduled hearing place, date, and approximate time. The written notification shall contain: (1) information about their right to be present, appear in person at the parole hearing, and their right to make an oral statement and submit information in writing, by videotape, tape recording, or other electronic means; (2) a toll-free number to call for further information about the parole review process; and (3) information regarding available resources, including trauma-informed therapy, they may access. If the Board does not have knowledge of the current address of the victim or family of the victim, it shall notify the State's Attorney of the county of commitment and request assistance in locating the victim or family of the victim. Those victims or family of the victims who advise the Board in writing that they no longer wish to be notified shall not receive future notices. A victim shall have the right to submit information by videotape, tape recording, or other electronic means. The victim may submit this material prior to or at the parole hearing. The victim also has the right to be heard at the parole hearing.

(h) The hearing conducted by the Prisoner Review Board shall be governed by Sections 15 and 20, subsection (f) of Section 5, subsections (a), (a-5), (b), (b-5), and (c) of Section 10, and subsection (d) of Section 25 of the Open Parole Hearings Act and Part 1610 of Title 20 of the Illinois Administrative Code. The eligible person has a right to be present at the Prisoner Review Board hearing, unless the Prisoner Review Board determines the eligible person's presence is unduly burdensome when conducting a hearing under paragraph (6.6) of subsection (a) of Section 3-3-2 of this Code. If a psychological evaluation is submitted for the Prisoner Review Board's consideration, it shall be

prepared by a person who has expertise in adolescent brain development and behavior, and shall take into consideration the diminished culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and increased maturity of the person. At the hearing, the eligible person shall have the right to make a statement on his or her own behalf.

(i) Only upon motion for good cause shall the date for the Prisoner Review Board hearing, as set by subsection (b) of this Section, be changed. No less than 15 days prior to the hearing, the Prisoner Review Board shall notify the victim or victim representative, the attorney, and the eligible person of the exact date and time of the hearing. All hearings shall be open to the public.

(j) (Blank).

(j-5) In deciding whether to grant or deny parole, the Board shall consider the following factors:

(1) participation in rehabilitative programming available to the petitioner, including, but not limited to, educational courses, vocational courses, life skills courses, individual or group counseling courses, civics education courses, peer education courses, independent studies courses, substance abuse counseling courses, and behavior modification courses;

(2) participation in professional licensing courses or on-the-job training courses;

(3) letters from correctional staff, educational faculty, community members, friends, and other incarcerated persons;

(4) the petitioner's potential for rehabilitation or the evidence of rehabilitation in the petitioner;

(5) the applicant's age at the time of the offense;

(6) the circumstances of the offense and the petitioner's role and degree of participation in the offense;

(7) the presence of a cognitive or developmental disability in the petitioner at the time of the offense;

(8) the petitioner's family, home environment, educational and social background at the time of the offense;

(9) evidence that the petitioner has suffered from post-traumatic stress disorder, adverse childhood experiences, or other traumas that could have been a contributing factor to a person's criminal behavior and participation in the offense;

(10) the presence or expression by the petitioner of remorse, compassion, or insight of harm and collateral effects experienced by the victims;

(11) the commission of a serious disciplinary infraction within the previous 5 years;

(12) a pattern of fewer serious institutional disciplinary infractions within the previous 2 years;

(13) evidence that the petitioner has any serious medical conditions;

(14) evidence that the Department is unable to meet the petitioner's medical needs; and

(15) the petitioner's reentry plan, including, but not limited to, residence plans, employment plans, continued education plans, rehabilitation plans, and counseling plans.

No one factor in this subsection (j-5) shall be dispositive. In considering the factors affecting the release determination under 20 Ill. Adm. Code 1610.50(b), the Prisoner Review Board panel shall consider the diminished culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and maturity of the youthful offender during incarceration.

(k) Unless denied parole under subsection (j) of this Section and subject to the provisions of Section 3-3-9 of this Code: (1) the eligible person serving a sentence for any non-first degree murder offense or offenses, shall be released on parole which shall operate to discharge any remaining term of years sentence imposed upon him or her, notwithstanding any required mandatory supervised release period the eligible person is required to serve; and (2) the eligible person serving a sentence for any first degree murder offense, shall be released on mandatory supervised release for a period of 10 years subject to Section 3-3-8, which shall operate to discharge any remaining term of years sentence imposed upon him or her, however in no event shall the eligible person serve a period of mandatory supervised release greater than the aggregate of the discharged underlying sentence and the mandatory supervised release period as sent forth in Section 5-4.5-20.

(l) If the Prisoner Review Board denies parole after conducting the hearing under subsection (j) of this Section, it shall issue a written decision which states the rationale for denial, including the primary factors considered. This decision shall be provided to the eligible person and his or her counsel within 30 days.

(m) A person denied parole under subsection (j) of this Section, who is not serving a sentence for either first degree murder or aggravated criminal sexual assault, shall be eligible for a second parole review by the Prisoner Review Board 5 years after the written decision under subsection (*l*) of this Section; a person denied parole under subsection (j) of this Section, who is serving a sentence or sentences for first degree murder or aggravated criminal sexual assault shall be eligible for a second and final parole review by the Prisoner Review Board 10 years after the written decision under subsection (k) of this Section. The procedures for a second parole review shall be governed by subsections (c) through (k) of this Section.

(n) A person denied parole under subsection (m) of this Section, who is not serving a sentence for either first degree murder or aggravated criminal sexual assault, shall be eligible for a third and final parole review by the Prisoner Review Board 5 years after the written decision under subsection (*l*) of this Section. The procedures for the third and final parole review shall be governed by subsections (c) through (k) of this Section.

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Current through P.A. 104-0011, eff. June 20, 2025.

VII. CRIMINAL STATUTES OF LIMITATIONS

General Limitations

720 ILCS 5/3-5

(a) A prosecution for: (1) first degree murder, attempt to commit first degree murder, second degree murder, involuntary manslaughter, reckless homicide, a violation of subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code for the offense of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof when the violation was a proximate cause of a death, leaving the scene of a motor vehicle crash involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code, failing to give information and render aid under Section 11-403 of the Illinois Vehicle Code, concealment of homicidal death, treason, arson, residential arson, aggravated arson, forgery, child sexual abuse material or child pornography under paragraph (1) of subsection (a) of Section 11-20.1, or aggravated child pornography under paragraph (1) of subsection (a) of Section 11-20.1B, or (2) any offense involving sexual conduct or sexual penetration, as defined by Section 11-0.1 of this Code may be commenced at any time.

(a-5) A prosecution for theft of property exceeding $100,000 in value under Section 16-1, identity theft under subsection (a) of Section 16-30, aggravated identity theft under subsection (b) of Section 16-30, financial exploitation of an elderly person or a person with a disability under Section 17-56; theft by deception of a victim 60 years of age or older or a person with a disability under Section 16-1; or any offense set forth in Article 16H or Section 17-10.6 may be commenced within 7 years of the last act committed in furtherance of the crime.

(b) Unless the statute describing the offense provides otherwise, or the period of limitation is extended by Section 3-6, a prosecution for any offense not designated in subsection (a) or (a-5) must be commenced within 3 years after the commission of the offense if it is a felony, or within one year and 6 months after its commission if it is a misdemeanor.

Current through P.A. 104-0245, eff. July 1, 2026.

Extended Limitations

720 ILCS 5/3-6

The period within which a prosecution must be commenced under the provisions of Section 3–5 or other applicable statute is extended under the following conditions:

• • •

(b) A prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a legal duty to report such offense, or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(b–5) (1) When the victim is under 18 years of age at the time of the offense, a prosecution for involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons and related offenses under Section 10–9 of this Code may be commenced within 25 years of the victim attaining the age of 18 years.

(2) When the victim is under 18 years of age at the time of the offense, a prosecution for involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons and related offenses under Section 10–9 of this Code may be commenced at any time. This paragraph (2) applies to prosecutions for such conduct arising on or after the effective date of this amendatory Act of the 104th General Assembly.

(b–6) When the victim is 18 years of age or over at the time of the offense, a prosecution for involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons and related offenses under Section 10–9 of this Code may be commenced within 25 years after the commission of the offense.

(b–7) When the victim is under 18 years of age at the time of the offense, a prosecution for female genital mutilation may be commenced at any time.

(b–8) When the victim is under 17 years of age at the time of the offense, a prosecution for grooming may be commenced within 10 years after the victim attains 17 years of age.

(c) (Blank).

(d) A prosecution for child sexual abuse material or child pornography, aggravated child pornography, indecent solicitation of a child, soliciting for a juvenile prostitute, juvenile pimping, exploitation of a child, or promoting juvenile prostitution except for keeping a place of juvenile prostitution may be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense.

(e) Except as otherwise provided in subdivision (j), a prosecution for any offense involving sexual conduct or sexual penetration, as defined in Section 11–0.1 of this Code, where the defendant was within a professional or fiduciary relationship or a purported professional or fiduciary relationship with the victim at the time of the commission of the offense may be commenced within one year after the discovery of the offense by the victim.

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(i) Except as otherwise provided in subdivision (j), a prosecution for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse may be commenced at any time. If the victim consented to the collection of evidence using an Illinois State Police Sexual Assault Evidence Collection Kit under the Sexual Assault Survivors Emergency Treatment Act, it shall constitute reporting for purposes of this Section.

Nothing in this subdivision (i) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(i–5) A prosecution for armed robbery, home invasion, kidnapping, or aggravated kidnaping may be commenced within 10 years of the commission of the offense if it arises out of the same course of conduct and meets the criteria under one of the offenses in subsection (i) of this Section.

(j) (1) When the victim is under 18 years of age at the time of the offense, a prosecution for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, felony criminal sexual abuse, or female genital mutilation may be commenced at any time.

(2) When in circumstances other than as described in paragraph (1) of this subsection (j), when the victim is under 18 years of age at the time of the offense, a prosecution for failure of a person who is required to report an alleged or suspected commission of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse under the Abused and Neglected Child Reporting Act may be commenced within 20 years after the child victim attains 18 years of age.

(3) When the victim is under 18 years of age at the time of the offense, a prosecution for misdemeanor criminal sexual abuse may be commenced within 10 years after the child victim attains 18 years of age.

(4) Nothing in this subdivision (j) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(j–5) A prosecution for armed robbery, home invasion, kidnapping, or aggravated kidnaping may be commenced at any time if it arises out of the same course of conduct and meets the criteria under one of the offenses in subsection (j) of this Section.

(k) (Blank).

(l) A prosecution for any offense set forth in Section 26–4 of this Code may be commenced within one year after the discovery of the offense by the victim of that offense.

(l–5) A prosecution for any offense involving sexual conduct or sexual penetration, as defined in Section 11–0.1 of this Code, in which the victim was 18 years of age or older at the time of the offense, may be commenced within one year after the discovery of the offense by the victim when corroborating physical evidence is available. The charging document shall state that the statute of limitations is extended under this subsection (l–5) and shall state the circumstances justifying the extension. Nothing in this subsection (l–5) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section or Section 3–5 of this Code.

(m) The prosecution shall not be required to prove at trial facts which extend the general limitations in Section 3–5 of this Code when the facts supporting extension of the period of general limitations are properly pled in the charging document. Any challenge relating to the extension of the general limitations period as defined in this Section shall be exclusively conducted under Section 114–1 of the Code of Criminal Procedure of 1963.

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Current through P.A. 104–0241, eff. Jan. 1, 2026.

Periods Excluded from Limitation

720 ILCS 5/3-7

(a) The period within which a prosecution must be commenced does not include any period in which:

(1) the defendant is not usually and publicly resident within this State; or

• • •

(5) a material witness is placed on active military duty or leave. In this paragraph (5), "material witness" includes, but is not limited to, the arresting officer, occurrence witness, or the alleged victim of the offense; or

• • •

(7) the sexual assault evidence is collected and submitted to the Illinois State Police until the completion of the analysis of the submitted evidence.

(a-5) The prosecution shall not be required to prove at trial facts establishing periods excluded from the general limitations in Section 3-5 of this Code when the facts supporting periods being excluded from the general limitations are properly pled in the charging document. Any challenge relating to periods of exclusion as defined in this Section shall be exclusively conducted under Section 114-1 of the Code of Criminal Procedure of 1963.

(b) For the purposes of this Section:

"Completion of the analysis of the submitted evidence" means analysis of the collected evidence and conducting of laboratory tests and the comparison of the collected evidence with the genetic marker grouping analysis information maintained by the Illinois State Police under Section 5-4-3 of the Unified Code of Corrections and with the information contained in the Federal Bureau of Investigation's National DNA database.

"Sexual assault" has the meaning ascribed to it in Section 1a of the Sexual Assault Survivors Emergency Treatment Act.

"Sexual assault evidence" has the meaning ascribed to it in Section 5 of the Sexual Assault Evidence Submission Act.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Limitation on Offense Based on Series of Acts

720 ILCS 5/3-8

When an offense is based on a series of acts performed at different times, the period of limitation prescribed by this Article starts at the time when the last such act is committed.

Current through Laws 1961, p. 1983, eff. Jan. 1, 1962.

NOTE: *For more information about previous Illinois criminal statutes of limitation, please see "Statute of Limitations Guide: Prosecuting Older Sex Crimes Cases" at www.icasa.org.*

VIII. CIVIL PROTECTIVE ORDERS & VIOLATIONS

STALKING NO CONTACT ORDER ACT

740 ILCS 21/1

Purpose

740 ILCS 21/5

Stalking generally refers to a course of conduct, not a single act. Stalking behavior includes following a person, conducting surveillance of the person, appearing at the person's home, work or school, making unwanted phone calls, sending unwanted emails, unwanted messages via social media, or text messages, leaving objects for the person, vandalizing the person's property, or injuring a pet. Stalking is a serious crime. Victims experience fear for their safety, fear for the safety of others and suffer emotional distress. Many victims alter their daily routines to avoid the persons who are stalking them. Some victims are in such fear that they relocate to another city, town or state. While estimates suggest that 70% of victims know the individuals stalking them, only 30% of victims have dated or been in intimate relationships with their stalkers. All stalking victims should be able to seek a civil remedy requiring the offenders stay away from the victims and third parties.

Current through P.A. 100-1000, eff. Jan. 1, 2019.

Definitions

740 ILCS 21/10

"Course of conduct" means 2 or more acts, including but not limited to acts in which a respondent directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, or threatens a person, workplace, school, or place of worship, engages in other contact, or interferes with or damages a person's property or pet. A course of conduct may include using any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel patterns. A course of conduct may also include contact via electronic communications. The incarceration of a person in a penal institution who commits the course of conduct is not a bar to prosecution under this Section.

"Emotional distress" means significant mental suffering, anxiety or alarm. Unless the presumption is rebutted by a preponderance of the evidence, the following conduct is presumed to cause emotional distress:

(1) creating a disturbance at the petitioner's place of employment or school;

(2) repeatedly telephoning the petitioner's place of employment, home, or residence after being told by the petitioner or the petitioner's employer to stop calling;

(3) repeatedly following the petitioner about in a public place or places;

(4) repeatedly keeping the petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle, or other place occupied by the petitioner or by peering in the petitioner's windows;

(5) threatening the safety of the petitioner's minor child or family member; or

(6) threatening physical force, confinement, or restraint on one or more occasions.

"Contact" includes any contact with the victim, that is initiated or continued without the victim's consent, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; placing an object on, or delivering an object to, property owned, leased, or occupied by the victim; electronic communication as defined in Section 26.5-0.1 of the Criminal Code of 2012; and appearing at the prohibited workplace, school, or place of worship.

"Petitioner" means any named petitioner for the stalking no contact order or any named victim of stalking on whose behalf the petition is brought. "Petitioner" includes an authorized agent of a place of employment, an authorized agent of a place of worship, or an authorized agent of a school.

"Reasonable person" means a person in the petitioner's circumstances with the petitioner's knowledge of the respondent and the respondent's prior acts.

"Stalking" means engaging in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety, the safety of a workplace, school, or place of worship, or the safety of a third person or suffer emotional distress. "Stalking" also includes harassment that is conduct that is not necessary to accomplish a purpose that is reasonable under the circumstances, would cause a reasonable person emotional distress, and causes emotional distress to the petitioner. "Stalking" does not include an exercise of the right to free speech or assembly that is otherwise lawful, including (1) labor compliance activity, such as monitoring compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements; or (2) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

"Stalking no contact order" means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 80 of this Act.

Current through P.A. 104-0251, eff. Aug. 15, 2025.

Persons Protected by this Act

740 ILCS 21/15

A petition for a stalking no contact order may be filed when relief is not available to the petitioner under the Illinois Domestic Violence Act of 1986:

(1) by any person who is a victim of stalking;

(2) by a person on behalf of a minor child or an adult who is a victim of stalking but, because of age, disability, health, or inaccessibility, cannot file the petition;

(3) by an authorized agent of a workplace;

(4) by an authorized agent of a place of worship;

(5) by an authorized agent of a school;

(6) by a service member of the Illinois National Guard or any reserve military component serving within the State who is a victim of stalking who has also received a Military Protective Order; or

(7) by the Staff Judge Advocate of the Illinois National Guard or any reserve military component serving within the State on behalf of a named victim who is a victim of stalking who has also received a Military Protective Order only after receiving consent from the victim, and the petition shall include a statement that the victim has consented to the Staff Judge Advocate filing the petition.

Current through P.A. 103-0407, eff. July 31, 2023.

Commencement of Action; Filing Fees

740 ILCS 21/20

(a) An action for a stalking no contact order is commenced:

(1) independently, by filing a petition for a stalking no contact order in any civil court, unless specific courts are designated by local rule or order; or

(2) in conjunction with a delinquency petition or a criminal prosecution as provided in Article 112A of the Code of Criminal Procedure of 1963.

(a-1) A petition for a stalking no contact order may be filed in person or online.

(a-5) When a petition for an emergency stalking no contact order is filed, the petition and file shall not be public and shall only be accessible to the court, law enforcement, petitioner, victim advocate, counsel of record for either party, and State's Attorney for the county until the petition is served on the respondent.

Accessibility to the petition and file under this subsection prior to the petition being served on the respondent shall be in accordance with Section 5 of the Court Record and Document Accessibility Act.

(b) Withdrawal or dismissal of any petition for a stalking no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a stalking no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a stalking no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

Current through P.A. 103-0166, eff. Jan. 1, 2024.

Pleading; Non-Disclosure of Address

740 ILCS 21/25

(a) A petition for a stalking no contact order shall be in writing and verified or accompanied by affidavit and shall allege that the petitioner has been the victim of stalking by the respondent.

(b) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Application of Rules of Civil Procedure; Victim Advocates

740 ILCS 21/30

(a) Any proceeding to obtain, modify, reopen or appeal a stalking no contact order shall be governed by the rules of civil procedure of this State. The standard of proof in such a proceeding is proof by a preponderance of the evidence. The Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by this Act.

(b) In circuit courts, victim advocates shall be allowed to accompany the petitioner and confer with the petitioner, unless otherwise directed by the court. Court administrators shall allow victim advocates to assist victims of stalking in the preparation of petitions for stalking no contact orders. Victim advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this subsection (b).

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Appointment of Counsel

740 ILCS 21/35

The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Trial by Jury

740 ILCS 21/40

There shall be no right to trial by jury in any proceeding to obtain, modify, vacate or extend any stalking no contact order under this Act. However, nothing in this Section shall deny any existing right to trial by jury in a criminal proceeding.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Subject Matter Jurisdiction
740 ILCS 21/45

Each of the circuit courts has the power to issue stalking no contact orders.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Jurisdiction Over Persons
740 ILCS 21/50

The courts of this State have jurisdiction to bind (1) State residents and (2) non-residents having minimum contacts with this State, to the extent permitted by the long-arm statute, Section 2-209 of the Code of Civil Procedure.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Venue
740 ILCS 21/55

A petition for a stalking no contact order may be filed in any county where (1) the petitioner resides, (2) the respondent resides, or (3) one or more acts of the alleged stalking occurred.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Process
740 ILCS 21/60

(a) Any action for a stalking no contact order requires that a separate summons be issued and served. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for stalking no contact order and supporting affidavits, if any, and any emergency stalking no contact order that has been issued.

(b) The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers.

(c) Service of process on a member of the respondent's household or by publication shall be adequate if: (1) the petitioner has made all reasonable efforts to accomplish actual service of process personally upon the respondent, but the respondent cannot be found to effect such service; and (2) the petitioner files an affidavit or presents sworn testimony as to those efforts.

(d) A plenary stalking no contact order may be entered by default for the remedy sought in the petition, if the respondent has been served or given notice in accordance with subsection (a) and if the respondent then fails to appear as directed or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

(e) If an order is granted under subsection (c) of Section 95, the court shall immediately file a certified copy of the order with the sheriff or other law enforcement official charged with maintaining Department of State Police records.

Current through P.A. 101-0508, eff. Jan. 1, 2020.

Service of Notice of Hearings

740 ILCS 21/65

Except as provided in Section 60, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by Section 100 of this Act or by the Code of Civil Procedure, Supreme Court Rules, or local rules.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Hearings

740 ILCS 21/70

(a) A petition for a stalking no contact order shall be treated as an expedited proceeding, and no court may transfer or otherwise decline to decide all or part of such petition. Nothing in this Section shall prevent the court from reserving issues if jurisdiction or notice requirements are not met.

(b) A court in a county with a population above 250,000 shall offer the option of a remote hearing to a petitioner for a stalking no contact order. The court has the discretion to grant or deny the request for a remote hearing. Each court shall determine the procedure for a remote hearing. The petitioner and respondent may appear remotely or in person.

The court shall issue and publish a court order, standing order, or local rule detailing information about the process for requesting and participating in a remote court appearance. The court order, standing order, or local rule shall be published on the court's website and posted on signs throughout the courthouse, including in the clerk's office. The sign shall be written in plain language and include information about the availability of remote court appearances and the process for requesting a remote hearing.

Current through P.A. 103-0154, eff. June 30, 2023.

Continuances

740 ILCS 21/75

(a) Petitions for emergency remedies shall be granted or denied in accordance with the standards of Section 100, regardless of the respondent's appearance or presence in court.

(b) Any action for a stalking no contact order is an expedited proceeding. Continuances shall be granted only for good cause shown and kept to the minimum reasonable duration, taking into account the reasons for the continuance.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Stalking No Contact Orders; Remedies

740 ILCS 21/80

(a) If the court finds that the petitioner has been a victim of stalking, a stalking no contact order shall issue; provided that the petitioner must also satisfy the requirements of Section 95 on emergency orders or Section 100 on plenary orders. The petitioner shall not be denied a stalking no contact order because the petitioner or the respondent is a minor. The court, when determining whether or not to issue a stalking no contact order, may not require physical injury on the person of the petitioner. Modification and extension of prior stalking no contact orders shall be in accordance with this Act.

(b) A stalking no contact order shall order one or more of the following:

(1) prohibit the respondent from threatening to commit or committing stalking;

(2) order the respondent not to have any contact with the petitioner or a third person specifically named by the court;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within a specified distance of the petitioner or the petitioner's residence, school, daycare, or place of employment, or any specified place frequented by the petitioner; however, the court may order the respondent to stay away from the respondent's own residence, school, or place of employment only if the respondent has been provided actual notice of the opportunity to appear and be heard on the petition;

(4) prohibit the respondent from possessing a Firearm Owners Identification Card, or possessing or buying firearms;

(5) prohibit the respondent from using any electronic tracking system or acquiring tracking information to determine the petitioner's location, movement, or travel pattern; and

(6) order other injunctive relief the court determines to be necessary to protect the petitioner or third party specifically named by the court.

(b-5) When the petitioner and the respondent attend the same public, private, or non-public elementary, middle, or high school, the court when issuing a stalking no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or program, as determined by the school district or private or non-public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of

placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. In the event the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.

(b-6) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. In the event the court orders a transfer of the respondent to another school, the parents, guardian, or legal custodian of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(b-7) The court shall not hold a school district or private or non-public school or any of its employees in civil or criminal contempt unless the school district or private or non-public school has been allowed to intervene.

(b-8) The court may hold the parents, guardian, or legal custodian of a minor respondent in civil or criminal contempt for a violation of any provision of any order entered under this Act for conduct of the minor respondent in violation of this Act if the parents, guardian, or legal custodian directed, encouraged, or assisted the respondent minor in such conduct.

(c) The court may award the petitioner costs and attorneys fees if a stalking no contact order is granted.

(d) Monetary damages are not recoverable as a remedy.

(e) If the stalking no contact order prohibits the respondent from possessing a Firearm Owner's Identification Card, or possessing or buying firearms; the court shall confiscate the respondent's Firearm Owner's Identification Card and immediately return the card to the Illinois State Police Firearm Owner's Identification Card Office.

Current through P.A. 103-0760, eff. Jan. 1, 2025.

Mutual Stalking No Contact Orders Are Prohibited

740 ILCS 21/85

Correlative separate orders undermine the purposes of this Act. If separate orders are sought, both must comply with all provisions of this Act.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Accountability for Actions of Others

740 ILCS 21/90

For the purposes of issuing a stalking no contact order, deciding what remedies should be included and enforcing the order, Article 5 of the Criminal Code of 2012 shall govern whether respondent is legally accountable for the conduct of another person.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Emergency Stalking No Contact Order

740 ILCS 21/95

(a) An emergency stalking no contact order shall issue if the petitioner satisfies the requirements of this subsection (a). The petitioner shall establish that:

(1) the court has jurisdiction under Section 50;

(2) the requirements of Section 80 are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

An emergency stalking no contact order shall be issued by the court if it appears from the contents of the petition and the examination of the petitioner that the averments are sufficient to indicate stalking by the respondent and to support the granting of relief under the issuance of the stalking no contact order.

An emergency stalking no contact order shall be issued if the court finds that items (1), (2), and (3) of this subsection (a) are met.

(a-5) When a petition for an emergency stalking no contact order is granted, the petition, order, and file shall not be public and shall only be accessible to the court, law enforcement, petitioner, victim advocate, counsel of record for either party, and State's Attorney for the county until the order is served on the respondent.

Accessibility to the petition, order, and file under this subsection prior to the petition being served on the respondent shall be in accordance with Section 5 of the Court Record and Document Accessibility Act.

(b) If the respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 100 have been met, the court may issue a plenary order.

(c) Emergency orders; court holidays and evenings.

(1) When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Act. If the judge finds that there is an immediate and present danger of abuse against the petitioner and that the petitioner has satisfied the prerequisites set forth in subsection (a), that judge may issue an emergency stalking no contact order.

(2) The chief judge of the circuit court may designate for each county in the circuit at least one judge to be reasonably available to issue orally, by telephone, by facsimile, or otherwise, an emergency stalking no contact order at all times, whether or not the court is in session.

(3) Any order issued under this Section and any documentation in support of the order shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 60. Filing the petition shall commence proceedings for further relief under Section 20. Failure to comply with the requirements of this paragraph (3) does not affect the validity of the order.

Current through P.A. 103-0166, eff. Jan. 1, 2024.

Plenary Stalking No Contact Order

740 ILCS 21/100

A plenary stalking no contact order shall issue if the petitioner has served notice of the hearing for that order on the respondent, in accordance with Section 65, and satisfies the requirements of this Section. The petitioner must establish that:

(1) the court has jurisdiction under Section 50;

(2) the requirements of Section 80 are satisfied;

(3) a general appearance was made or filed by or for the respondent or process was served on the respondent in the manner required by Section 60; and

(4) the respondent has answered or is in default.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Duration and Extension of Orders

740 ILCS 21/105

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary stalking no contact order shall be effective for a fixed period of time, not to exceed 2 years. A stalking no contact order entered in conjunction with a criminal prosecution or delinquency petition shall remain in effect as provided in Section 112A-20 of the Code of Criminal Procedure of 1963.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 95 or 100, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 95, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any stalking no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a stalking no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Contents of Orders

740 ILCS 21/110

(a) Any stalking no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A stalking no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of stalking by the respondent.

(2) The date and time the stalking no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that stalking no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency stalking no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency stalking no contact orders, that the respondent may petition the court, in accordance with Section 120, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 65 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A stalking no contact order shall include the following notice, printed in conspicuous type: “An initial knowing violation of a stalking no contact order is a Class A misdemeanor. Any second or subsequent knowing violation is a Class 4 felony.”

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Notice of Orders

740 ILCS 21/115

(a) Upon issuance of any stalking no contact order, the clerk shall immediately:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a stalking no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Illinois State Police records or

charged with serving the order upon the respondent. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Illinois Department of Juvenile Justice or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Illinois State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the stalking no contact order from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC inmate number or IDJJ youth identification number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such service in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 117 may serve the respondent with a short form notification as provided in Section 117. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server.

(d) If the person against whom the stalking no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 95 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for stalking no contact order or receipt of the order issued under Section 95 of this Act.

(e) Any order extending, modifying, or revoking any stalking no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a stalking no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, daycare, college, or university at which the petitioner is enrolled.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Short Form Notification

740 ILCS 21/117

(a) Instead of personal service of a stalking no contact order under Section 115, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised release may serve a respondent with a short form notification. The short form notification must include the following items:

(1) The respondent's name.

(2) The respondent's date of birth, if known.

(3) The petitioner's name.

(4) The names of other protected parties.

(5) The date and county in which the stalking no contact order was filed.

(6) The court file number.

(7) The hearing date and time, if known.

(8) The conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification must contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement agencies in this State.

(f) A single short form notification form may be used for orders of protection under the Illinois Domestic Violence Act of 1986, stalking no contact orders under this Act, and civil no contact orders under the Civil No Contact Order Act.

Current through P.A. 98-0558, eff. Jan. 1, 2014.

Modification; Reopening of Orders

740 ILCS 21/120

(a) Except as otherwise provided in this Section, upon motion by the petitioner, the court may modify an emergency or plenary stalking no contact order by altering the remedy, subject to Section 80.

(b) After 30 days following entry of a plenary stalking no contact order, a court may modify that order only when a change in the applicable law or facts since that plenary order was entered warrants a modification of its terms.

(c) Upon 2 days' notice to the petitioner, or such shorter notice as the court may prescribe, a respondent subject to an emergency stalking no contact order issued under this Act may appear and petition the court to rehear the original or amended petition. Any petition to rehear shall be verified and shall allege the following:

(1) that the respondent did not receive prior notice of the initial hearing in which the emergency order was entered under Sections 65 and 95; and

(2) that the respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized by this Act.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Violation

740 ILCS 21/125

An initial knowing violation of a stalking no contact order is a Class A misdemeanor. A second or subsequent knowing violation is a Class 4 felony.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Arrest Without Warrant

740 ILCS 21/130

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing a violation of a stalking no contact order.

(b) The law enforcement officer may verify the existence of a stalking no contact order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or the respondent.

Current through P.A. 96-0246, eff. Jan. 1, 2010.

Data Maintenance by Law Enforcement Agencies

740 ILCS 21/135

(a) All sheriffs shall furnish to the Illinois State Police, on the same day as received, in the form and detail the Department requires, copies of any recorded emergency or plenary stalking no contact orders issued by the court and transmitted to the sheriff by the clerk of the court in accordance with subsection (b) of Section 115 of this Act. Each stalking no contact order shall be entered in the Law Enforcement Agencies Data System on the same day it is issued by the court. If an emergency stalking no contact order was issued in accordance with subsection (c) of Section 100, the order shall be entered in the Law Enforcement Agencies Data System as soon as possible after receipt from the clerk of the court.

(b) The Illinois State Police shall maintain a complete and systematic record and index of all valid and recorded stalking no contact orders issued under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of stalking or violation of a stalking no contact order of any recorded prior incident of stalking involving the petitioner and the effective dates and terms of any recorded stalking no contact order.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

VIOLATION OF A STALKING NO CONTACT ORDER

(CRIMINAL CODE)

720 ILCS 5/12-3.9

(a) A person commits violation of a stalking no contact order if:

(1) he or she knowingly commits an act which was prohibited by a court or fails to commit an act which was ordered by a court in violation of:

(A) a remedy in a valid stalking no contact order of protection authorized under Section 80 of the Stalking No Contact Order Act or Section 112A-14.7 of the Code of Criminal Procedure of 1963; or

(B) a remedy, which is substantially similar to the remedies authorized under Section 80 of the Stalking No Contact Order Act or Section 112A-14.7 of the Code of Criminal Procedure of 1963, or in a valid stalking no contact order, which is authorized under the laws of another state, tribe, or United States territory; and

(2) the violation occurs after the offender has been served notice of the contents of the order, under the Stalking No Contact Order Act, Article 112A of the Code of Criminal Procedure of 1963, or any substantially similar statute of another state, tribe, or United States territory, or otherwise has acquired actual knowledge of the contents of the order.

A stalking no contact order issued by a state, tribal, or territorial court shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory. There shall be a presumption of validity when an order is certified and appears authentic on its face.

(a-3) For purposes of this Section, a “stalking no contact order” may have been issued in a criminal or civil proceeding.

(a-5) Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign stalking no contact order.

(b) Prosecution for a violation of a stalking no contact order shall not bar a concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the civil no contact order.

(c) Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.

(d) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(e) Sentence. A violation of a stalking no contact order is a Class A misdemeanor for a first violation, and a Class 4 felony for a second or subsequent violation.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

CIVIL NO CONTACT ORDER ACT

Article I. General Provisions

740 ILCS 22/101 to 22/103

Designation of Parties

740 ILCS 22/101.1

Subsection (e) of Section 2-401 of the Code of Civil Procedure regarding designation of parties applies to petitions under this Act.

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Purpose

740 ILCS 22/102

Sexual assault is the most heinous crime against another person short of murder. Sexual assault inflicts humiliation, degradation, and terror on victims. According to the FBI, a woman is raped every 6 minutes in the United States. Rape is recognized as the most underreported crime; estimates suggest that only one in seven rapes is reported to authorities. Victims who do not report the crime still desire safety and protection from future interactions with the offender. Some cases in which the rape is reported are not prosecuted. In these situations, the victim should be able to seek a civil remedy requiring only that the offender stay away from the victim.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Definitions

740 ILCS 22/103

As used in this Act:

“Civil no contact order” means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 213 of this Act.

“Family or household members” include spouses, parents, children, stepchildren, and persons who share a common dwelling.

“Non-consensual” means a lack of freely given agreement.

“Petitioner” may mean not only any named petitioner for the civil no contact order and any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought, but also any other person sought to be protected by this Act.

“Respondent” in a petition for a civil no contact order may mean not only the person alleged to have committed an act of non-consensual sexual conduct or non-consensual sexual penetration against the petitioner, but also any other named person alleged to have aided and abetted such an act of non-consensual sexual conduct or non-consensual sexual penetration.

“Sexual conduct” means any intentional or knowing touching or fondling by the petitioner or the respondent, either directly or through clothing, of the sex organs, anus, or breast of the petitioner or the respondent, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the respondent upon any part of the clothed or unclothed

body of the petitioner, for the purpose of sexual gratification or arousal of the petitioner or the respondent.

“Sexual penetration” means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

“Stay away” means to refrain from both physical presence and nonphysical contact with the petitioner directly, indirectly, or through third parties who may or may not know of the order. “Nonphysical contact” includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Article II. Civil No Contact Orders

740 ILCS 22/201 to 22/220

Persons Protected by this Act

740 ILCS 22/201

(a) The following persons are protected by this Act:

(1) any victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought;

(2) any family or household member of the named victim;

(3) any employee of or volunteer at a rape crisis center that is providing services to the petitioner or the petitioner’s family or household member; and

(4) any service member of the Illinois National Guard or any reserve military component serving within the State who is a victim of non-consensual sexual conduct who has also received a Military Protective Order.

(b) A petition for a civil no contact order may be filed:

(1) by any person who is a victim of non-consensual sexual conduct or non-consensual sexual penetration, including a single incident of non-consensual sexual conduct or non-consensual sexual penetration;

(2) by a person on behalf of a minor child or an adult who is a victim of non-consensual sexual conduct or non-consensual sexual penetration but, because of age, disability, health, or inaccessibility, cannot file the petition;

(3) only after receiving consent from the victim, by any family or household member of a victim of non-consensual sexual conduct or non-consensual sexual penetration, and the petition shall include a statement that the victim has consented to the family or household member filing the petition;

(4) any service member of the Illinois National Guard or any reserve military component serving within the State who is a victim of non-consensual sexual conduct who has also received a Military Protective Order; or

(5) the Staff Judge Advocate of the Illinois National Guard or any reserve military component serving within the State on behalf of a named victim who is a victim of non-consensual sexual conduct who has also received a Military Protective Order only after receiving consent from the victim, and the petition shall include a statement that the victim has consented to the Staff Judge Advocate filing the petition.

Current through P.A. 103-0407, eff. July 31, 2023.

Commencement of Action; Filing Fees

740 ILCS 22/202

(a) An action for a civil no contact order is commenced:

(1) independently, by filing a petition for a civil no contact order in any civil court, unless specific courts are designated by local rule or order; or

(2) in conjunction with a delinquency petition or a criminal prosecution as provided in Article 112A of the Code of Criminal Procedure of 1963.

(a-1) A petition for a civil no contact order may be filed in person or online.

(a-5) When a petition for an emergency civil no contact order is filed, the petition and file shall not be public and shall only be accessible to the court, law enforcement, petitioner, rape crisis advocate, counsel of record for either party, and State's Attorney for the county until the petition is served on the respondent.

Accessibility to the petition and file under this subsection prior to the petition being served on the respondent shall be in accordance with Section 5 of the Court Record and Document Accessibility Act.

(b) Withdrawal or dismissal of any petition for a civil no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a civil no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a civil no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

Current through P.A. 103-0166, eff. Jan. 1, 2024.

Pleading; Non-Disclosure of Address

740 ILCS 22/203

(a) A petition for a civil no contact order shall be in writing and verified or accompanied by affidavit and shall allege that the petitioner has been the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

(b) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Application of Rules of Civil Procedure; Rape Crisis Advocates

740 ILCS 22/204

(a) Any proceeding to obtain, modify, reopen or appeal a civil no contact order shall be governed by the rules of civil procedure of this State. The standard of proof in such a proceeding is proof by a preponderance of the evidence. The Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by this Act.

(b) In circuit courts, rape crisis advocates shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. Court administrators shall allow rape crisis advocates to assist victims of non-consensual sexual conduct or non-consensual sexual penetration in the preparation of petitions for civil no contact orders. Rape crisis advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this subsection (b). Communications between the petitioner and a rape crisis advocate are protected by the confidentiality of statements made to rape crisis personnel as provided for in Section 8-802.1 of the Code of Civil Procedure.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Application of Privileges

740 ILCS 22/204.2

The filing of a petition for a civil no contact order does not in any way constitute a waiver of any privilege that otherwise protects any medical, mental health, or other records of the petitioner, absent a release by the petitioner, pursuant to federal or State Acts including but not limited to: the federal Health Insurance Portability and Accountability Act (HIPAA); Illinois Medical Patient Rights Act; Mental Health and Developmental Disabilities Confidentiality Act; and Sections 8-802 and 8-802.1 of the Code of Civil Procedure.

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Appointment of Counsel

740 ILCS 22/204.3

The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

Current through P.A. 93-0811, eff. Jan. 1, 2005.

Trial by Jury
740 ILCS 22/204.5

There shall be no right to trial by jury in any proceeding to obtain, modify, vacate or extend any civil no contact order under this Act. However, nothing in this Section shall deny any existing right to trial by jury in a criminal proceeding.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Subject Matter Jurisdiction
740 ILCS 22/205

Each of the circuit courts has the power to issue civil no contact orders.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Jurisdiction Over Persons
740 ILCS 22/206

The courts of this State have jurisdiction to bind (1) State residents and (2) non-residents having minimum contacts with this State, to the extent permitted by the long-arm statute, Section 2-209 of the Code of Civil Procedure.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Venue
740 ILCS 22/207

A petition for a civil no contact order may be filed in any county where (1) the petitioner resides, (2) the respondent resides, or (3) the alleged non-consensual sexual conduct or non-consensual sexual penetration occurred.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Process
740 ILCS 22/208

(a) Any action for a civil no contact order requires that a separate summons be issued and served. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for civil no contact order and supporting affidavits, if any, and any emergency civil no contact order that has been issued.

(b) The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers.

(c) Service of process on a member of the respondent’s household or by publication shall be adequate if: (1) the petitioner has made all reasonable efforts to accomplish actual service of process personally upon the respondent, but the respondent cannot be found

to effect such service; and (2) the petitioner files an affidavit or presents sworn testimony as to those efforts.

(d) A plenary civil no contact order may be entered by default for the remedy sought in the petition, if the respondent has been served or given notice in accordance with subsection (a) and if the respondent then fails to appear as directed or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

(e) If an order is granted under subsection (c) of Section 214, the court shall immediately file a certified copy of the order with the sheriff or other law enforcement official charged with maintaining Department of State Police records.

Current through P.A. 101-0508, eff. Jan. 1, 2020.

Service of Notice of Hearings

740 ILCS 22/209

Except as provided in Section 208, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by Section 214 of this Act or by the Code of Civil Procedure, Supreme Court Rules, or local rules.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Hearings

740 ILCS 22/210

(a) A petition for a civil no contact order shall be treated as an expedited proceeding, and no court may transfer or otherwise decline to decide all or part of such petition. Nothing in this Section shall prevent the court from reserving issues if jurisdiction or notice requirements are not met.

(b) A court in a county with a population above 250,000 shall offer the option of a remote hearing to a petitioner for a civil no contact order. The court has the discretion to grant or deny the request for a remote hearing. Each court shall determine the procedure for a remote hearing. The petitioner and respondent may appear remotely or in person.

The court shall issue and publish a court order, standing order, or local rule detailing information about the process for requesting and participating in a remote court appearance. The court order, standing order, or local rule shall be published on the court's website and posted on signs throughout the courthouse, including in the clerk's office. The sign shall be written in plain language and include information about the availability of remote court appearances and the process for requesting a remote hearing.

Current through P.A. 103-0154, eff. June 30, 2023.

Continuances

740 ILCS 22/211

(a) Petitions for emergency remedies shall be granted or denied in accordance with the standards of Section 214, regardless of the respondent's appearance or presence in court.

(b) Any action for a civil no contact order is an expedited proceeding. Continuances shall be granted only for good cause shown and kept to the minimum reasonable duration, taking into account the reasons for the continuance.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Civil No Contact Order; Remedies

740 ILCS 22/213

(a) If the court finds that the petitioner has been a victim of non-consensual sexual conduct or non-consensual sexual penetration, a civil no contact order shall issue; provided that the petitioner must also satisfy the requirements of Section 214 on emergency orders or Section 215 on plenary orders. The petitioner shall not be denied a civil no contact order because the petitioner or the respondent is a minor. The court, when determining whether or not to issue a civil no contact order, may not require physical injury on the person of the victim. Modification and extension of prior civil no contact orders shall be in accordance with this Act.

(a-5) (Blank).

(b) (Blank).

(b-5) The court may provide relief as follows:

(1) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner;

(2) restrain the respondent from having any contact, including nonphysical contact and electronic communication as defined in Section 26.5-0.1 of the Criminal Code of 2012, with the petitioner directly, indirectly, or through third parties, regardless of whether those third parties know of the order;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner's residence, school, day care or other specified location;

(4) order the respondent to stay away from any property or animal owned, possessed, leased, kept, or held by the petitioner and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the property or animal; and

(5) order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(b-6) When the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court when issuing a civil no contact order and providing relief shall consider the severity of the act, any continuing physical danger or emotional distress to the petitioner, the educational rights guaranteed to the petitioner and respondent under federal and State law, the availability of a transfer of the respondent to another school, a change of placement or a change of program of the respondent, the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school, and any other relevant facts of the case. The court may order that the respondent not attend the public, private, or non-public elementary, middle, or high school attended by the petitioner, order that the respondent accept a change of placement or program, as determined by the school district or private or non-

public school, or place restrictions on the respondent's movements within the school attended by the petitioner. The respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. The respondent also bears the burden of production with respect to the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. A transfer, change of placement, or change of program is not unavailable to the respondent solely on the ground that the respondent does not agree with the school district's or private or non-public school's transfer, change of placement, or change of program or solely on the ground that the respondent fails or refuses to consent to or otherwise does not take an action required to effectuate a transfer, change of placement, or change of program. When a court orders a respondent to stay away from the public, private, or non-public school attended by the petitioner and the respondent requests a transfer to another attendance center within the respondent's school district or private or non-public school, the school district or private or non-public school shall have sole discretion to determine the attendance center to which the respondent is transferred. In the event the court order results in a transfer of the minor respondent to another attendance center, a change in the respondent's placement, or a change of the respondent's program, the parents, guardian, or legal custodian of the respondent is responsible for transportation and other costs associated with the transfer or change.

(b-7) The court may order the parents, guardian, or legal custodian of a minor respondent to take certain actions or to refrain from taking certain actions to ensure that the respondent complies with the order. In the event the court orders a transfer of the respondent to another school, the parents or legal guardians of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(c) Denial of a remedy may not be based, in whole or in part, on evidence that:

(1) the respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article 7 of the Criminal Code of 2012;

(2) the respondent was voluntarily intoxicated;

(3) the petitioner acted in self-defense or defense of another, provided that, if the petitioner utilized force, such force was justifiable under Article 7 of the Criminal Code of 2012;

(4) the petitioner did not act in self-defense or defense of another;

(5) the petitioner left the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent; or

(6) the petitioner did not leave the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

(d) Monetary damages are not recoverable as a remedy.

Current through P.A. 102-0831, eff. May 13, 2022.

Accountability for Actions of Others

740 ILCS 22/213.5

For the purposes of issuing a civil no contact order, deciding what remedies should be included and enforcing the order, Article 5 of the Criminal Code of 2012 shall govern whether respondent is legally accountable for the conduct of another person.

Current through P.A. 97-1150, eff. Jan. 25, 2013.

Aiding and Abetting Non-Consensual Sexual Conduct or Non-Consensual Sexual Penetration

740 ILCS 22/213.7

A person aids and abets an act of non-consensual sexual conduct or non-consensual sexual penetration when, before or during the commission of an act of non-consensual sexual conduct or non-consensual sexual penetration as defined in Section 103 and with the intent to promote or facilitate such conduct, he or she intentionally aids or abets another in the planning or commission of non-consensual sexual conduct or non-consensual sexual penetration, unless before the commission of the offense he or she makes proper effort to prevent the commission of the offense.

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Emergency Civil No Contact Order

740 ILCS 22/214

(a) An emergency civil no contact order shall issue if the petitioner satisfies the requirements of this subsection (a). The petitioner shall establish that:

(1) the court has jurisdiction under Section 206;

(2) the requirements of Section 213 are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

An emergency civil no contact order shall be issued by the court if it appears from the contents of the petition and the examination of the petitioner that the averments are sufficient to indicate nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent and to support the granting of relief under the issuance of the civil no contact order.

An emergency civil no contact order shall be issued if the court finds that subsections (1), (2), and (3) above are met.

(a-5) When a petition for a civil no contact order is granted, the petition, order, and file shall not be public and shall only be accessible to the court, law enforcement, petitioner, rape crisis advocate, counsel of record for either party, and the State's Attorney for the county until the petition is served on the respondent.

Accessibility to the petition, order, and file under this subsection prior to the petition being served on the respondent shall be in accordance with Section 5 of the Court Record and Document Accessibility Act.

(b) If the respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 215 have been met, the court may issue a plenary order.

(c) Emergency orders; court holidays and evenings.

(1) When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Act. If the judge finds that there is an immediate and present danger of abuse against the petitioner and that the petitioner has satisfied the prerequisites set forth in subsection (a), that judge may issue an emergency civil no contact order.

(2) The chief judge of the circuit court may designate for each county in the circuit at least one judge to be reasonably available to issue orally, by telephone, by facsimile, or otherwise, an emergency civil no contact order at all times, whether or not the court is in session.

(3) Any order issued under this Section and any documentation in support of the order shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 222. Filing the petition shall commence proceedings for further relief under Section 202. Failure to comply with the requirements of this paragraph (3) does not affect the validity of the order.

Current through P.A. 103-0166, eff. Jan. 1, 2024.

Plenary Civil No Contact Order

740 ILCS 22/215

A plenary civil no contact order shall issue if the petitioner has served notice of the hearing for that order on the respondent, in accordance with Section 209, and satisfies the requirements of this Section. The petitioner must establish that:

(1) the court has jurisdiction under Section 206;

(2) the requirements of Section 213 are satisfied;

(3) a general appearance was made or filed by or for the respondent or process was served on the respondent in the manner required by Section 208; and

(4) the respondent has answered or is in default.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Petitioner Testimony at Plenary Civil No Contact Order Hearing

740 ILCS 22/215.5

In a plenary civil no contact order hearing, if a court finds that testimony by the petitioner in the courtroom may result in serious emotional distress to the petitioner, the court may order that the examination of the petitioner be conducted in chambers. Counsel shall be present at the examination unless otherwise agreed upon by the parties. The court shall cause a court reporter to be present who shall make a complete record of the examination instantaneously to be part of the record in the case.

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Duration and Extension of Orders

740 ILCS 22/216

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary civil no contact order shall be effective for a fixed period of time, not to exceed 2 years. A civil no contact order entered in conjunction with a criminal prosecution or delinquency petition shall remain in effect as provided in Section 112A-20 of the Code of Criminal Procedure of 1963.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 214 or 215, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 214, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any civil no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(d-5) An extension of a plenary civil no contact order may be granted, upon good cause shown, to remain in effect until the civil no contact order is vacated or modified.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a civil no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

Contents of Orders

740 ILCS 22/217

(a) Any civil no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A civil no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent and the name of each other person protected by the civil no contact order.

(2) The date and time the civil no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that civil no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency civil no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency civil no contact orders, that the respondent may petition the court, in accordance with Section 218.5, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 209 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A civil no contact order shall include the following notice, printed in conspicuous type: "Any knowing violation of a civil no contact order is a Class A misdemeanor. Any second or subsequent violation is a Class 4 felony."

(d) A civil no contact order shall state, "This Civil No Contact Order is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories pursuant to the Violence Against Women Act (18 U.S.C. 2265)."

Current through P.A. 96-0311, eff. Jan. 1, 2010.

Notice of Orders

740 ILCS 22/218

(a) Upon issuance of any civil no contact order, the clerk shall immediately:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a civil no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Illinois State Police records or charged with serving the order upon the respondent. If the respondent, at the time of the issuance of the order, is committed to the custody of the Illinois Department of Corrections or Illinois Department of Juvenile Justice, or is on parole, aftercare release, or mandatory supervised release, the sheriff or other law enforcement officials charged with maintaining Illinois State Police records shall notify the Department of Corrections or Department of Juvenile Justice within 48 hours of receipt of a copy of the civil no contact order from the clerk of the issuing judge or the petitioner. Such notice shall include the name of the respondent, the respondent's IDOC inmate number or IDJJ youth identification number, the respondent's date of birth, and the LEADS Record Index Number.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such service in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, special process server, or other persons defined in Section 218.1 may serve the respondent with a short form notification as provided in Section 218.1. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if such service is made by the sheriff, other law enforcement official, or special process server.

(d) If the person against whom the civil no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 214 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for civil no contact order or receipt of the order issued under Section 214 of this Act.

(e) Any order extending, modifying, or revoking any civil no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a civil no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, college, or university at which the petitioner is enrolled.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

Short Form Notification

740 ILCS 22/218.1

(a) Instead of personal service of a civil no contact order under Section 218, a sheriff, other law enforcement official, special process server, or personnel assigned by the Department of Corrections or Department of Juvenile Justice to investigate the alleged misconduct of committed persons or alleged violations of a parolee's or releasee's conditions of parole, aftercare release, or mandatory supervised release may serve a respondent with a short form notification. The short form notification must include the following items:

(1) The respondent's name.

(2) The respondent's date of birth, if known.

(3) The petitioner's name.

(4) The names of other protected parties.

(5) The date and county in which the civil no contact order was filed.

(6) The court file number.

(7) The hearing date and time, if known.

(8) The conditions that apply to the respondent, either in checklist form or handwritten.

(b) The short form notification must contain the following notice in bold print:

"The order is now enforceable. You must report to the office of the sheriff or the office of the circuit court in (name of county) County to obtain a copy of the order. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order."

(c) Upon verification of the identity of the respondent and the existence of an unserved order against the respondent, a sheriff or other law enforcement official may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(d) When service is made by short form notification under this Section, it may be proved by the affidavit of the person making the service.

(e) The Attorney General shall make the short form notification form available to law enforcement agencies in this State.

(f) A single short form notification form may be used for orders of protection under the Illinois Domestic Violence Act of 1986, stalking no contact orders under the Stalking No Contact Order Act, and civil no contact orders under this Act.

Current through P.A. 98-0558, eff. Jan. 1, 2014.

Modification; Reopening of Orders

740 ILCS 22/218.5

(a) Except as otherwise provided in this Section, upon motion by the petitioner, the court may modify an emergency or plenary civil no contact order by altering the remedy, subject to Section 213.

(b) After 30 days following entry of a plenary civil no contact order, a court may modify that order only when a change in the applicable law or facts since that plenary order was entered warrants a modification of its terms.

(c) Upon 2 days' notice to the petitioner, or such shorter notice as the court may prescribe, a respondent subject to an emergency civil no contact order issued under this Act may appear and petition the court to rehear the original or amended petition. Any petition to rehear shall be verified and shall allege the following:

(1) that the respondent did not receive prior notice of the initial hearing in which the emergency order was entered under Sections 209 and 214; and

(2) that the respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized by this Act.

Current through P.A. 93-0811, eff. Jan. 1, 2005.

Violation

740 ILCS 22/219

A knowing violation of a civil no contact order is a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Enforcement of a Civil No Contact Order

740 ILCS 22/220

(a) Nothing in this Act shall preclude any Illinois court from enforcing a valid protective order issued in another state or by a military judge.

(b) Illinois courts may enforce civil no contact orders through both criminal proceedings and civil contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(b-1) The court shall not hold a school district or private or non-public school or any of its employees in civil or criminal contempt unless the school district or private or non-public school has been allowed to intervene.

(b-2) The court may hold the parents, guardian, or legal custodian of a minor respondent in civil or criminal contempt for a violation of any provision of any order entered under this Act for conduct of the minor respondent in violation of this Act if the parents, guardian, or legal custodian directed, encouraged, or assisted the respondent minor in such conduct.

(c) Criminal prosecution. A violation of any civil no contact order, whether issued in a civil or criminal proceeding or by a military judge, shall be enforced by a criminal court when the respondent commits the crime of violation of a civil no contact order pursuant to Section 219 by having knowingly violated:

(1) remedies described in Section 213 and included in a civil no contact order; or

(2) a provision of an order, which is substantially similar to provisions of Section 213, in a valid civil no contact order which is authorized under the laws of another state, tribe, or United States territory.

Prosecution for a violation of a civil no contact order shall not bar a concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the civil no contact order.

(d) Contempt of court. A violation of any valid Illinois civil no contact order, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless of where the act or acts which violated the civil no contact order were committed, to the extent consistent with the venue provisions of this Act.

(1) In a contempt proceeding where the petition for a rule to show cause or petition for adjudication of criminal contempt sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction or inflict physical abuse on the petitioner or minor children or on dependent adults in the petitioner's care, the court may order the attachment of the respondent without prior service of the petition for a rule to show cause, the rule to show cause, the petition for adjudication of criminal contempt or the adjudication of criminal contempt. Conditions of release shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause or a petition for adjudication of criminal contempt for violation of a civil no contact order shall be treated as an expedited proceeding.

(e) Actual knowledge. A civil no contact order may be enforced pursuant to this Section if the respondent violates the order after the respondent has actual knowledge of its contents as shown through one of the following means:

(1) by service, delivery, or notice under Section 208;

(2) by notice under Section 218;

(3) by service of a civil no contact order under Section 218; or

(4) by other means demonstrating actual knowledge of the contents of the order.

(f) The enforcement of a civil no contact order in civil or criminal court shall not be affected by either of the following:

(1) the existence of a separate, correlative order, entered under Section 202; or

(2) any finding or order entered in a conjoined criminal proceeding.

(g) Circumstances. The court, when determining whether or not a violation of a civil no contact order has occurred, shall not require physical manifestations of abuse on the person of the victim.

(h) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsection (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any civil no contact order over any penalty previously imposed by any court for respondent's violation of any civil no contact order or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any civil no contact order; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of a civil no contact order unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of a civil no contact order, a criminal court may consider evidence of any previous violations of a civil no contact order:

(i) to modify the conditions of pretrial release on an underlying criminal charge pursuant to Section 110-6 of the Code of Criminal Procedure of 1963;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections; or

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

Current through P.A. 103-0407, eff. July 31, 2023.

Article III. Law Enforcement Provisions

740 ILCS 22/301 to 22/302

Arrest Without Warrant

740 ILCS 22/301

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing a violation of a civil no contact order.

(b) The law enforcement officer may verify the existence of a civil no contact order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or the respondent.

Current through P.A. 93-0236, eff. Jan. 1, 2004.

Data Maintenance by Law Enforcement Agencies

740 ILCS 22/302

(a) All sheriffs shall furnish to the Illinois State Police, on the same day as received, in the form and detail the Department requires, copies of any recorded emergency or plenary civil no contact orders issued by the court and transmitted to the sheriff by the clerk of the court in accordance with subsection (b) of Section 218 of this Act. Each civil no contact order shall be entered in the Law Enforcement Agencies Data System on the same day it is issued by the court. If an emergency civil no contact order was issued in accordance with subsection (c) of Section 214, the order shall be entered in the Law Enforcement Agencies Data System as soon as possible after receipt from the clerk of the court.

(b) The Illinois State Police shall maintain a complete and systematic record and index of all valid and recorded civil no contact orders issued under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of non-consensual sexual conduct or non-consensual sexual penetration or violation of a civil no contact order of any recorded prior incident of non-consensual sexual conduct or non-consensual sexual penetration involving the victim and the effective dates and terms of any recorded civil no contact order.

Current through P.A. 102-0538, eff. Aug. 20, 2021.

VIOLATION OF A CIVIL NO CONTACT ORDER

(CRIMINAL CODE)

720 ILCS 5/12-3.8

(a) A person commits violation of a civil no contact order if:

(1) he or she knowingly commits an act which was prohibited by a court or fails to commit an act which was ordered in violation of:

(A) a remedy of a valid civil no contact order authorized under Section 213 of the Civil No Contact Order Act or Section 112A-14.5 of the Code of Criminal Procedure of 1963; or

(B) a remedy, which is substantially similar to the remedies authorized under Section 213 of the Civil No Contact Order Act or Section 112A-14.5 of the Code of Criminal Procedure of 1963, or in a valid civil no contact order, which is authorized under the laws of another state, tribe, or United States territory; and

(2) the violation occurs after the offender has been served notice of the contents of the order under the Civil No Contact Order Act, Article 112A of the Code of Criminal Procedure of 1963, or any substantially similar statute of another state, tribe, or United States territory, or otherwise has acquired actual knowledge of the contents of the order.

A civil no contact order issued by a state, tribal, or territorial court shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory. There shall be a presumption of validity when an order is certified and appears authentic on its face.

(a-3) For purposes of this Section, a “civil no contact order” may have been issued in a criminal or civil proceeding.

(a-5) Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign civil no contact order.

(b) Prosecution for a violation of a civil no contact order shall not bar a concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the civil no contact order.

(c) Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.

(d) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(e) Sentence. A violation of a civil no contact order is a Class A misdemeanor for a first violation, and a Class 4 felony for a second or subsequent violation.

Current through P.A. 100-0199, eff. Jan. 1, 2018.

ILLINOIS DOMESTIC VIOLENCE ACT

Article II. Orders of Protection

750 ILCS 60/201 et seq.

Persons Protected by this Act

750 ILCS 60/201

(a) The following persons are protected by this Act:

(i) any person abused by a family or household member;

(ii) any high-risk adult with disabilities who is abused, neglected, or exploited by a family or household member;

(iii) any minor child or dependent adult in the care of such person;

(iv) any person residing or employed at a private home or public shelter which is housing an abused family or household member; and

(v) any of the following persons if the person is abused by a family or household member of a child:

(A) a foster parent of that child if the child has been placed in the foster parent's home by the Department of Children and Family Services or by another state's public child welfare agency;

(B) a legally appointed guardian or legally appointed custodian of that child;

(C) an adoptive parent of that child; or

(D) a prospective adoptive parent of that child if the child has been placed in the prospective adoptive parent's home pursuant to the Adoption Act or pursuant to another state's law.

For purposes of this paragraph (a)(v), individuals who would have been considered "family or household members" of the child under subsection (6) of Section 103 of this Act before a termination of the parental rights with respect to the child continue to meet the definition of "family or household members" of the child.

(b) A petition for an order of protection may be filed only:

(i) by a person who has been abused by a family or household member or by any person on behalf of a minor child or an adult who has been abused by a family or household member and who, because of age, health, disability, or inaccessibility, cannot file the petition;

(ii) by any person on behalf of a high-risk adult with disabilities who has been abused, neglected, or exploited by a family or household member;

(iii) by any of the following persons if the person is abused by a family or household member of a child:

(A) a foster parent of that child if the child has been placed in the foster parent's home by the Department of Children and Family Services or by another state's public child welfare agency;

(B) a legally appointed guardian or legally appointed custodian of that child;

(C) an adoptive parent of that child;

(D) a prospective adoptive parent of that child if the child has been placed in the prospective adoptive parent's home pursuant to the Adoption Act or pursuant to another state's law.

For purposes of this paragraph (b)(iii), individuals who would have been considered "family or household members" of the child under subsection (6) of Section 103 of this Act before a termination of the parental rights with respect to the child continue to meet the definition of "family or household members" of the child;

(iv) by a crime victim who was abused by an offender prior to the incarceration of the offender in a penal institution and such offender is incarcerated in a penal institution at the time of the filing of the petition; or

(v) by any person who has previously suffered abuse by a person convicted of (1) domestic battery, aggravated domestic battery, aggravated battery, or any other offense that would constitute domestic violence or (2) a violent crime, as defined in Section 3 of the Rights of Crime Victims and Witnesses Act, committed against another person.

A petition for an order of protection may not be denied solely upon the basis that the respondent or petitioner is incarcerated in a penal institution at the time of the filing of the petition.

(c) Any petition properly filed under this Act may seek protection for any additional persons protected by this Act.

Current through P.A. 100-0639, eff. June 20, 2025.

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Note: To view the full Orders of Protection section of the Illinois Domestic Violence Act of 1986, please refer to www.ilga.gov.

The ICASA-certified sexual assault crisis programs listed below offer free, confidential counseling; crisis intervention; advocacy and information. For the most up-to-date rape crisis center information and to search by zip code, please go to https://icasa.org.

NORTH

Addison*
YWCA Metropolitan Chicago
Patterson/McDaniel Family Center
24 hrs. 888-293-2080

Arlington Heights
Northwest CASA
24 hrs. 888-802-8890
www.nwcasa.org

Aurora
Mutual Ground, Inc.
24 hrs. 630-897-8383
www.mutualground.org

Belvidere*
Rockford Sexual Assault Counseling
24 hrs. 815-636-9811

Berwyn*
Fillmore Center
24 hrs. 708-482-5277

Chicago Heights*
YWCA Metropolitan Chicago
South Suburban Center
24 hrs. 888-293-2080

DeKalb
Safe Passage, Inc.
24 hrs. 815-756-5228
www.safepassagedv.org

Dixon*
YWCA of the Sauk Valley
24 hrs. 815-288-1011

Elgin
Community Crisis Center
24 hrs. 847-697-2380
www.crisiscenter.org

Freeport
VOICES of Stephenson County
24 hrs. 815-232-7200
www.voicesofsc.org

Galena
Riverview Center
24 hrs. 888-707-8155
www.riverviewcenter.org

Geneseo*
Freedom House
24 hrs. 800-474-6031

Gurnee
Zacharias Sexual Abuse Center
24 hrs. 847-872-7799
www.zcenter.org

Hickory Hills
Pillars Community Health
24 hrs. 708-745-5277
www.pillarscommunityhealth.org

Joliet
Sexual Assault Service Center
Guardian Angel Community Services
24 hrs. 815-730-8984
www.gacsprograms.org

Kankakee
Clove Alliance
24 hrs. 815-932-3322
www.clovealliance.org

Lacon*
Freedom House
24 hrs. 800-474-6031

Kewanee*
Freedom House
24 hrs. 800-474-6031

LaGrange*
Pillars Community Health
24 hrs. 708-745-5277

McHenry*
Northwest CASA
The Care Center of McHenry County
24 hrs. 800-892-8900

Mendota*
Safe Journeys
24 hrs. 800-892-3375

Morris*
Sexual Assault Service Center
24 hrs. 815-730-8984

Mount Carroll*
Riverview Center
24 hrs. 815-244-7772

Oregon*
Rockford Sexual Assault
Counseling, Inc.
24 hrs. 815-636-9811

Ottawa*
Safe Journeys
24 hrs. 800-892-3375

Paxton*
Clove Alliance
24 hrs. 815-932-3322

Peru*
Safe Journeys
24 hrs. 800-892-3375

Plainfield*
Sexual Assault Service Center
24 hrs. 815-730-8984

Pontiac*
Safe Journeys
24 hrs. 800-892-3375

Princeton
Freedom House
24 hrs. 800-474-6031
www.freedomhouseillinois.org

Quad Cities
Family Resources, Inc.
24 hrs. 309-797-1777
www.famres.org

Rockford
Rockford Sexual Assault
Counseling, Inc.
24 hrs. 815-636-9811
www.rockfordsexualassaultcounseling.org

Skokie*
Zacharias Sexual Abuse Center
24 hrs. 847-872-7799

Sterling
YWCA of the Sauk Valley
24 hrs. 815-288-1011
www.ywsauk.org

Streator
Safe Journeys
24 hrs. 800-892-3375
www.safejourneysillinois.org

Watseka*
Clove Alliance
24 hrs. 815-932-3322

Worth
Arab American Family Services
24 hrs. 708-945-7600
www.aafsil.org

CHICAGO

Chicago 24-Hour Hotline
1-888-293-2080

Resilience
www.ourresilience.org
• CAN Hope*
• Medical District*
• Chicago Police Belmont/Western*

Mujeres Latinas En Acción
www.mujereslatinasenaccion.org
• North Riverside*
• South Chicago*

YWCA Metropolitan Chicago
www.ywcachicago.org
• Cynthia B. Lafuente Center*
• Parks and Francis Center*
• Roseland Center*
• Medical District Center*

CENTRAL

Bloomington
Stepping Stones
Sexual Assault Services
YWCA McLean County
24 hrs. 309-556-7000
www.ywcamclean.org

Charleston/Mattoon
Prevail Illinois
24 hrs. 888-345-2846
www.prevailil.org

Cuba*
WIRC/CAA Victim Services
24 hrs. 309-837-5555

Danville
Survivor Resource Center
24 hrs. 866-617-3224
www.survivorresourcecenter.org

Decatur
Growing Strong Sexual
Assault Center
24 hrs. 217-428-0770
www.growingstrongcenter.org

Galesburg*
WIRC/CAA Victim Services
Knox County
24 hrs. 309-837-5555

Jacksonville*
Prairie Center Against
Sexual Assault
24 hrs. 217-753-8081

Macomb
Western Illinois Regional
Council/Community Action Agency
Victim Services
24 hrs. 309-837-5555
www.wirpc.org/victim-services

Mt. Sterling*
Quanada
24 hrs. 800-369-2287

Paris*
Survivor Resource Center
24 hrs. 866-617-3224

Peoria
Center for Prevention of Abuse
Sexual Assault Services
24 hrs. 309-691-4111 or
800-559-SAFE
www.centerforpreventionofabuse.org

Pittsfield*
Quanada Pike County
24 hrs. 800-369-2287

Quincy
Quanada
Sexual Assault Program
24 hrs. 800-369-2287
www.quanada.org

Rushville*
Quanada Schuyler County
24 hrs. 800-369-2287

Springfield
Prairie Center Against
Sexual Assault
24 hrs. 217-753-8081
www.prairiecasa.org

Taylorville*
Prairie Center Against
Sexual Assault
24 hrs. 217-753-8081

Urbana/Champaign
Rape, Advocacy, Counseling and
Education Services
24 hrs. 217-384-4444
www.cu-races.org

SOUTH

Alton*
Metro East
Every Survivor Counts
24 hrs. 618-397-0975

Belleville
Metro East
Every Survivor Counts
24 hrs. 618-397-0975
www.metroeasteverysurvivorcounts.org

Breese*
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414

Carbondale
Survivor Empowerment Center
24 hrs. 618-529-2324 or
800-334-2094
www.empoweringsurvivors.org

Centralia*
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414

Effingham*
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414

Marion*
Survivor Empowerment Center
24 hrs. 800-334-2094

Mt. Vernon*
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414

Olney*
Prevail Illinois
24 hrs. 888-345-2846

Robinson*
Prevail Illinois
24 hrs. 888-345-2846

Salem*
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414

Vandalia
Sexual Assault and
Family Emergencies
24 hrs. 800-625-1414
www.safecrisiscenter.org

**Designates satellite and outreach offices of main centers*.