



Rep. Lakesia Collins

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10200HB3886ham001

LRB102 17071 KMF 24799 a

1 AMENDMENT TO HOUSE BILL 3886

2 AMENDMENT NO. _____. Amend House Bill 3886 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 adding Section 2-10.3 as follows:

6 (705 ILCS 405/2-10.3 new)

7 Sec. 2-10.3. Access to news media.

8 (a) All youth in the custody or guardianship of the
9 Department of Children and Family Services are entitled to the
10 freedom of speech guaranteed by the First Amendment to the
11 Constitution of the United States and Section 4 of Article I of
12 the Illinois Constitution. The Department of Children and
13 Family Services and its assigns shall not interfere with the
14 right of any youth in its custody or guardianship to
15 communicate with the news media if the youth chooses to do so.

16 (b) Any time the news media requests to speak with a minor

1 under 18 years of age, the Department of Children and Family
2 Services shall provide notice to the minor, the minor's
3 attorney, and guardian ad litem within one business day of the
4 request. The notice shall include at a minimum the minor's
5 name, the news media name, the date of the inquiry from the
6 news media, and whether the minor wants to communicate with
7 the news media. If the minor is under 18 years of age and the
8 Department has determined that the minor does not have
9 sufficient maturity to make the decision to communicate with
10 the news media and that contact with the news media will, more
11 likely than not, cause serious physical, emotional or mental
12 harm the notice shall also include the basis, with
13 specificity, for the Department's determination.

14 (c) If a minor 18 years of age or older chooses to speak to
15 the news media, the Department shall not take any action to
16 interfere with the minor's contact with the news media. If a
17 minor under the age of 18 wishes to speak to the news media,
18 but the Department seeks to prevent the minor's contact with
19 the news media, the Department shall file a motion for court
20 review of its determination within one day of its
21 determination and in no event more than 48 hours from the news
22 media's request.

23 (d) Any minor may file a motion seeking to enforce rights
24 under this Section.

25 (e) For proceedings on a motion pursuant to subsection (c)
26 or (d), all of the following requirements shall be met:

1 (1) if the minor does not have an attorney, the court
2 shall appoint one for purposes of the motion;

3 (2) the Department shall facilitate the minor's
4 presence in court for hearings regarding the motion if the
5 minor wants to be present;

6 (3) the Department shall provide prior notice of the
7 hearing to the involved news media;

8 (4) if the minor whose speech is at issue is 18 years
9 of age or older, and it is established that the minor
10 wishes to speak to the news media, the Court shall reject
11 and overrule any and all speech restrictions sought by the
12 Department and further shall enjoin the Department's
13 further interference in the minor's contacts with the news
14 media;

15 (5) if the minor is under 18 years of age, the
16 Department shall have the burden to establish by clear and
17 convincing evidence that the minor does not have
18 sufficient maturity to make his or her own decision to
19 communicate with the news media and that contact with the
20 news media will, more likely than not, cause the minor
21 serious physical, emotional or mental harm. The Department
22 further shall bear the burden of showing by clear and
23 convincing evidence that less restrictive means are
24 insufficient to address a minor's lack of maturity or the
25 threat of serious physical, emotional, or mental harm;

26 (6) if the court finds by clear and convincing

1 evidence that a minor under 18 years of age lacks
2 sufficient maturity to make his or her own decision to
3 communicate with the news media and that contact with the
4 news media will, more likely than not, cause the minor
5 serious physical, emotional or mental harm, the court may
6 issue an order identifying the specific limits that the
7 Department may impose on the minor's communication with
8 the news media. The order shall not permit the Department
9 to prevent the minor from communicating with the news
10 media unless it determines that no less restrictive means
11 are available to address the likelihood of harm to the
12 minor;

13 (7) the court may not impose any limitations on the
14 speech of a minor based on viewpoints the minor may
15 express or information the minor may divulge, unless it is
16 confidential information regarding third parties; and

17 (8) all orders resolving a motion brought pursuant to
18 subsection (c) or (d) shall contain written findings in
19 support of the court's ruling.

20 (f) As used in this Section, "interfere" includes, but is
21 not limited to: withholding information from a minor about a
22 news media outlet's request to speak with the minor, including
23 any contact information necessary to respond to the request;
24 preventing a minor from communicating with the news media;
25 threatening or coercing the minor in any manner; or punishing
26 or taking adverse action because of a minor's contact with the

1 news media. "Interfere" does not include:

2 (1) providing information and advice about
3 communicating with news media that is consistent with the
4 minor's age, developmental capacity and circumstances,
5 including information about the minor's right to refuse
6 particular questions, the right to condition the
7 participation upon a promise of anonymity or other privacy
8 measures, the right to refuse to speak to the news media,
9 and similar advice designed to enhance the minor's right
10 to autonomy in communicating with the news media; and

11 (2) with respect to a minor under 18 years of age,
12 conducting an inquiry into whether (i) the minor under 18
13 years of age is sufficiently mature to decide whether to
14 communicate with the news media and (ii) whether
15 communicating with the news media will more likely than
16 not cause serious physical, emotional, or mental harm to
17 the minor under 18 years of age. The inquiry in this
18 subsection must be concluded within 24 hours of the
19 request from the news media.

20 (g) As used in this Section, "less restrictive means" are
21 conditions on the minor's ability to communicate with the news
22 media that mitigate the likelihood that physical, emotional,
23 or mental harm will result, and include but are not limited to:

24 (1) the news media outlet's willingness to take steps
25 to protect the minor's privacy, such as using a pseudonym
26 or limiting the use of the voice or image of the minor;

1 (2) the presence of the minor's guardian ad litem or
2 attorney or another adult of the minor's choosing, during
3 the communication with the news media; and

4 (3) providing the minor with age-appropriate media
5 literacy materials or other relevant educational
6 material.".