



Sen. Sara Feigenholtz

Filed: 5/14/2021

10200HB3886sam001

LRB102 17071 KMF 26594 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 agents and assigns shall not interfere  
14 with the 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) Provisions related to minors under 18. Any time the

1 news media requests to speak with a specific, identified minor  
2 under 18 years of age, the Department of Children and Family  
3 Services shall immediately provide notice of the news media's  
4 request to the minor's attorney and guardian ad litem. The  
5 notice shall include at a minimum the minor's name, the news  
6 media name, and the date of the inquiry from the news media.  
7 Within one business day of the news media's request, the  
8 Department shall determine whether the minor wants to speak  
9 with the news media, whether the minor has sufficient maturity  
10 to make his or her own decision to communicate with the news  
11 media and whether contact with the news media will more likely  
12 than not cause the minor serious physical, emotional or mental  
13 harm. The Department shall provide notice of its determination  
14 to the minor's attorney and guardian ad litem within one  
15 business day of its determination.

16 (c) Provisions related to minors over 18. The Department  
17 shall not take any action to interfere with the right of a  
18 minor over 18 to speak with the news media.

19 (d) Court Review.

20 (1) Any party may file a motion seeking to enforce  
21 rights under this Section.

22 (2) If the minor does not have an attorney, the court  
23 shall appoint one for purposes of the motion.

24 (3) The Department shall facilitate the minor's  
25 presence in court for hearings on the motion if the minor  
26 wants to be present.

1           (4) The party filing the motion shall provide prior  
2 notice of the hearing to the involved news media.

3           (5) Minors over 18. If the court finds that the  
4 Department has interfered with the minor's right to  
5 communicate with the media, the court shall enjoin any  
6 further interference by the Department with the minor's  
7 contacts with the news media.

8           (6) Minors under 18. The Department shall have the  
9 burden of establishing by clear and convincing evidence:

10 (i) that the minor does not have sufficient maturity to  
11 make his or her own decision to communicate with the news  
12 media and that contact with the news media will, more  
13 likely than not, cause the minor serious physical,  
14 emotional or mental harm; and (ii) that less restrictive  
15 means are insufficient to address the minor's lack of  
16 maturity or the risk of serious physical, emotional or  
17 mental harm. If the court finds by clear and convincing  
18 evidence that a minor under 18 years of age lacks  
19 sufficient maturity to make his or her own decision to  
20 communicate with the media and that the contact with the  
21 news media will, more likely than not, cause the minor  
22 serious physical, emotional, or mental harm, the court may  
23 issue an order identifying the specific limits that the  
24 Department may impose on the minor's communication with  
25 the news media. The order shall not permit the Department  
26 to prevent the minor from communicating with the news

1 media unless it determines that no less restrictive means  
2 are available to address the likelihood of harm to the  
3 minor.

4 (7) The court shall not impose any limitations on the  
5 speech of a minor based on viewpoints the minor may  
6 express or information the minor may divulge, unless it is  
7 confidential information regarding third parties.

8 (8) All orders resolving motions brought under this  
9 subsection shall contain written findings in support of  
10 the court's ruling.

11 (e) As used in this Section, "interfere" includes, but is  
12 not limited to: withholding information from a minor about a  
13 news media outlet's request to speak with the minor, including  
14 any contact information necessary to respond to the request;  
15 preventing a minor from communicating with the news media;  
16 threatening or coercing the minor in any manner; or punishing  
17 or taking adverse action because of a minor's contact with the  
18 news media. "Interfere" does not include:

19 (1) providing information and advice about  
20 communicating with news media that is consistent with the  
21 minor's age, developmental capacity and circumstances,  
22 including information about the minor's right to refuse  
23 particular questions, the right to condition the  
24 participation upon a promise of anonymity or other privacy  
25 measures, the right to refuse to speak to the news media,  
26 and similar advice designed to enhance the minor's right

1 to autonomy in communicating with the news media; and

2 (2) conducting an inquiry into (i) whether a minor  
3 under 18 is sufficiently mature to decide for themselves  
4 whether to communicate with the news media and (ii)  
5 whether communicating with the news media will more likely  
6 than not cause serious physical, emotional or mental harm  
7 to the minor under 18. The inquiry in this subsection must  
8 be concluded within one business day of the request from  
9 the news media.

10 (f) As used in this Section, "less restrictive means" are  
11 conditions on the minor's ability to communicate with the news  
12 media that mitigate the likelihood that physical, emotional,  
13 or mental harm will result, and include, but are not limited  
14 to:

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

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

21 (3) providing the minor with age-appropriate media  
22 literacy materials or other relevant educational material.

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law."