



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5324

Introduced 1/31/2022, by Rep. Angelica Guerrero-Cuellar

SYNOPSIS AS INTRODUCED:

725 ILCS 5/Art. Art. 106G heading new
725 ILCS 5/106G-1 new
725 ILCS 5/106G-5 new
725 ILCS 173/11 new
725 ILCS 240/6.5 new

Amends the Code of Criminal Procedure of 1963. Creates the Undocumented Witness Protection Law. Except as otherwise provided in the Law, in a prosecution of a person for intimidation, aggravated intimidation, harassment of jurors and witnesses, or communicating with jurors and witnesses, if a witness in the case is an undocumented immigrant, evidence related to the witness's immigration status is not admissible in the criminal proceeding. Provides that evidence otherwise inadmissible under this provision is admissible if: (1) it is essential to prove an element of a crime or an affirmative defense; (2) it is offered to prove an interest or bias of the witness, if it does not cause confusion of the issues or mislead the trier of fact, and the probative value of the evidence outweighs its prejudicial nature; or (3) the witness or his or her attorney voluntarily reveals his or her immigration status to the court. Amends the Gang Crime Witness Protection Act of 2013. Provides that persons who are actively aiding in the prosecution of perpetrators of gang crime, and appropriate related persons, shall not be denied assistance under the Act because they are undocumented immigrants nor shall they be asked of their immigration status, except as otherwise provided in the Undocumented Witness Protection Law. Amends the Violent Crime Victims Assistance Act. Provides that persons who are otherwise eligible for services and assistance under the Act shall not be denied assistance and services under the Act because they are undocumented immigrants nor shall they be asked of their immigration status, except as otherwise provided in the Undocumented Witness Protection Law.

LRB102 25395 RLC 34677 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding the heading of Article Art. 106G and
6 Sections 106G-1 and 106G-5 as follows:

7 (725 ILCS 5/Art. Art. 106G heading new)

8 ARTICLE Art. 106G. UNDOCUMENTED WITNESS PROTECTION

9 (725 ILCS 5/106G-1 new)

10 Sec. 106G-1. Short title. This Article may be cited as the
11 Undocumented Witness Protection Law.

12 (725 ILCS 5/106G-5 new)

13 Sec. 106G-5. Undocumented witness protection.

14 (a) Except as provided in subsection (b), in a prosecution
15 of a person for a violation of Section 12-6, 12-6.2, 32-4, or
16 32-4a of the Criminal Code of 2012, if a witness in the case is
17 an undocumented immigrant, evidence related to the witness's
18 immigration status is not admissible in the criminal
19 proceeding.

20 (b) Evidence otherwise inadmissible under this Article is
21 admissible if:

1 (1) it is essential to prove an element of a crime or
2 an affirmative defense;

3 (2) it is offered to prove an interest or bias of the
4 witness, if it does not cause confusion of the issues or
5 mislead the trier of fact, and the probative value of the
6 evidence outweighs its prejudicial nature; or

7 (3) the witness or his or her attorney voluntarily
8 reveals his or her immigration status to the court.

9 (c) A defendant intending to offer evidence relating to
10 the witness' immigration status shall file a written motion at
11 least 14 days before a hearing or a trial specifically
12 describing the evidence and stating the purpose for which it
13 is offered. A court, for good cause, may require a different
14 time for filing or permit filing during trial. Upon receipt of
15 the motion and notice to the witness and State, the court shall
16 conduct an in camera hearing, with counsel present, limited to
17 review of the probative value of the person's immigration
18 status to the case. If the court finds that the evidence
19 relating to the witness's immigration status meets the
20 criteria set forth in paragraph (1), (2), or (3) of subsection
21 (b), the court shall make findings of fact and conclusions of
22 law regarding the permitted use of the evidence. The motion,
23 related papers, and the record of the hearing shall be sealed
24 and remain under seal unless the court orders otherwise.

25 (d) A person may not, with the intent to deter the witness
26 from testifying freely, fully, and truthfully to any matter

1 before trial or in any court or before a grand jury threaten to
2 or actually disclose, directly or indirectly, the witness's
3 immigration status to any entity or any immigration or law
4 enforcement agency.

5 (e) Sentence. A person who violates this Section is guilty
6 of a Class C misdemeanor.

7 Section 10. The Gang Crime Witness Protection Act of 2013
8 is amended by adding Section 11 as follows:

9 (725 ILCS 173/11 new)

10 Sec. 11. Undocumented immigrants; protection. Persons who
11 are actively aiding in the prosecution of perpetrators of gang
12 crime, and appropriate related persons, shall not be denied
13 assistance under this Act because they are undocumented
14 immigrants nor shall they be asked of their immigration
15 status, except as otherwise provided in Section 106G-5 of the
16 Code of Criminal Procedure of 1963.

17 Section 15. The Violent Crime Victims Assistance Act is
18 amended by adding Section 6.5 as follows:

19 (725 ILCS 240/6.5 new)

20 Sec. 6.5. Undocumented immigrants; protection. Persons who
21 are otherwise eligible for services and assistance under this
22 Act shall not be denied assistance and services under this Act

1 because they are undocumented immigrants nor shall they be
2 asked of their immigration status, except as otherwise
3 provided in Section 106G-5 of the Code of Criminal Procedure
4 of 1963.