



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2471

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

725 ILCS 190/1	from Ch. 38, par. 1451
725 ILCS 190/2	from Ch. 38, par. 1452
725 ILCS 190/2.3 new	
725 ILCS 190/2.5 new	
725 ILCS 190/2.7 new	
725 ILCS 190/3	from Ch. 38, par. 1453

Amends the Privacy of Child Victims of Criminal Sexual Offenses Act. Changes the Act's short title to include human trafficking. Applies Act to forensic interviews and criminal cases in which the defendant is charged with certain specified offenses. Requires a complaint, information or indictment that commences a prosecution of an offense subject to the Act to include a pseudonym or fictitious initials in place of the name, address, and identity of a victim of the offense. Maintains confidentiality of victim information in any complaint, information, indictment, report, statement, photograph, video recording, court document, press release, or any other public record, except that victim information shall be available to the defendant as provided under the Code of Criminal Procedure of 1963, subject to a protective order barring further disclosure. Maintains confidentiality of forensic interviews except for use in the performance of official duties by law enforcement, prosecutors, court personnel, attorneys, or licensed professionals for bona fide treatment or education programs. Requires sealing of sexually explicit evidence involving a victim or witness. Adds definition for "forensic interview".

LRB098 06662 MRW 36707 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 Privacy of Child Victims of Criminal Sexual
5 Offenses Act is amended by changing Sections 1, 2, and 3 and by
6 adding Sections 2.3, 2.5, and 2.7 as follows:

7 (725 ILCS 190/1) (from Ch. 38, par. 1451)

8 Sec. 1. This Act shall be known and may be cited as the
9 "Privacy of ~~Child~~ Victims of Criminal Sexual Offenses and Human
10 Trafficking Act".

11 (Source: P.A. 84-1428.)

12 (725 ILCS 190/2) (from Ch. 38, par. 1452)

13 Sec. 2. Definitions.

14 As used in this Act:7

15 "Child" means any person under 18 years of age.

16 "Criminal history record information" means:

17 (1) chronologically maintained arrest information,
18 such as traditional arrest logs or blotters;

19 (2) the name of a person in the custody of a law
20 enforcement agency and the charges for which that person is
21 being held;

22 (3) court records that are public;

1 (4) records that are otherwise available under State or
2 local law or ordinance; or

3 (5) records in which the requesting party is the person
4 identified, except as provided under item (vii) of
5 paragraph (d) of subsection (1) of Section 7 of the Freedom
6 of Information Act.

7 "Forensic interview" means an investigative tool conducted
8 by law enforcement, prosecutors, child advocacy center staff,
9 or staff of the Department of Children and Family Services, for
10 purposes of a sexual offense investigation or criminal
11 proceeding in cases of suspected child abuse.

12 (Source: P.A. 84-1428.)

13 (725 ILCS 190/2.3 new)

14 Sec. 2.3. Application of Act.

15 (a) This Act applies to:

16 (1) forensic interviews; and

17 (2) criminal cases in which:

18 (A) the defendant is accused of predatory criminal
19 sexual assault of a child, aggravated criminal sexual
20 assault, criminal sexual assault, aggravated criminal
21 sexual abuse, criminal sexual abuse, child
22 pornography, aggravated child pornography, criminal
23 transmission of HIV, trafficking in persons,
24 involuntary servitude, child abduction as defined in
25 paragraph (10) of subsection (b) of Section 10-5 of the

1 Criminal Code of 1961 or the Criminal Code of 2012,
2 related offenses as defined in Section 10-9 of the
3 Criminal Code of 1961 or the Criminal Code of 2012, or
4 the attempt to commit any of these offenses;

5 (B) the defendant is accused of battery,
6 aggravated battery, first degree murder, or second
7 degree murder when the commission of the offense
8 involves sexual penetration or sexual conduct as
9 defined in Section 12-12 of the Criminal Code of 2012;

10 or

11 (C) the defendant is tried or retried for any of
12 the offenses formerly known as rape, deviate sexual
13 assault, indecent liberties with a child, or
14 aggravated indecent liberties with a child.

15 (725 ILCS 190/2.5 new)

16 Sec. 2.5. Confidentiality of victim name and identity.

17 (a) A complaint, information or indictment that commences a
18 prosecution of an offense subject to this Act shall include a
19 pseudonym or fictitious initials in place of the name, address,
20 and identity of a victim of the offense. The victim's name,
21 address, or identity shall remain confidential in any
22 complaint, information, indictment, report, statement,
23 photograph, video recording, court document, press release, or
24 any other public record, except that this information shall be
25 available to the defendant, under Section 11-6 of the Code of

1 Criminal Procedure of 1963, subject to a protective order
2 barring further disclosure.

3 (b) Nothing in this Section prevents a court from ordering
4 the disclosure of the victim's name, address, or identity if it
5 finds that the information is essential in the trial of the
6 defendant or necessary to facilitate a legitimate state
7 interest. A court may prohibit any person or agency to whom the
8 information is released from further disclosing the victim's
9 name, address, or identity except upon further order of court.

10 (c) This Section does not apply to the release or
11 disclosure of information to the victim, victim's parent, or
12 guardian.

13 (725 ILCS 190/2.7 new)

14 Sec. 2.7. Forensic interview confidentiality; sealing of
15 sexually explicit material.

16 (a) A written or digital recording of a forensic interview
17 of a child shall remain confidential to be used solely in the
18 performance of official duties by law enforcement,
19 prosecutors, court personnel, attorneys, or licensed
20 professionals for bona fide treatment or education programs.

21 (b) Any evidence, writing, of recording depicting a victim
22 or witness that is sexually explicit shall be admitted under
23 seal and impounded by the court, subject to the exceptions in
24 subsection (a) of this Section.

25 (c) Except as provided in subsection (a) of this Section,

1 the writing or recording of the forensic interview may be
2 viewed or the sexually explicit evidence may be unsealed and
3 viewed, on a motion, only for good cause shown and in the
4 discretion of the court. The motion must expressly state the
5 purpose for viewing the material. The State's attorney and the
6 victim, or victim's parent or guardian, if possible, shall be
7 provided reasonable notice of the hearing on the motion to
8 unseal or view the evidence, writing, or recording. Any person
9 entitled to notice of a hearing under this Section may object
10 to the motion.

11 (725 ILCS 190/3) (from Ch. 38, par. 1453)

12 Sec. 3. Confidentiality of Law Enforcement and Court
13 Records. Notwithstanding any other law to the contrary,
14 inspection and copying of law enforcement records maintained by
15 any law enforcement agency or circuit court records maintained
16 by any circuit clerk relating to any investigation or
17 proceeding pertaining to a criminal ~~sexual~~ offense under this
18 Act, by any person, except a judge, state's attorney, assistant
19 state's attorney, psychologist, psychiatrist, social worker,
20 doctor, parent, parole agent, probation officer, defendant or
21 defendant's attorney in any criminal proceeding or
22 investigation related thereto, shall be restricted to exclude
23 the identity of any ~~child who is a~~ victim of the ~~such~~ criminal
24 ~~sexual~~ offense or alleged criminal ~~sexual~~ offense. A court may
25 for the victim's ~~child's~~ protection and for good cause shown,

1 prohibit any person or agency ~~present in court~~ from further
2 disclosing the victim's ~~child's~~ identity.

3 When a criminal ~~sexual~~ offense under this Act is committed
4 or alleged to have been committed by a school district employee
5 or any individual contractually employed by a school district,
6 a copy of the criminal history record information relating to
7 the investigation of the offense or alleged offense shall be
8 transmitted to the superintendent of schools of the district
9 immediately upon request or if the law enforcement agency knows
10 that a school district employee or any individual contractually
11 employed by a school district has committed or is alleged to
12 have committed a criminal ~~sexual~~ offense, the superintendent of
13 schools of the district shall be immediately provided a copy of
14 the criminal history record information. The superintendent
15 shall be restricted from specifically revealing the name of the
16 victim without written consent of the victim or victim's parent
17 or guardian.

18 A court may prohibit such disclosure only after giving
19 notice and a hearing to all affected parties. In determining
20 whether to prohibit disclosure of the victim's ~~minor's~~ identity
21 the court shall consider:

22 (1) ~~(a)~~ the best interest of the victim ~~child~~; and

23 (2) ~~(b)~~ whether ~~such~~ nondisclosure would further a
24 compelling State interest.

25 ~~For the purposes of this Act, "criminal history record~~
26 ~~information" means:~~

1 ~~(i) chronologically maintained arrest information,~~
2 ~~such as traditional arrest logs or blotters;~~

3 ~~(ii) the name of a person in the custody of a law~~
4 ~~enforcement agency and the charges for which that person is~~
5 ~~being held;~~

6 ~~(iii) court records that are public;~~

7 ~~(iv) records that are otherwise available under State~~
8 ~~or local law; or~~

9 ~~(v) records in which the requesting party is the~~
10 ~~individual identified, except as provided under part (vii)~~
11 ~~of paragraph (c) of subsection (1) of Section 7 of the~~
12 ~~Freedom of Information Act.~~

13 (Source: P.A. 95-69, eff. 1-1-08; 95-599, eff. 6-1-08; 95-876,
14 eff. 8-21-08.)