



2015 Sexual Assault Legislative Update

ILLINOIS COALITION AGAINST SEXUAL ASSAULT

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LEGISLATIVE INFORMATION

- ▶ www.ilga.gov
 - ▶ Statutes
 - ▶ Bills – read & track
 - ▶ Legislator information

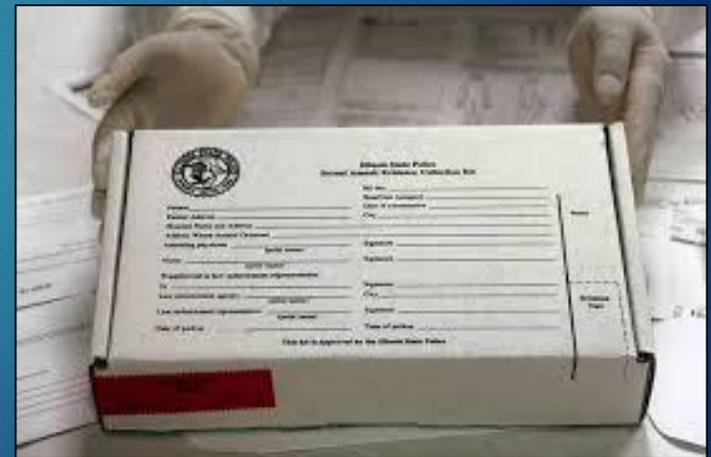
- ▶ www.icasa.org
 - ▶ Sexual assault bills & fact sheets

CRIMINAL LAW & PROCEDURE



SOL Does Not Include Time While Sexual Assault Evidence is Analyzed

- ▶ The criminal statute of limitations stops running from the time evidence is collected and submitted to Illinois State Police until the evidence is analyzed at a crime lab.



SOL for Certain Crimes Extended when Committed in Conjunction with Sex Crime

The criminal SOL is extended (from 3 years to 10 years) for

- ▶ armed robbery, home invasion, kidnapping, or aggravated kidnapping when committed in conjunction with
 - ▶ criminal sexual assault, aggravated criminal sexual assault, aggravated criminal sexual abuse.
- ▶ Victim still must report the sexual assault to police within 3 years of the crime.

More Severe Sentence Available for Trafficking or Prostitution Offense Against DCFS Wards

Judges can impose a more severe sentence when a defendant commits the offense of

- ▶ promoting juvenile prostitution,
- ▶ patronizing a prostitute, or
- ▶ patronizing a minor engaged in prostitution; AND
- ▶ the defendant knew at the time of the offense that the minor was in the custody or guardianship of DCFS.

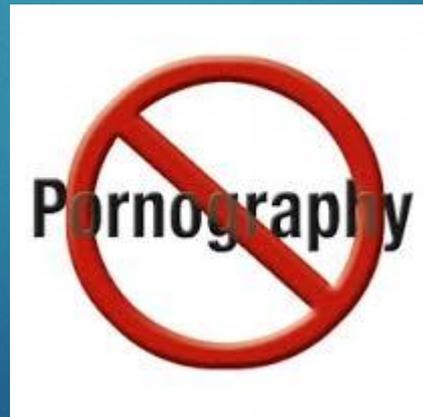
More Severe Sentence When Victim has Disabilities + Perpetrator has Position of Trust or Authority

Judges can impose a longer sentence when a defendant commits 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.

Showing Pornography to DHS Clients = "Sexual Abuse"

- ▶ The Department of Human Services Act is amended so the definition of "sexual abuse" includes an employee sending or showing sexually explicit material to a client.
- ▶ Previously, this type of conduct was not covered unless there was physical contact involved.



SB 1947

P.A. 99-323

Questions?



MINORS' RIGHTS



No Conversion Therapy for Minors

- ▶ Youth Mental Health Protection Act
- ▶ Mental health providers cannot try to change the sexual orientation of minors through “conversion therapy.”
- ▶ Mental health providers are subject to disciplinary review if they try to change the sexual orientation of a minor.



Questions?



Juvenile Law



No Mandatory Life-Without-Parole for Juveniles

- ▶ Mandatory life-without-parole sentences are eliminated for all crimes, including sex crimes, for offenders who are under the age of 18 at the time of the offense.
- ▶ Judges must consider specific age-related factors in mitigation during sentencing.

Must Contact Youth Services Before Detaining Minor Under Age 13

A minor who is under age 13 cannot be detained in a juvenile detention facility unless a local youth service provider can't accept the minor.



HB 2567

P.A. 99-254

Modifies Automatic Transfers

Automatic transfers from juvenile court to adult court are allowed only when the offender is at least 16 (was 15) and is charged with:

- ▶ first degree murder,
- ▶ aggravated criminal sexual assault, or
- ▶ aggravated battery with a firearm and the minor personally discharged a firearm.

Questions?



CRIME VICTIMS

- ✘ *The right to be treated with fairness and respect for my dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.*
- ✘ *The right to notice and to a hearing before a court ruling on a request for access to any of privileged information.*
- ✘ *The right to timely notification of all court proceedings.*
- ✘ *The right to communicate with the prosecution.*
- ✘ *The right to be heard.*
- ✘ *The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.*
- ✘ *The right to timely disposition of the case following the arrest of the accused.*
- ✘ *The right to be reasonably protected from the accused.*
- ✘ *The right to have my safety and my family's safety considered.*
- ✘ *The right to be present at the trial.*
- ✘ *The right to have an advocate and other support person of my choice.*
- ✘ *The right to restitution.*

Rights of Crime Victims and Witnesses Act Amendments

Last year's constitutional amendment guarantees enforceable crime victims' rights.

The Rights of Crime Victims and Witnesses Act is amended to provide detailed instructions for enforcement of those rights.

Victims have a new Notice of Victim's Assertion of Rights.

Crime Victim Notification – Sexually Violent Persons Commitment Act

DOC must notify the victim, victim's adult family member, or victim's parent or legal guardian within one business day of:

- ▶ a court order requiring a conditional release plan; and again
- ▶ an order approving the conditional release, discharge or any court-ordered change in custody status.
- ▶ Immediate notice if the Sexually Violent Person dies or escapes from the facility.



I MUSTACHE YOU

A QUESTION



PEOPLE WITH DISABILITIES/ELDER ABUSE



Authorized Electronic Monitoring in Long-Term Care Facilities Act

- ▶ Residents of long-term care facilities, or their family members can place video and/or audio recording devices in residents' rooms.
- ▶ Roommate must consent to recording device.
- ▶ Facilities can't retaliate against residents who choose monitoring.
- ▶ Residents can turn off monitoring during certain activities.
- ▶ Signs must be posted outside the facility and the resident's room to indicate monitoring is used.

People First Language

- ▶ Language in all Illinois statutes is changed to People First language when there are references to people with physical disabilities.
- ▶ All references to "mentally and developmentally disabled" are changed to "persons with mental and developmental disabilities."

The difference between the right word and the almost right word is the difference between lightning and a lightning bug.

~ Mark Twain

Facility Dogs Allowed for Some Sex Crime Proceedings

Courts can permit the use a facility dog for victim who is under age 18 or adult with an intellectual or developmental disability.

Dog can sit next to victim in any court proceeding involving:

- ▶ criminal sexual assault,
- ▶ predatory criminal sexual assault of a child,
- ▶ aggravated criminal sexual assault,
- ▶ criminal sexual abuse, or
- ▶ aggravated criminal sexual abuse.

Questions?



No Special Process Servers for Certain Cook County OPs

In Cook County, the court cannot appoint a special process server (private detective agency) to serve a respondent with a summons for an Order of Protection if the OP grants the

- ▶ surrender of a child,
- ▶ surrender of a firearm or FOID card, or
- ▶ exclusive possession of a shared residence.



Rewrite of the Illinois Marriage and Dissolution of Marriage Act

"Custody" = "parental responsibilities" -- both parenting time and significant decision-making responsibilities with respect to the child.

"Significant decision-making" means deciding issues of long-term importance in the life of the child.

"Visitation" = "parenting time" -- the time when a parent is responsible for caretaking and non-significant decision making with respect to the child.

The court will still allocate significant decision-making responsibilities and parenting time according to the child's "best interests," but the best interests standard has changed.

Sentence Modification for Incarcerated DV Survivors

Incarcerated DV survivors can petition to have a sentence modified if:

- ▶ survivor was convicted of forcible felony;
- ▶ survivor participated in crime because of DV;
- ▶ evidence of DV not presented at sentencing hearing;
- ▶ survivor did not recognize she participated in crime because of DV at the time of trial; and
- ▶ evidence of DV is material, non-cumulative, and likely to have changed the original sentence imposed.

DV must have been committed by "intimate partner."

Police Body Cameras/ Police Training

- ▶ Police not mandated to use body cameras, but mandatory rules apply if police departments choose to use body cameras.
- ▶ Crime victims can ask officers to turn off cameras.
- ▶ Officer may turn the camera back on if “exigent circumstances exist.”
- ▶ Most recordings must be destroyed within 90 days, but some must be kept for at least 2 years.
- ▶ All videos are subject to the rules of evidence, but will almost always be admissible.
- ▶ Recordings are sometimes subject to FOIA requests.

Police Body Cameras/ Police Training, cont'd

- ▶ No more chokeholds.
- ▶ Clarifies that citizens can record police.
- ▶ Police must give citizens a stop card after a Terry stop/stop and frisk.
- ▶ Illinois State Police must file detailed quarterly reports on status of crime lab analysis.
- ▶ Illinois State Police must use an Electronic Laboratory Information Management System (LIMS) .
- ▶ Appropriates additional funds to the State Crime Lab.
- ▶ Requires in-service training of permanent police officers.
- ▶ Police academy training must include information about cultural competency, rape myths, and trauma-informed, victim-centered and victim sensitive interview techniques.

Crime-Free Neighborhood Ordinances

No ordinance can penalize tenants or landlords for calling police or EMS when the contact is because of:

- ▶ sexual violence,
- ▶ domestic violence, or
- ▶ an individual with a disability.

Civil remedies are available if a county or municipality violates the ban on nuisance ordinances.

- ▶ Shriver Center on Poverty Law initiative

Delay of Utility Deposit for DV survivors

A utility company must defer their initial credit and deposit requirements by 60 days for domestic violence survivors who:

- ▶ have an order of protection; or
- ▶ have a certifying letter from an official

Questions?



PROSTITUTION/TRAFFICKING

If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity, call the National Human Trafficking Resource Center at 1-888-373-7888 to access help and services.

Victims of slavery and human trafficking are protected under United States and Illinois law. The hotline is:

- * Available 24 hours a day, 7 days a week.
- * Toll-free.
- * Operated by nonprofit nongovernmental organizations.
- * Anonymous and confidential.
- * Accessible in more than 160 languages.
- * Able to provide help, referral to services, training, and general information."

Human Trafficking Resource Center Notice Act

- ▶ Certain businesses must post a notice about human trafficking by July 1, 2016.
- ▶ The model notice will be posted on the Illinois Department of Human Services website.
- ▶ The notice includes instructions to call the National Human Trafficking Resource Center to get help and services.

DHS and IDOT Will Cooperate to Promote Human Trafficking Hotline to Public

- ▶ DHS will cooperate with IDOT to promote the national human trafficking hotline.
- ▶ Signs with the hotline number and other information will be posted in high risk areas including:
 - ▶ truck stops,
 - ▶ bus stations,
 - ▶ train stations,
 - ▶ airports, and
 - ▶ rest areas.

Affirmative Defense to Prostitution

- ▶ People charged with prostitution can use an affirmative defense to prove they engaged in prostitution because of human trafficking.
- ▶ Creates process for defendants to have in-camera hearing to put safety measures in place when raising the defense in court.
- ▶ Statements made by accused during in-camera hearing cannot be used against accused for prostitution crimes charged.
- ▶ Resource: www.enddemandillinois.org

Questions?



DCFS Reform

Too many children died under DCFS director's watch

DCFS starts inspection of resident sites

Move is response to Tribune series chronicling issues at youth centers

More kids dying under Illinois DCFS watch

Lawmaker, inspector call for DCFS fixes

DCFS chief quizzed on residential care issues

How Illinois fails its most vulnerable citizens

DCFS wards endangered at residential treatment centers

Residential Shelter Staff Must Keep the Kids in the Facility

- ▶ Any DCFS-licensed facility that provides temporary residential shelter services to children who are in the care of DCFS must take measures to keep the kids safe and secure.
- ▶ DCFS must monitor facilities to ensure compliance with the law and can impose sanctions against any facility that has excessive "unauthorized absences."

DCFS Must Notify all Adult Relatives of Child In Need of Placement

- ▶ DCFS must make reasonable efforts to identify, locate, and provide notice to all grandparents and other adult relatives who are ready, willing and able to care for a child who needs to be removed from a home.
- ▶ Previously, DCFS had to make reasonable efforts to locate an adult relative who could assume care of the child.

Foster Children's Bill of Rights Act

All children and adults in DCFS care have 28 rights listed in the new Foster Children's Bill of Rights Act, including the right to:

- ▶ be free from abuse or corporal punishment;
- ▶ contact non-offending family members;
- ▶ complain about violations of rights;
- ▶ attend court hearings and speak to the judge;
- ▶ be involved in planning for their future;
- ▶ have caregivers and child welfare personnel who are culturally competent; and
- ▶ have access to age appropriate, medically accurate reproductive healthcare information.

Child Welfare Training Academy

Subject to appropriations, DCFS will create training academy for DCFS child protective investigators and supervisors. The academy's training efforts must include:

- ▶ recognizing and responding to cases of child abuse or neglect;
- ▶ cultural competency training;
- ▶ laboratory training facilities; and
- ▶ demonstrated minimum competency standards prior to DCFS certification.

DCFS will adopt rules for administration of the training academy by January 1, 2016.

Unfounded DCFS Reports Sometimes Admissible

Unfounded DCFS reports can be admitted in temporary custody hearings and hearings to determine if a child is abused, neglected, or dependent under the Juvenile Court Act if the subsequent allegation of abuse or neglect is related to:

- ▶ the same child; or
- ▶ a sibling of that child; or
- ▶ the same perpetrator.

DCFS Reform Plan for Residential Treatment Facilities

DCFS will create rules to

- ▶ prevent sex trafficking of children who live in residential treatment facilities;
- ▶ provide better services for those children; and
- ▶ provide specialized foster care for trafficking victims.

DCFS will also

- ▶ convene a multi-disciplinary workgroup;
- ▶ Promote awareness of the national human trafficking hotline;
- ▶ Adopt rules for investigating reports of abuse or neglect at DCFS-licensed facilities;
- ▶ create a 5-year specialized foster care program;
- ▶ Create rules to ensure facility staff respond to allegations of abuse and neglect.

ANCRA is amended to clarify mandated reporting requirements for residential treatment facility staff.

Safeguard Our Children Act

All DCFS wards in residential treatment facilities must be present and accounted for.

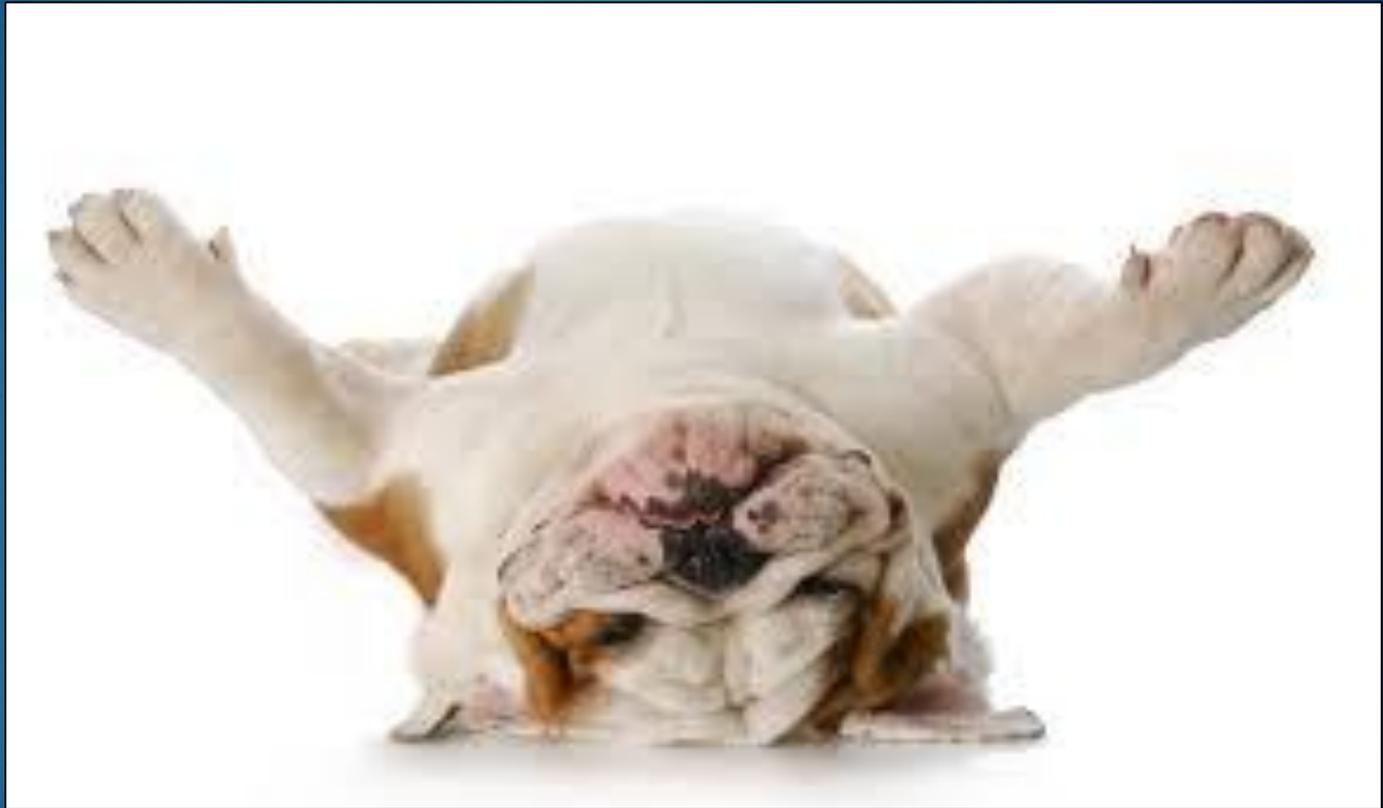
If a ward is missing, the operator of the residential facility must:

1. report the ward as missing to local law enforcement;
2. inform the ward's caseworker;
3. report the ward as missing to the National Center for Missing and Exploited Children; and
4. notify the sheriff of the county where the facility is located.

The facility operator must write a Plan of Care when a ward has a planned leave of absence.

DCFS must also develop and create a training advisory for reporting a missing ward in LEADS.

Questions?



EDUCATION



Preventing Sexual Violence in Higher Education Act

By August 1, 2016, all Illinois colleges and universities must

- ▶ adopt a clear, comprehensive sexual violence, domestic violence, dating violence, and stalking policy; and
- ▶ establish a campus-wide task force or participate in a regional task force.

The AG's office will maintain a list on their website of all institutions that do not comply with annual reporting requirements that begin November 1, 2017.

- ▶ New qualified privilege for confidential advisors.

Questions?



Healthcare



EOBs in Medicaid Managed Care

Managed Care Entities cannot send a bill, Explanation of Benefits (EOB) statement or other information concerning Medicaid enrollees' sensitive health services to anyone other than providers and care coordinators.

Sensitive health services are services for:

- ▶ mental health;
- ▶ substance abuse treatment;
- ▶ reproductive health;
- ▶ family planning;
- ▶ sexually transmitted infections; and
- ▶ sexual assault or domestic abuse.

SASETA Amendments

No hospital, healthcare professional, ambulance provider, laboratory, or pharmacy that provides services to a sexual assault survivor can bill a survivor.

Providers must seek payment from the survivor's insurance company, Medicaid, or the Illinois Sexual Assault Emergency Treatment Program.

Providers may not seek reimbursement for any uncovered expenses from the survivor.

SASETA Amendments, cont'd

Hospitals that provide services to sexual assault survivors must:

- ▶ provide each eligible survivor with a voucher for follow-up healthcare and place a copy of the voucher in the survivor's medical record;
- ▶ provide each survivor with a written statement of her rights and a phone number to call if the survivor receives a bill;
- ▶ not bill a survivor, take any action that would have an adverse effect on the survivors' credit, or turn a survivor's bill over to collections;
- ▶ refrain from communicating with, harassing, or intimidating the survivor for payment of services; and
- ▶ provide training for billing staff.

The AG can seek fines for violations.

Debt Collection Protection for Crime Victims

Any victim of violent crime can give a notice to providers that says the victim has filed a Crime Victim Compensation claim and cannot be billed pending the claim.

The AG will send the victim a written notice of the claim.

Vendors that are notified of a pending CVC claim cannot engage in any debt collection activities, including:

- ▶ communicating with, harassing, or intimidating the victim;
- ▶ contacting credit ratings agencies;
- ▶ referring a bill for collection action; or
- ▶ taking any action against the victim or victim's family related to the debt.

The vendor cannot bill the victim or take civil action until 45 days after the Court of Claims denies the claim.

Final Questions?

