

2013 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



No Criminal SOL for Felony Sex Crimes Against Children (sometimes)

- No criminal statute of limitations for felony sex crimes against children when:
 - corroborating physical evidence exists; or
 - a mandated reporter failed to report the sexual abuse.

Predatory Criminal Sexual Assault Includes Sexual Contact

- New offense
- Adds sexual contact to Predatory Criminal Sexual Assault
- Class X felony

Charges for Possession of Each Child Porn Item

- Each child pornography item = separate offense.
- Applies to film, video or computer reproduction or depiction.
- Sentences will be served consecutively.

Use Victims' Initials When Charging Sex Offense

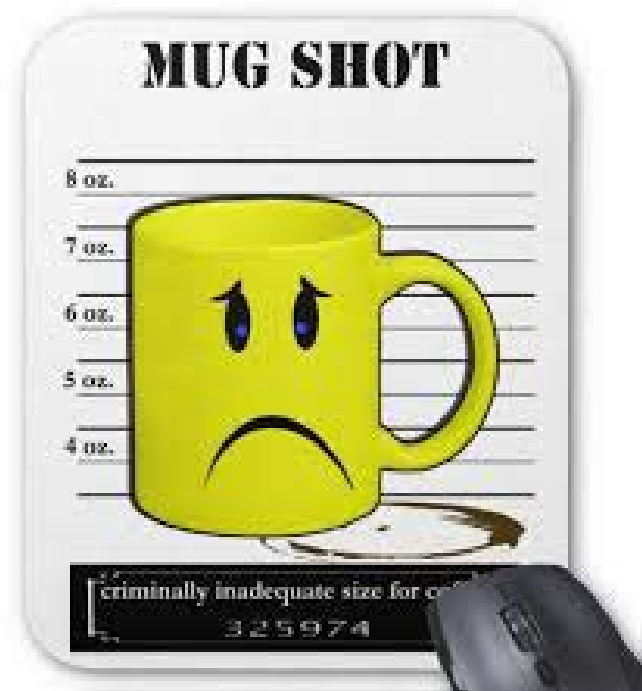
- When person charged with sex offense or trafficking, victim may be identified in the charging instrument by
 - name,
 - initials, or
 - description.

Certain Police Interrogations Must be Recorded

- Police can electronically record interviews of suspects in police custody for certain felony offenses.
- For certain felony crimes, interrogation must be recorded to be admitted as evidence at trial.

Mug Shot Removal Websites

- Unlawful to ask for or accept payment to remove mug shots from Web site.



Concealed Carry

- Allows concealed carry of guns.
- Must submit Concealed Carry License application; complete 16 hours of firearms training.
- Certain criminals, drug & alcohol abusers need not apply.
- Businesses that do not allow guns on premises must post sign at entrance.



Unauthorized Video Recording SOL Extended

- Criminal statute of limitations for unauthorized video recording is one year after the victim discovers the offense.

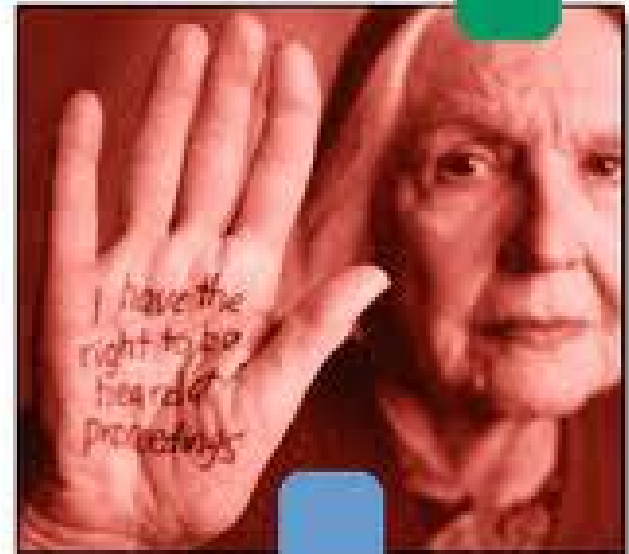
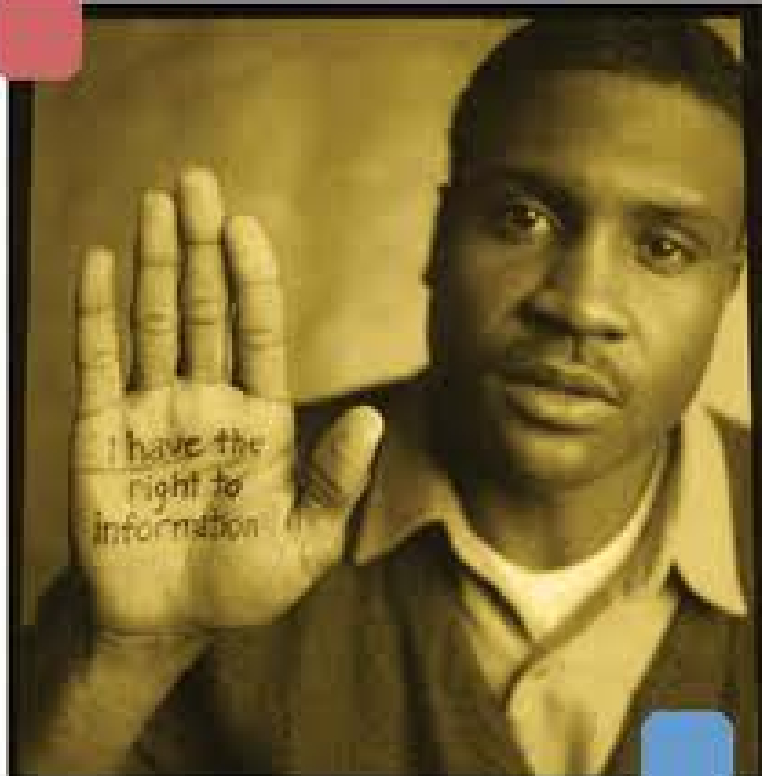
Juvenile Justice



Juvenile Court Jurisdiction

- Raises the age of jurisdiction for juvenile court from 16 to 17 for most felony offenses.
- Effective for arrests made on or after Jan. 1, 2014.

Crime Victims



State's Attorney Must Inform Victim of Right to Submit VIS

- The Office of the State's Attorney shall inform victim of victim's and family's right to
 - make a victim impact statement at sentencing hearing; and
 - inform presentence report preparer of effect of offense on victim and victim's family.

Restriction of Father's/Rapist's Custody Rights

Amends Illinois Parentage Act.

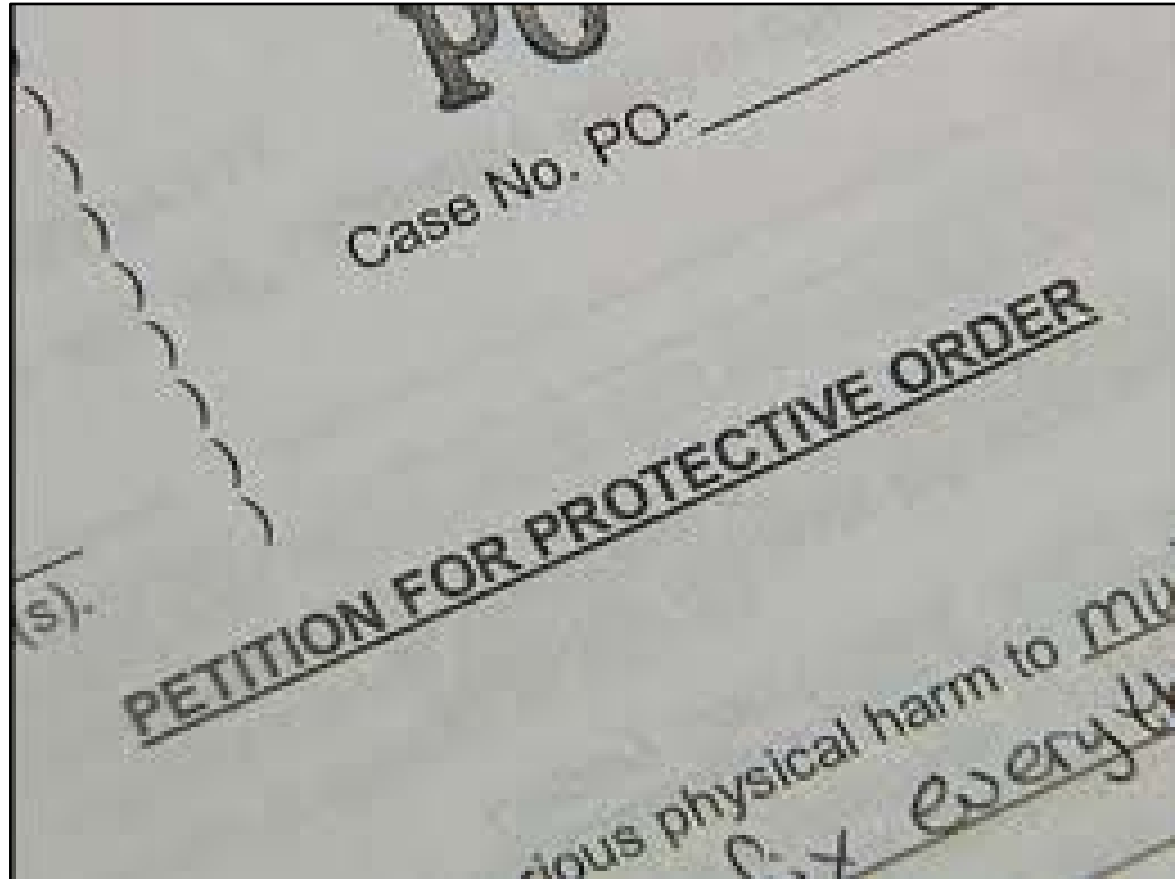
Mother who gives birth to child conceived through rape can restrict custody and visitation by the father.

Standard of proof = clear and convincing evidence that child was conceived through rape.

Internet Dating Safety Act Expanded

- Now Internet Dating, Internet Child Care, Internet Senior Care, and Internet Home Care Safety Act
- These online services that do business in Illinois must
 - conduct criminal background checks on all of their members; or
 - post warnings online.

Protective Orders



Workplace Violence Prevention Act

- Employers with at least 5 employees can seek OP to prevent further violence and threats by an individual if:
 - employee has suffered violence (or credible threat of violence) by an individual; and
 - the unlawful violence has been or can be carried out at employer's workplace.

Increased Penalties for Domestic Battery

- 1 or 2 prior convictions = Class 4 felony
- 3 prior convictions = Class 3 felony
- 4 or more prior convictions = Class 2 felony

Civil Law



No Civil Statute of Limitations for Child Sexual Abuse

- Removes the civil statute of limitations for sexual abuse against children

Right of First Refusal

- Judge may award divorcing parents "right of first refusal."
- Applies when one parent needs babysitter for "significant period of time."
- Parent who needs babysitter may be ordered to give other parent first chance to babysit.

Sex Offender Management



No Child Sex Offenders in Fast Food Playgrounds

- Child sex offenders cannot loiter in playground or recreation area of publicly accessible, but privately owned building.



Sexually Dangerous Persons Act Evaluators

- After Sexually Dangerous Person petition is filed, court must appoint two qualified evaluators to determine whether person is sexually dangerous.
- Qualified “evaluator” no longer has to be psychiatrist.

Prostitution/Trafficking



Eliminates Felony Enhancement for Prostitution

- No felony charge for second or subsequent charge of prostitution.
- Creates mental health court program option for prostituted women.
- Resource: End Demand Illinois
www.enddemandillinois.org



Mental Health Court Services for Prostituted People

- Clarifies that mental health courts may offer defendants facing misdemeanor prostitution charges specialized services related to trauma associated with prostitution.



Crime Victim Compensation for Trafficking Tattoo Removal

- Crime Victim Compensation will reimburse trafficking victims for the cost of trafficking tattoo removal.



Mandated Reporting/DCFS



Failure to Report Sexual Abuse of a Child

- New offense.
- Any adult who witnesses sexual abuse of a child is mandated report.

■ But...



Mandated Reporter Training for School Personnel

- All school personnel who work with students must complete mandated reporter training.



Adult Protective Services Act

- Department on Aging will investigate abuse and neglect against adults with disabilities living in the community.
- OIG used to investigate.
- DOA must establish registry of abusers who are caregivers.

Attorney-Client Privilege Not Affected by Mandated Reporting

- Attorneys are not mandated to report contents of privileged communication with client to DCFS.

Review of Unfounded DCFS Reports

- When child abuse report is unfounded, child's GAL or attorney may ask for review of investigation w/in 10 days of receiving report.

Education



Medically Accurate, Age Appropriate Sex Education

- Public schools that teach sex education must teach
 - medically accurate,
 - age-appropriate sex education.
- Applies to grades 6 through 12.



Teen Dating Violence

- Each public school board must
 - adopt teen dating violence policy;
 - identify school officials who are responsible for receiving reports;
 - notify students and parents of policy; and
 - educate 7th – 12th grade students and staff who take reports about teen dating violence.

Healthcare



Alternative Address for Explanation of Benefits (EOB) Statements

- Insured may receive insurance claim-related information at alternative address.
- Insured must clearly state disclosure of information could put person in danger.



Medical Marijuana

- Patients with prescription can buy up to 2.5 ounces every 2 weeks.
- Dozens of eligible medical conditions, including HIV, cancer, Alzheimer's, multiple sclerosis.
- Up to 60 licensed dispensaries.



Other Useful Information

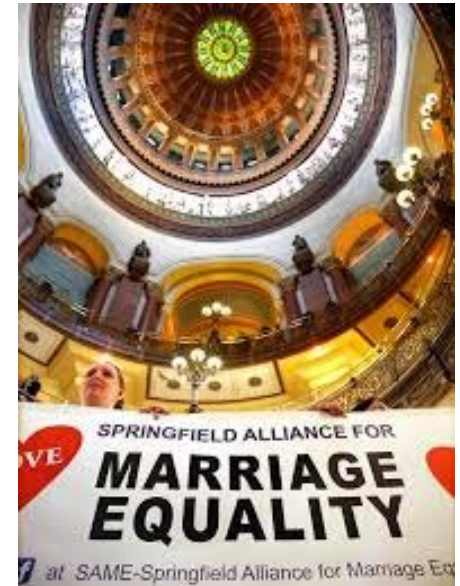


People v. Lloyd – Charging Age-Based Sex Crimes

- A victim's age, and defendant's knowledge of that age not enough for criminal sexual assault conviction.
- Age-based crimes should be charged as sexual abuse unless
 - force +
 - perpetrator in position of trust, authority, or supervision

People v. Lloyd, 2013 IL 113510, 987 N.E.2d 386, 369 Ill.Dec. 759 (Ill. S.Ct. Apr. 18, 2013)

Marriage Equality



SB 10

P.A. 98-597

