

2015 Legislative Update

Illinois Coalition Against Sexual Assault

Following is a summary of key sexual-assault related legislation passed by the Illinois General Assembly and approved by the Governor during the 2015 session. The full text of each Public Act is linked below and is available on the General Assembly's Web site at www.ilga.gov.

CRIMINAL LAW AND PROCEDURE

[SOL Does Not Include the Time Period Sexual Assault Evidence is Analyzed](#)

HB 369; [P.A. 99-252](#)

Rep. Conroy (D-46); Sen. Noland (D-22)

Effective Jan. 1, 2016

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.

[Extends SOL for Certain Crimes when Committed in Conjunction with Sex Crime](#)

HB 1418; [P.A. 99-234](#)

Rep. Williams (D-11); Hastings (D-19)

Effective Aug. 3, 2015

- Cook County State's Attorney initiative

The criminal statute of limitations is extended (from 3 years to 10 years) for armed robbery, home invasion, kidnapping, or aggravated kidnapping when committed in conjunction with aggravated criminal sexual abuse, criminal sexual assault or aggravated criminal sexual assault.

The victim still must report the sexual assault to police within 3 years of the crime.

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

SB 201; P.A. 99-347

Sen. Cunningham (D-18); Rep. Ford (D-8)

Effective Jan. 1, 2016

Judges may 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. 730 ILCS 5/5-5-3.2(a)(29)

More Severe Sentence Available for Sex Crimes Against People with Disabilities when Perpetrator Holds Position of Trust or Authority

SB 207; P.A. 99-283

Sen. Morrison (D-29); Rep. Evans (D-33);

Effective Jan. 1, 2016

Judges may impose a more severe 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.

"Intellectual disability" = significantly subaverage intellectual functioning which exists concurrently with impairment in adaptive behavior. (New definition for purposes of extended term sentencing.) 730 ILCS 5/5-5-3.2(a)(29).

"Sexual Abuse" Includes Showing Pornographic Images to DHS Clients

SB 1947; P.A. 99-323

Sen. Hunter (D-3); Rep. Manley (D-98)

Effective Aug. 7, 2015

The Department of Human Services Act is amended to expand the definition of "sexual abuse" to include an employee's actions that result in the sending or showing of sexually explicit information to a person receiving services via any electronic means or other media with or without contact.

Previously, this type of conduct was not covered unless there was physical contact involved.

The DHS Office of the Inspector General investigates allegations of sexual abuse and takes action against employees who are indicated for sexual abuse, including adding their names to the Department of Public Health's Health Care Worker Registry.

MINORS' RIGHTS

Youth Mental Health Protection Act

HB 217; [P.A. 99-411](#)

Rep. Cassidy (D-14); Sen. Biss (D-9)

Effective Jan. 1, 2016

The new Youth Mental Health Protection Act, 405 ILCS 48/1, *et seq.*, prohibits any mental health provider from trying to change the sexual orientation of lesbian, gay, bisexual, and transgender youth through conversion therapy.

Mental health providers are subject to discipline by their licensing entity or disciplinary review board if they are found to attempt to change the sexual orientation of a person who is under the age of 18.

"Mental health provider" means a licensed

- clinical psychologist
- school psychologist
- psychiatrist
- clinical social worker or licensed social worker
- marriage and family therapist
- counselor or
- anyone assisting or acting under the direction of a licensed mental health provider

Also, no person or entity can advertise or offer conversion therapy in a manner that represents homosexuality as a mental disease, disorder, or illness. This would constitute an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

JUVENILE LAW

Eliminates Mandatory Life-Without-Parole Sentences for Juveniles

HB 2471; P.A. 99-69

Rep. Flynn Currie (D-25); Sen. Harmon (D-39)

Effective Jan. 1, 2016

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 are given much more discretion in sentencing and must consider specific age-related factors in mitigation during sentencing, which are detailed in a new Section in the Unified Code of Corrections. 730 ILCS 5/5-4.5-105.

Factors in mitigation include the defendant's:

- age and maturity level at the time of the offense;
- exposure to peer pressure, family pressure, or other negative influences;
- home environment, socioeconomic background, and victimization;
- potential for rehabilitation;
- circumstances of the offense;
- ability to participate in his or her defense; and
- prior criminal or juvenile history.

The legislation is in part a response to the 2012 U.S. Supreme Court ruling in *Miller v. Alabama*. The Court ruled that mandatory life-without-parole sentences are unconstitutional for minors. All courts must also consider the unique circumstances of each juvenile defendant in determining an individualized sentence.

Must Contact Youth Services Before Detaining Minor Under 13

HB 2567; P.A. 99-254

Rep. Gabel (D-18); Sen. Steans (D-7)

Effective Jan. 1, 2016

The Juvenile Court Act is amended to state a minor who is under age 13 cannot be admitted, kept, or detained in a juvenile detention facility unless a local youth service provider is contacted. A child can still be placed in detention if a local youth services provider is unable to accept the minor. Local youth service provider includes a provider in the Comprehensive Community-Based Youth Services network (DHS program for kids who have run away or been kicked out of their homes).

Modifies Automatic Transfers to Adult Court

HB 3718; P.A. 99-258

Rep. Nekritz (D-57); Sen. Raoul (D-13)

Effective Jan. 1, 2016

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 where the minor personally discharged a firearm. Otherwise, the prosecutor must file a petition and ask the judge to move the case to adult court. The change is intended to encourage more judicial discretion in sentencing juveniles.

CRIME VICTIMS

Rights of Crime Victims and Witnesses Act Amendments

HB 1121; P.A. 99-413

Rep. Lang (D-16); Sen. Cullerton (D-6)

Effective Aug. 20, 2015

The Rights of Crime Victims and Witnesses Act establishes procedures for enforcement of crime victims' rights that are guaranteed by Article I, Section 8.1 of the Illinois Constitution. Last year's constitutional amendment provided for enforceable crime victims' rights but the Rights of Crime Victims and Witnesses Act needed to be amended to provide detailed instructions for enforcement of those rights.

The rights guaranteed by the Illinois Constitution and the Rights of Crime Victims and Witnesses Act are:

- 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 my records, information, or communications which are privileged or confidential by law.
- The right to timely notification of all court proceedings.
- The right to communicate with the prosecution.
- The right to be heard at any post-arraignment court proceeding in which one of my rights is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
- 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 throughout the criminal justice process.
- ☒ The right to have my safety and my family's safety considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
- ☒ The right to be present at the trial and all other court proceedings on the same basis as the accused, unless I will testify and the court determines that my testimony would be materially affected if I hear other testimony at the trial.
- ☒ The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of my choice.
- ☒ The right to restitution.

HB 1121 is agreed language among the Illinois Coalition Against Sexual Assault, Marsy's Law for Illinois, Illinois Coalition Against Domestic Violence, Office of the Illinois Attorney General, Illinois State's Attorneys Association, and the Cook County State's Attorney's Office.

Sexually Violent and Sexually Dangerous Persons Cannot Use FOIA to Request Personnel Files

HB 3895; [P.A. 99-298](#)

Rep. Hammond (R-93); Sen. Sullivan (D-47)

Effective Aug. 6, 2015

Sex offenders who are committed or detained under the Sexually Violent Persons Act or Sexually Dangerous Persons Act cannot use the Freedom of Information Act to gain access to records that:

- are available in the library where the person is confined;
- include staff members' personnel files, staff rosters, or other staffing information in the library of the facility where the individual is confined; or
- are available through an administrative request to the Department of Human Services or the Department of Corrections.

The Act also strengthens protections for juvenile court and law enforcement records.

Crime Victim Notification – Sexually Violent Persons Commitment Act

HB 3896; [P.A. 99-299](#)

Rep. Hammond (R-93); Sen. Sullivan (D-47)

Effective Aug. 6, 2015

The Department of Corrections 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

- within one business day of an order approving the conditional release, discharge or any court-ordered change in custody status; and
- immediately if the Sexually Violent Person dies or escapes from the facility.

The department was formerly required to notify victims 60 days before a Sexually Violent Person was discharged or when the person died or escaped.

PEOPLE WITH DISABILITIES/ELDER ABUSE

Authorized Electronic Monitoring in Long-Term Care Facilities Act

HB 2462; [99-430](#)

Rep. Harris (D-13); Sen. Link (D-30)

Effective Jan. 1, 2016

Residents of nursing homes, and certain other facilities, or their family members can place video and/or audio recording devices in residents' rooms. Residents must provide written notice to facilities before installing recording devices and must pay all expenses associated with the devices. Public Aid recipients may be able to request funds to pay for electronic monitoring if funds are available through the Department of Public Health.

The resident and the resident's roommate must consent in writing to the recording devices. If a roommate refuses, the facility staff are obligated to move one of the residents to a different room.

Facilities have several obligations related to the Act, including not retaliating against residents who choose to use electronic monitoring and not interfering with installation or use of video and/or audio monitoring.

Residents retain the right to turn off electronic monitoring during activities such as dressing, bathing, and visiting with attorneys, spiritual advisors, and anyone else.

Signs must be posted outside the facility and outside the resident's room indicating that electronic monitoring is being used.

210 ILCS 32/1, *et seq.* (New Act)

People First Language

HB 4049; P.A. 99-143

Rep. Cabello (R-68); Sen. Link (D-30)

Effective July 27, 2015

Language in all Illinois statutes is changed to People First language when there are references to people with physical disabilities, e.g., "physically handicapped person" is now "persons with physical disabilities."

All references to "mentally and developmentally disabled persons" are changed to "persons with mental and developmental disabilities."

Facility Dogs Allowed During Some Sex Crime Proceedings

SB 1389; P.A. 99-94

Sen. Bennett (D-54); Rep. Zalewski (D-23)

Effective Jan. 1, 2016

Courts can permit the use a facility dog when a victim who is under age 18 or who is an adult with an intellectual or developmental disability testifies in any court proceeding involving the offense of:

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

"Facility dog" means a dog that is a graduate of an assistance dog organization that is a member of Assistance Dogs International. 725 ILCS 5/106B-10 (new).

DOMESTIC VIOLENCE

No Special Process Servers for Certain Cook County OPs

HB 3161; P.A. 99-240

Rep. Williams (D-11); Sen. Collins (D-16)

Effective Jan. 1, 2016

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.

For other matters, Cook County judges may appoint a special process server.

Rewrite of the Illinois Marriage and Dissolution of Marriage Act (IMDMA)

SB 57; P.A. 99-90

Sen. Mulroe (D-10); Rep. Burke (D-36)

Effective Jan. 1, 2016

Removes fault-based divorces in Illinois

"Custody" is now called "parental responsibilities," which means 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" is now called "parenting time," which is 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.

In determining the child's best interests, the court must consider, in part, the:

- ability of parents to work together to share responsibilities;
- mental and physical health of all individuals involved;
- wishes of the child;
- physical violence or threat of violence against the child;
- abuse of the child or any other member of the child's household;
- whether one of the parents is a convicted sex offender or lives with a convicted sex offender; and
- willingness of each parent to facilitate a close relationship between the child and other parent. 750 ILCS 5/602.7 (new).

When one of a child's parents has died, a grandparent can petition the court for custody if the surviving parent has been convicted of or received supervision for a sex crime against the child or deceased parent. 750 ILCS 5/601.2 (new).

Any parent who is a respondent to an OP cannot have access to any covered child's healthcare records.

All orders may redact addresses if revealing the address would risk abuse.

Grandparents, step-parents, and siblings may petition for visitation with a child if a parent has:

- unreasonably denied the person access to the child, and
- the denial has caused the child undue mental, physical, or emotional harm.

Sentence Modification for Incarcerated Survivors of Domestic Violence

SB 209; [P.A. 99-384](#)

Sen. Raoul (D-13); Rep. Mitchell (D-26)

Effective Jan. 1, 2016

Domestic violence survivors who are currently incarcerated can petition to have a sentence modified if the:

- survivor was convicted of a forcible felony;
- survivor's participation in the crime was related to the DV;
- evidence of DV was not presented at original sentencing hearing;
- survivor did not recognize the connection between the DV and the commission of the crime at the time of trial; and
- the evidence of DV is material, non-cumulative, and likely to have changed the original sentence imposed.

The domestic violence must have been committed by an "intimate partner" – spouse, former spouse, child in common or dating or engagement relationship.

Police Body Cameras and Police Training

SB 1304; [P.A. 99-352](#)

Sen. Raoul (D-13); Rep. Sims (D-34)

Effective Aug. 12, 2015; some portions effective Jan. 1, 2016

Police are not mandated to use body cameras, but mandatory rules apply if police departments choose to use body cameras.

- Crime victims have the right to ask officers to turn off cameras, preferably while the camera is recording.
- Officer should notify victim as soon as practicable that he/she/they has the right to have the camera turned off.
- Officer may turn the camera back on if "exigent circumstances exist."
- Most recordings must be destroyed within 90 days, but recordings must be kept for at least 2 years if:
 - death or great bodily harm occurred to anyone in the recording;
 - the encounter resulted in a detention or arrest; or
 - the officer, court, prosecutor, or defendant believe it to have evidentiary value.
- All videos are subject to the rules of evidence, but will almost always be admissible.

- Recordings are not subject to the Freedom of Information Act, except when:
 - The subject of the video is a victim or witness who has a reasonable expectation of privacy and law enforcement receives written permission from the subject or subject's legal representative to release the video.
 - The video shows arrest, discharge of firearm, great bodily harm or death, or use of force and the subject is not a victim or witness who has a reasonable expectation of privacy who has signed a release.

If the above conditions are met, the recording can be disclosed pursuant to a FOIA request, to the subject, the subject's attorney or to the officer or the officer's lawyer.

In addition, the Act contains provisions that are not related to body cameras:

- Prohibits the use of chokeholds.
- Clarifies that citizens have the right to record police in the performance of their duties.
- Police must give citizens a stop card after a traffic stop or pedestrian stop (a.k.a. Terry stop/stop and frisk).
- Beginning Jan. 1, 2016, Illinois State Police is to file detailed quarterly reports on the status of crime lab analysis.
- Illinois State Police is to obtain, implement, and maintain an Electronic Laboratory Information Management System (LIMS) to track evidence submitted for testing.
- Appropriates additional funds to the State Crime Lab.
- Requires in-service training of permanent police officers for the first time.
- Requires police academy training to include information about cultural competency, rape myths, and trauma-informed, victim-centered and victim sensitive interview techniques. 50 ILCS 705/7.

Prohibits Crime-Free Neighborhood Ordinances

SB 1547; P.A. 99-441

Sen. Hutchinson (D-40); Rep. DeLuca (D-80)

Effective Nov. 19, 2015

Shriver Center on Poverty Law initiative

A county or municipality cannot enact or enforce an ordinance or regulation that penalizes tenants or landlords for contacting police or other emergency services when the contact is related to sexual violence, domestic violence or an individual with a disability.

"Contact" includes any communication made by a tenant, landlord, guest, neighbor, or other individual to police or other emergency services.

"Disability" is broadly defined to mean a physical or mental impairment that substantially limits one or more of a person's major life activities.

If a county or municipality violates the prohibition on nuisance ordinances, the tenant or landlord can bring an action in civil court and ask for:

- an order invalidating the part of the ordinance or regulation that violates the law;
- compensatory damages;
- attorneys' fees;
- other equitable relief.

55 ILCS 5/5-1005.10 (new); 65 ILCS 5/1-2-1.5 (new)

Delay of Utility Deposit for DV survivors

SB 1645; P.A. 99-420

Sen. Stadelman (D-34); Rep. Wallace (D-67)

Effective Jan. 1, 2016

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

Certifying officials are: treating medical personnel, law enforcement personnel, a State's Attorney, the Attorney General, or a domestic violence shelter.

The certifying letter must either:

- be printed on the entity's letterhead; or
- be accompanied by a letter on the entity's certifying letterhead that identifies the certifying individual.

PROSTITUTION/TRAFFICKING

Human Trafficking Resource Center Notice Act

HB 2556; P.A. 99-99

Rep. Wheeler (R-64); Sen. Morrison (D-29)

Effective Jan. 1, 2016

Certain businesses must post a notice about human trafficking developed by the Illinois Task Force on Human Trafficking and adopted by the Illinois Department of Human Services, by July 1, 2016. The model notice will be posted on the DHS website. Businesses that must post the notice are:

- bars
- strip clubs

- airports
- intercity rail stations
- bus stations
- truck stops
- emergency rooms
- urgent care centers
- farm labor contractors

The 8 ½ x 11 inch notice must state:

"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."

New Human Trafficking Resource Center Notice Act: 775 ILCS 50/1, *et seq.*

DHS and IDOT Will Cooperate to Promote Human Trafficking Hotline to Public
SB 43; P.A. 99-105

Sen. Morrison (D-29); Rep. Lilly (D-78)
 Effective Jan. 1, 2016

The Department of Human Services will cooperate with the Illinois Department of Transportation to promote public awareness of 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. 20 ILCS 1305/10-34 (new).

Affirmative Defense to Prostitution

SB 1588; P.A. 99-109

Sen. Mulroe (D-10); Rep. Sims (D-34)

Effective July 22, 2015

- End Demand Illinois initiative

People charged with prostitution can use an affirmative defense that allows them to prove that they engaged in prostitution as a result of human trafficking as defined by state law.

The Act also amends the Code of Criminal Procedure to create a process for a defendant with safety concerns to have an in-camera hearing to put safety measures in place when the victim raises the defense in court.

If the judge finds by a preponderance of the evidence that using the affirmative defense in open court would jeopardize the safety of the person accused of prostitution, court personnel, or other persons, the court can

- clear the courtroom with the agreement of the accused,
- order additional in-camera hearings,
- seal the records,
- prohibit court personnel from disclosing the proceedings without prior approval from the court, or
- take any other action that will enhance the safety of the proceedings and ensure the accused has a full and fair opportunity to use the affirmative defense.

Statements made by the accused during the in-camera hearing cannot be used against the accused for the prostitution crimes charged. 725 ILCS 5/115-6.1 (new)

DCFS Reform

Temporary Residential Shelter Service Staff Must Keep the Kids in the Facility

HB 1530; P.A. 99-339

Rep. Dunkin (D-5); Sen. Martinez (D-20)

Effective Jan. 1, 2016

- Any DCFS-licensed facility that provides temporary residential shelter services to children who are in the care of DCFS must:
 - provide interventions and activities for the kids;
 - have enough staff to ensure a safe environment;
 - screen the kids upon admission for flight risk and risk of aggressive behavior;

- establish rules that prevent kids from leaving the facility without authorization before they are discharged;
- create a plan to locate and return any child who does leave the facility without authorization.
- DCFS is in charge of monitoring facilities to ensure compliance.
- Any facility that has excessive "unauthorized absences" will have its admissions placed on hold by DCFS until the facility complies with a corrective action plan.
- DCFS can impose licensing sanctions up to and including the revocation of the facility's license. 20 ILCS 505/4c (new).

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

HB 2543; P.A. 99-340

Rep. Davis (D-27); Sen. Steans (D-7)

Effective Jan. 1, 2016

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.

The statute formerly required DCFS to make reasonable efforts to locate an adult relative who could assume care of the child.

Foster Children's Bill of Rights Act

HB 3684; P.A. 99-344

Rep. Wallace (D-67); Sen. Stadelman (D-34)

Effective Jan. 1, 2016

All children and adults in the care of DCFS have 28 rights that are enumerated in the new Foster Children's Bill of Rights Act, 20 ILCS 521/1, *et seq.*

Those rights include the right to:

- be free from physical, sexual, emotional, or other abuse or corporal punishment;
- to contact non-offending family members;
- to contact the DCFS Advocacy Office for Children and Families or DCFS Office of the Inspector General about violations of rights confidentially and without threat or punishment for making a complaint;
- attend court hearings and speak to the judge;
- be involved in the development of his or her own case plan and plan for permanent placement;
- have caregivers and child welfare personnel who are culturally competent and trained to care for lesbian, gay, bisexual and transgender youth; and
- have access to age appropriate, medically accurate information about reproductive healthcare.

Child Welfare Training Academy

SB 653; P.A. 99-348

Sen. Katowski (D-28); Mussman (D-56)

Effective Aug. 11, 2015

Subject to appropriations, DCFS will create a child welfare 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 with mock
 - houses,
 - medical facilities,
 - courtrooms, and
 - forensic interview rooms; and
- demonstrated minimum competency standards prior to DCFS certification.

DCFS will adopt rules for administration of the training academy by January 1, 2016. 20 ILCS 505/21.2 (new).

Unfounded DCFS Reports Sometimes Admissible

SB 1335; P.A. 99-349

Sen. Lightford (D-4); Rep. Welch (D-7)

Effective Jan. 1, 2016

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 a 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

SB 1763; P.A. 99-350

Sen. Morrison (D-29); Rep. Moeller (D-43)

Effective Jan. 1, 2016; some portions effective June 1, 2016

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. The changes are a response to a series of newspaper articles that exposed widespread sex trafficking of DCFS wards who reside in DCFS facilities.

By Jan. 1, 2016, DCFS will:

- convene a multi-disciplinary workgroup that will include, in part, DCFS representatives, licensed therapists, a child psychiatrist, a representative of the DCFS Youth Advisory Board, a law enforcement representative, and a representative of an independent agency with experience working with sex trafficking victims. 20 ILCS 505/5.05 (new).
- cooperate with the Illinois Department of Transportation to promote awareness of the national human trafficking hotline. 20 ILCS 1305/10-34 (new).

By June 1, 2016, DCFS will:

- adopt rules for investigation reports of abuse or neglect at DCFS-licensed facilities.
- create a 5-year pilot program of specialized foster care for kids who have a history of severe trauma with the goal of keeping the child in foster care or returning the child home rather than placing the child in a facility. (Subject to appropriations). 20 ILCS 505/5.40 (new).

By July 1, 2016, DCFS will

- create rules to ensure employees at DCFS-funded facilities report suspected child abuse and neglect and that treatment facilities respond appropriately to reports of child abuse and neglect. The rules must include corrective action plans for facilities and staff members who fail to respond to allegations of abuse and neglect. 225 ILCS 10/8.5 (new).

The Abused and Neglected Child Reporting Act is amended to clarify mandated reporting requirements for residential treatment facility staff. 325 ILCS 5/3.

Safeguard Our Children Act

SB 1775; [P.A. 99-351](#)

Sen. Cunningham (D-18); Rep. Flowers (D-31)

Effective Jan. 1, 2016

The new Safeguard Our Children Act, 325 ILCS 58/1, *et seq.*, is intended to ensure that all DCFS wards in residential treatment facilities are present and accounted for.

DCFS wards must be reported missing from DCFS facilities when:

- there is no contact between an employee of the facility and the ward within 12 hours; and
- the ward is absent from the facility without prior approval (AWOL).

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.

When making a missing persons report to local law enforcement, the facility operator must instruct the person taking the report to enter in the miscellaneous section of LEADS:

"This individual is a ward of the Illinois Department of Children and Family Services (DCFS) and, regardless of age, shall be released only to the custody of DCFS. Contact the 24-hour hotline: 866.503.0184."

When a ward has a planned leave of absence from the facility of more than 24 hours, the facility operator must write a Plan of Care that includes:

- where the ward will visit;
- the contact information of the person(s) the ward is staying with;
- the length of the visit; and
- the expected time and date of return to the facility.

DCFS must also develop and create a training advisory for reporting a missing ward in LEADS. 325 ILCS 40/3.6 (new).

EDUCATION

Preventing Sexual Violence in Higher Education Act

HB 821; P.A. 99-426

Rep. Mussman (D-56); Sen. Hutchinson (D-40)

Effective Aug. 21, 2015 (NOTE: some provisions have a delayed implementation date)

On or before August 1, 2016, all Illinois colleges and universities must adopt a clear, comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking that is consistent with Illinois and federal laws.

The comprehensive policy must include, in part:

- a definition of consent that, at a minimum recognizes that consent is a freely given agreement to sexual activity and that a person cannot consent who is
 - incapacitated by alcohol or drugs, or a mental disability,
 - asleep or unconscious, or
 - under age

- procedures for students to follow if they choose to report a violation of the policy, regardless of whether the incident occurred on or off campus;
- contact information for the Title IX coordinator, campus and local law enforcement, and the local rape crisis center;
- contact information for confidential advisors and information about confidential reporting;
- information about reporting options and individuals and entities that can protect the student's privacy and which ones are obligated to report the violation;
- an option for electronic reports;
- an option for anonymous reports;
- an option for third party and bystander reports; and
- and the institution's procedure for responding to and investigating the report.

The Public Act also amends the Campus Security enhancement Act of 2008 to, in part, mandate that, on or before August 1, 2016, all colleges and universities establish a campus-wide task force or participate in a regional task force.

The task forces are intended to ensure a coordinated response by law enforcement and victim services to campus sexual violence, domestic violence, dating violence, and stalking.

The following entities must be invited to identify individuals to serve on task forces:

- rape crisis centers
- domestic violence agencies
- law enforcement
- State's Attorney's office

The Public Act also amends the Board of Higher Education Act to require all colleges and university to provide an annual report, beginning November 1, 2017, that includes, in part, detailed aggregate information about campus violence reports and investigations during the preceding year. The AG's office will maintain a list on their website of all institutions that do not comply with reporting requirements.

The Public Act creates a new qualified privilege for confidential advisors, 735 ILCS 5/8-804.

HEALTHCARE

Explanation of Benefits (EOBs) in Medicaid Managed Care

HB 2812; P.A. 99-181

Rep. Mitchell (D-26); Sen. Biss (D-9)

Effective July 29, 2015

- Initiative of EverThrive Illinois: www.everthriveil.org

Many people who are on Medicaid or enrolled in AllKids must enroll in managed care through "Managed Care Entities." Managed Care Entities cannot send a bill, Explanation of Benefits (EOB) statement or other information concerning enrollees' sensitive health services to anyone other than providers and care coordinators.

Sensitive health services are:

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

Sexual Assault Survivors Emergency Treatment Act (SASETA) Amendments

HB 3848; P.A. 99-454

Rep. Mussman (D-56); Sen. Bush (D-31)

Effective Jan. 1, 2016

- Office of the Illinois Attorney General initiative

The Sexual Assault Survivors Emergency Treatment Act (SASETA) is amended to prohibit hospitals and ancillary providers from billing survivors for emergency department healthcare and follow-up healthcare related to sexual assault.

- 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 (e.g., insurance co-pays or deductibles) from the survivor.

- Hospitals that provide services to sexual assault survivors must:
 - provide each eligible survivor with a voucher for follow-up healthcare related to the sexual assault 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 at the Office of the Illinois Attorney General, Crime Victim Services Division, 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 anyone who prepares bills for healthcare or forensic services related to sexual assault.
- The Office of the Attorney General will review and approve proposed billing protocols.
- Only ancillary providers must submit a billing protocol.

The Office of the Attorney General may seek civil fines when a hospital, health care professional, ambulance provider, laboratory or pharmacy knowingly violates the law by billing the victim, harassing the victim for payment, or turning over a bill to collections.

Debt Collection Protection for Crime Victims

SB 1866; P.A. 99-444

Sen. Lightford (D-4); Rep. Mitchell (D-26)

Effective Jan. 1, 2016

- Office of the Illinois Attorney General initiative

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.

Within 10 days of a victim filing a Crime Victim Compensation claim, the Office of the Attorney General will send the victim a written notice of the claim and inform the applicant of his or right to provide a copy of the notice to vendors while the claim is pending.

Vendors that are notified of a pending Crime Victim Compensation claim cannot engage in any debt collection activities, which include:

- communicating with, harassing, or intimidating the victim for payment;
- 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. 740 ILCS 45/18.5 (new)