



# **2021 Illinois Legislative Update**

**Illinois Coalition Against Sexual Assault**

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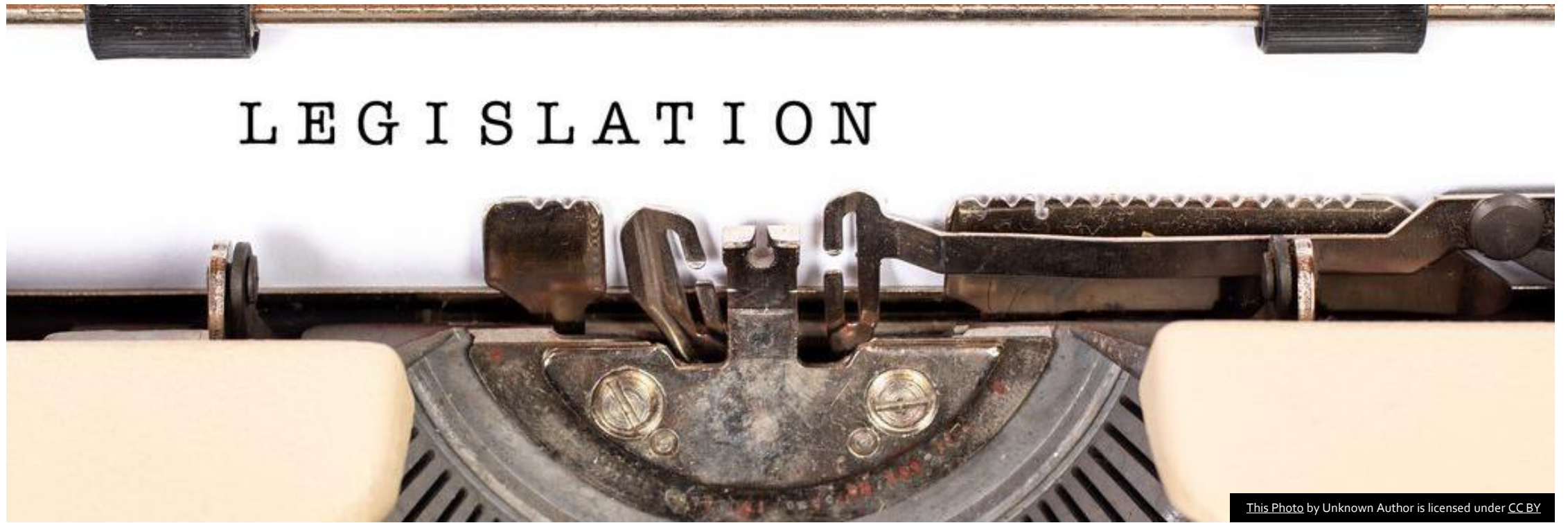
# Legislative Information

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- Consolidated Statutes
- Read and Track Bills
- Legislator Information
- Committee Schedules

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- Sexual Assault  
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Materials



# 2021 Legislative Session: Key Bills

# Topic Areas

- ICASA Priority Bills
- Criminal Law & Victims' Rights
- Protective Orders
- Schools & Children
- Human Trafficking
- Anti-Oppression Bills

# **ICASA PRIORITY BILLS**



# “Rape Crisis Organization”

- **HB 3265**
- Public Act 102-0469
- Effective Date: January 1, 2022
- Primary Sponsors: Rep. Kelly Cassidy (D-14)  
Sen. Mike Simmons (D-7)

## HB 3265

- “Rape crisis organization” means any organization or association a ~~the~~ major purpose of which is providing information, counseling, and psychological support to victims of [sex crimes]. “Rape crisis organization” includes, but is not limited to, rape crisis centers certified by a statewide sexual assault coalition.





## HB 1739

- Amendments to Crime Victims' Rights
- One-year extension to the Qualified Medical Provider (QMP) requirement in SASETA: 1/1/2023
- Six-month extension for AFQHCs to 12/31/2021 and to 12/31/2023 in SB 336
- Required notices about ISP Sexual Assault Evidence Tracking System

## **Victims' Rights: Pretrial & Court**

- Timely notice of no charge decisions
- Prosecutors must offer to meet with a victim about a no charge decision with an advocate, attorney, and/or support person allowed to be present
- The victim or victim's attorney may be heard on a victims' rights motion contemporaneously with the prosecutor unless prosecutor or court objects

## **Victims' Rights: Confidentiality**

- Process for when a prosecutor subpoenas a victim's confidential information without the victim's consent, requires at least 21 days' written notice
- A clarification that a victim who does not consent to release confidential information to the prosecutor is not considered uncooperative and still has crime victims' rights

## **Victims' Rights: Enforcement**

- Effective 2023, OAG will investigate complaints regarding crime victims' rights and create trainings and make recommendations for state agencies and officers
- Court may require training for state officers who violate crime victims' rights
- Victim may file a complaint for mandamus, injunctive or declarative relief for violation of victims' rights

## **Tracking System Notices**

- Healthcare provider who collects evidence must notify victim about tracking system and provide log-in information
- At first contact, law enforcement must notify victim about tracking system
- When victim consents to evidence testing, law enforcement must notify victim about tracking system

# CRIMINAL LAWS & VICTIMS' RIGHTS



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# SAFE-T Act

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## **HB 3653 (101<sup>st</sup> G.A.)**

- Includes Pretrial Fairness Act (1/1/2023)
- Makes changes to Crime Victims Compensation for actions commenced or pending on or after 1/1/2021
- Establishes Domestic Violence Pretrial Practices Working Group
- Removes requirement that complaints against officers must identify complainant and be by sworn affidavit
- LETSB must establish mental health screenings, include crisis intervention training in police officer training schools and for annual certification of officers, and must add implicit bias/ethnic sensitivity training and use of force training every three years

## **Pre-Trial Fairness Act**

- Replaces bail with conditions of release
- Detention imposed only when defendant poses specific, real and present threat to a person, or has high likelihood of willful flight
- Detainable offenses include sex offenses
- Factors to be considered include nature and circumstances of offenses charged, including whether the offense is a sex offense
- Court must make a written finding as to why less restrictive conditions would not assure safety and appearance in court
- Permits use of validated risk assessment tool

## **Pre-Trial Detention Hearing**

- Only when petitioned for by the State
- Victim entitled to notice of hearing
- Immediately at first appearance, or if continuance requested within 48 hours for most felonies or 24 hours for Class 4 felonies and misdemeanors
- If defense seeks to call victim to testify, it must petition court for permission, which is only granted if court finds by clear and convincing evidence that defendant will be materially prejudiced unless victim testifies

## Body Cameras

- Sets deadlines for when law enforcement must use body cameras – last deadline is 1/1/2025
- Defines who can access, review, edit, and delete footage
- Includes that “Cameras must be turned off when . . . the victim of a crime requests that the camera be turned off, and unless impractical or impossible, that request is made on the recording”

# Crime Victim Compensation Changes

- Allows up to 5 years to apply for compensation
- Notification requirement met if sex offense victim seeks medical care **or** evidence collection
- “Victim” includes **child** of person killed or injured; “anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child”
- Increases maximum amount for burial to \$10,000 and for loss of future earnings to \$2,400/month
- Victim’s criminal history will not prevent payment

# Criminal Justice Reform Trailer

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## **HB 3443**

- Extended LETSB requirements to 1/1/2022 and adds mandated training will be provided at no cost to the employees, who shall be paid for all time spent attending mandated training
- Body camera requirement does not apply to court security officers, State's Attorney investigators, and Attorney General investigators
- Revises provisions about use of force and access to body camera footage

# Crime Victim Compensation

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## **HB 3295**

- Increases award cap to \$45,000 for crimes committed on or after 8/7/2022
- Authorizes emergency awards for relocation expenses and funeral/burial expenses (paid directly to funeral home)
- Increases to 45 days (from 30) time to provide requested information
- Gives the OAG some additional authority



# HB 3582

- Adds “other crime of violence” to eligibility for VESSA leave and anti-discrimination protection
- "Crime of violence" includes conduct prohibited by six Articles of the Criminal Code:
  - (9) Homicide
  - (11) Sex Offenses
  - (12) Bodily Harm
  - (26.5) Harassing And Obscene Communications
  - (29D) Terrorism
  - (33A) Armed Violence

## **VESSA Documents**

- For certifications for VESSA eligibility, the employee chooses which document to submit, and the employer shall not request or require more than one document
- Requires employer to keep VESSA information “in the strictest confidence”

# Restorative Justice Privilege

- **SB 64**
- Public Act 102-0100
- Effective Date: Jan. 1, 2022
- Primary Sponsors: Sen. Robert Peters (D-13)  
Rep. Carol Ammons (D-103)

## **SB 64**

- Anything said or done during, in preparation for, or as follow-up to a restorative justice practice is privileged; cannot be referred to, used, or admitted in any proceeding
- Waiver of privilege must be in writing or during the proceeding, and waiver is limited to the participation and communication of the waiving party only

## What is a Restorative Justice Practice?

- “a gathering, such as a conference or circle, in which parties who have caused harm or who have been harmed and community stakeholders collectively gather to identify and repair harm to the extent possible, address trauma, reduce the likelihood of further harm, and strengthen community ties by focusing on the needs and obligations of all parties involved through a participatory process”
- If the legitimacy of a practice is challenged, a judge shall decide and may consider information that would otherwise be privileged

## Exceptions to RJP Privilege

- Necessary to prevent death, great, bodily harm, or the commission of a crime;
- Necessary to comply with another law; or
- A court, tribunal, administrative body requires a report on a restorative justice practice:
  - Must be limited to the fact that RJP has taken place, an opinion regarding its success, and whether further practices are expected



# Forensic Science Commission

- **SB 920**
- Public Act 102-0523
- Effective Date: August 20, 2021
- Primary Sponsors: Sen. Patricia Van Pelt (D-5)  
Rep. Lakesia Collins (D-9)

## **SB 920**

- Commission appointed by Governor with advice and consent of Senate:
  - Shall include one or more community representatives (e.g., victim advocates, innocence project organizations, SANEs)
- Upon disposition, withdrawal, or dismissal of a charge, State's Attorney must promptly notify forensic laboratories in possession of evidence, reports, materials, or information related to that charge via ISP LIMS, email, or telephone

# Threats Constitute Stalking

- **SB 2204**
- Public Act 102-0547
- Effective Date: Jan. 1, 2022
- Primary Sponsors: Sen. Elgie Sims, Jr. (D-17)  
Rep. Kelly Cassidy (D-14)

## **SB 2204**

- Adds another option for proving the crime of stalking:
  - “A person commits stalking when he or she knowingly makes threats that are a part of a course of conduct and is aware of the threatening nature of his or her speech.”

# Victim Privacy – Court Records

- **SB 2339 & SB 2340**
- Public Act 102-0651 & Public Act 102-652
- Effective Date: Jan. 1, 2022
- Primary Sponsors:      Sen. Kimberly Lightford (D-4)  
Rep. Kelly Cassidy (D-14)

**SB 2339  
(Children)  
&  
SB 2340  
(Adults)**

- Restricts access to law enforcement and circuit court records to exclude the identity of victims of sex offenses
- People who want access may seek court order authorizing removal of the restriction for specific cases or records

## Those Not Restricted

- Judges
- State's Attorneys, Assistant State's Attorneys, Attorney General, Assistant Attorney General
- Defendant, Defendant's Attorney
- Psychologist, psychiatrist, social worker, doctor, aftercare specialist, parent of minor victim
- Parole agent, probation officer
- **Advocate** or victim's attorney

## **Other Protections**

- Court may prohibit any person or agency present in court from disclosing the victim's identity
- Must give notice to all affected parties and have a hearing
- Court shall consider:
  - The best interests of the victim
  - Whether nondisclosure would further a compelling state interest



## **Records Provided to School District**

- When a school district employee or contractor is alleged to have committed a sex offense, a copy of the criminal history record is sent to the superintendent
- Identity of the victim shall be excluded
- The superintendent is restricted from revealing the identity of the victim
- Nothing in SB 2339 precludes mandated reporting required by ANCRA

# Unable to Give Knowing Consent

- **SB 2567**
- Public Act 102-0567
- Effective Date: Jan. 1, 2022
- Primary Sponsors: Sen. Melinda Bush (D-31)  
Rep. Kelly Cassidy (D-14)

## **SB 2567**

- Moves definition of “consent” and adds definition of “unable to give knowing consent”
- Adds person responsible for the child’s welfare and any person who commits or allows trafficking to ANCRA reporting requirement
- Changes aggravated criminal sexual abuse to Class 1 felony when victim is under 18 and offender is 17 or older and holds a position of trust or authority in relation to victim
- Makes unlawful video recording and live video transmission of intimate parts a Class 4 felony; defines “intimate parts”

## Unable to Give Knowing Consent: Unconscious of Nature of Act

- “When the accused administers an intoxicating or anesthetic substance, or any controlled substance causing the victim to become **unconscious of the nature of the act** and this condition was known, or reasonably should have been known, by the accused.”
  - Unconscious or asleep
  - Not aware, knowing, perceiving or cognizant:
    - that the act occurred
    - of the essential characteristics of the act due to accused’s fraud in fact
    - due to accused’s fraudulent representation that penetration served a professional purpose, when it did not

## **Unable to Give Knowing Consent: Custody or Care**

- Victim in IDOC custody or care, and accused is IDOC employee or volunteer
- Victim in police custody, and accused is an officer or other law enforcement
- Victim in DCFS care, and accused is DCFS employee
- Victim is client or patient of health care provider and sexual conduct or penetration occurs during a treatment session, consultation, interview or exam
- Victim is resident (inpatient) of a residential facility, and accused is employee, officer, contractor, consultant, or volunteer at facility

# Other New Criminal Laws

- **HB 3575**: Expands hearings when defendant may appear via video conference when no witness testimony will be taken
- **SB 1892**: No probation for possession of child pornography if the victim is a household or family member of the defendant
- **SB 2122**: Prohibits law enforcement from using deception in custodial interrogations of minors, and confessions resulting from deception will be inadmissible

# PROTECTIVE ORDER LAWS







## HB 734

- 725 ILCS 112A-20: Criminal Protective Orders
- CNCO may be permanent at the victim's request if there is a conviction entered for:
  - Criminal Sexual Assault & Aggravated Criminal Sexual Assault
  - Aggravated Criminal Sexual Abuse & Criminal Sexual Abuse, excluding Sec. 11-1.50(c): victim 13-17 years old and offender less than 5 years older than victim
- Permanent CNCO void if conflicts with order issued pursuant to Juvenile Court Act or Illinois Marriage and Dissolution of Marriage Act

# Family Member May File CNCO

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## HB 1742

- Adds family or household member of the victim as person who can file a petition for a CNCO
- Requires petition may be filed only after receiving consent from the victim, and “the petition shall include a statement that the victim has consented to the family or household member filing the petition”

# Hope Cards

- **HB 3485**
- Public Act 102-0481
- Effective Date: Jan. 1, 2022
- Primary Sponsors: Rep. Denyse Wang Stoneback (D-16)  
Sen. Julie Morrison (D-29)

## HB 3485

- Supreme Court may implement a Hope Card program to issue petitioners of plenary OPs a laminated, wallet-sized card to distribute to those who may need to be aware of the OP
- The card shall contain identifying information about the respondent, including a photograph, active dates of the order, case number, and any other pertinent information in the order
- A Hope Card shall have the same effect as the underlying plenary OP

# CNCO, SNCO & Dating Safety

- **SB 1677**
- Public Act 102-0220
- Effective Date: Jan. 1, 2022
- Primary Sponsors: Sen. Melinda Bush (D-31)  
Rep. Joyce Mason (D-61)

## **SB 1677**

- SNCO: definition of “contact” includes “electronic communication”
- CNCO: added restraint from “electronic communication” to remedies
- Removes “for a fee” from definition of “Internet Dating Service” in Internet Dating Safety Act\*
- All requirements of the Internet Dating Safety Act\* must be in customer written contract required by Dating Referral Services Act

# SCHOOLS & CHILDREN





# Parental Notification of Student Discipline

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## HB 15

- Upon request, school shall provide parent or guardian a copy of their child's written statement regarding an act of misconduct
- Parent or guardian must be notified if their student is the perpetrator
- "Misconduct" means an incident that involves offensive touching, a physical altercation, or the use of violence
- Not a confidential statement



## HB 24

Requires sex education to include an age-appropriate discussion regarding sexting:

- Possible consequences of sharing or forwarding sexually explicit or suggestive content
- Identifying situations that may result because of sexting, such as bullying or harassment
- Potential long-term legal, social, academic, and other consequences from possessing sexual content
- Importance of internet safety
- Developing strategies for resisting peer pressure
- Identifying people who can assist students



# HB 1975

- Expands definition of grooming to include in-person acts, acts through third parties and written communication
- Adds grooming as an offense that requires mandated reporting under ANCRA
- Requires a resource guide for families with information about child advocacy centers, medical treatment, mental health services, and legal and advocacy services for victims of sexual abuse by July 1, 2023



# HB 3100

- Requires mandated reporters to complete an initial mandated reporter training, including a section on implicit bias
- Implicit bias training can be offered in-person or online and must be completed within 3 months of employee's hire date
- Training will be provided by the DCFS and must be developed by January 1, 2023



# Ensuring Success in School Law (ESSL)

- **HB 3223**
- Public Act 102-0466
- Effective Date: Various
- Primary Sponsors: Rep. Anna Moeller (D-43)  
Sen. Kimberly Lightford (D-4)

# HB 3223

Applies to:

- All K-12 public schools
- Student survivors of sexual, domestic and gender-based violence
- Student parents or expectant parents
- All survivors regardless of where the violence occurred or who the perpetrator is

## **ESSL: Support Services/ Safety**

- Honor court orders
- Implement safety procedures inside schools, on school grounds, or on the bus
- Offer school-based counseling services, if available at the school
- Excused absences to meet with attorney or advocate
- Perpetrator may be transferred to a different class or school

## **ESSL: Support Services/ Academics**

- Ability for victim to change seating assignment, or transfer to a different class or school
- Extra time to complete assignments
- Home or hospital instruction under certain circumstances
- A student's status as a survivor of sexual or domestic violence, or as a pregnant or parenting student considered as "mitigating factors" in disciplinary hearings or actions

## **ESSL: How to Receive Support Services**

- Each school is required to have one resource coordinator to facilitate services
- Parents or guardians must provide ONE of the following to verify the student's status:
  - Written statement or complaint from the student
  - Police report
  - Court or government agency record
  - Documentation from sexual or domestic violence agency

# School Sexual Abuse Policy

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# HB 3461

- Each school district must adopt a policy addressing sexual abuse of children
- Include age-appropriate and evidence-informed curriculum for students in pre-K through 12<sup>th</sup> grade (rather than 5<sup>th</sup> grade)
- Include methods for increasing school personnel awareness and reporting of grooming behaviors
- Policy to be adopted and implemented by 7/1/2022
- Training for school personnel must be provided each year by January 31

# Child Forensic Interviews

- **HB 3462**
- Public Act 102-0477
- Effective Date: January 1, 2022
- Primary Sponsors: Rep. Fred Crespo (D-44)  
Sen. John F. Curran (R-41)



# HB 3462

- Provides children and their families with the right to a forensic interview conducted at a Children's Advocacy Center
- This right may be asserted by the child or the child's parent or guardian

# Keeping Youth Safe and Healthy Act

- **SB 818**
- Public Act 102-0522
- Effective Date: August 20, 2021
- Primary Sponsors:      Sen. Ram Villivalam (D-8)  
Rep. Camille Y. Lilly (D-78)

# SB 818

- Establishes requirements for public and charter schools to teach personal health and safety standards to grades K-5 and comprehensive sexual health education in grades 6-12
- Illinois State Board of Education will develop and adopt these new voluntary learning standards
- Stakeholders, parents, sexual health and violence prevention experts, health care providers, and education advocates will be consulted about the standards
- ISBE will make these free resources available online no later than August 1, 2022

# Standards

- Course material and instruction about consent
- Develop self-advocacy skills
- Districts do not have to adopt the standards unless they are teaching sexual health education
- Schools can bring in outside resources to facilitate instruction, including preventionists from rape crisis centers

# Goals

- Medically accurate, and developmentally and age-appropriate instruction and materials
- Provides students information about:
  - Growth and development
  - Personal safety
  - Anatomy and physiology
  - Healthy relationships and decision-making
  - Effective communication
  - Gender identity and expression, and sexual orientation
  - Parenting related skills and development

# Inclusivity

- Instruction that is culturally appropriate, inclusive, and trauma-informed
- Affirming of identities, including LGBTQIA and pregnant or parenting youth

# Excused Student Absences for Mental or Behavioral Health Reasons

- **SB 1577**
- Public Act 102-0321
- Effective Date: January 1, 2022
- Primary Sponsors:      Sen. Robert F. Martwick (D-10)  
Rep. Lindsay LaPointe (D-19)

# **SB 1577**

- Allows for student absences of up to five days for the mental or behavioral health of a student without a medical note
- Mental health defined as a “valid cause” for a school absence
- Student will be given the opportunity to make up any schoolwork missed during the mental or behavioral absence



# Campus Sexual Misconduct Survey

- **SB 1610**
- Public Act 102-0325
- Effective Date: August 6, 2021
- Primary Sponsors: Sen. Bill Cunningham (D-18)  
Rep. Carol Ammons (D-103)

## **SB 1610**

- Requires each higher education institution to annually conduct a sexual misconduct climate survey
- Each institution's sexual misconduct climate survey includes the Illinois Board of Higher Education's base survey questions
- Requires each institution to compile the results of the survey and submit them to IBHE, and publish the summary on the institution's website

# **The Task Force on Campus Sexual Misconduct Climate Surveys**

- Develop and recommend a trauma-informed base survey to IBHE by July 31, 2022, and every two years after that
- Provide IBHE with recommendations regarding content, timing, and application of base survey
- Task Force will be dissolved in 2026
- IBHE will review the base survey every two years thereafter to consider feedback and implement improvements

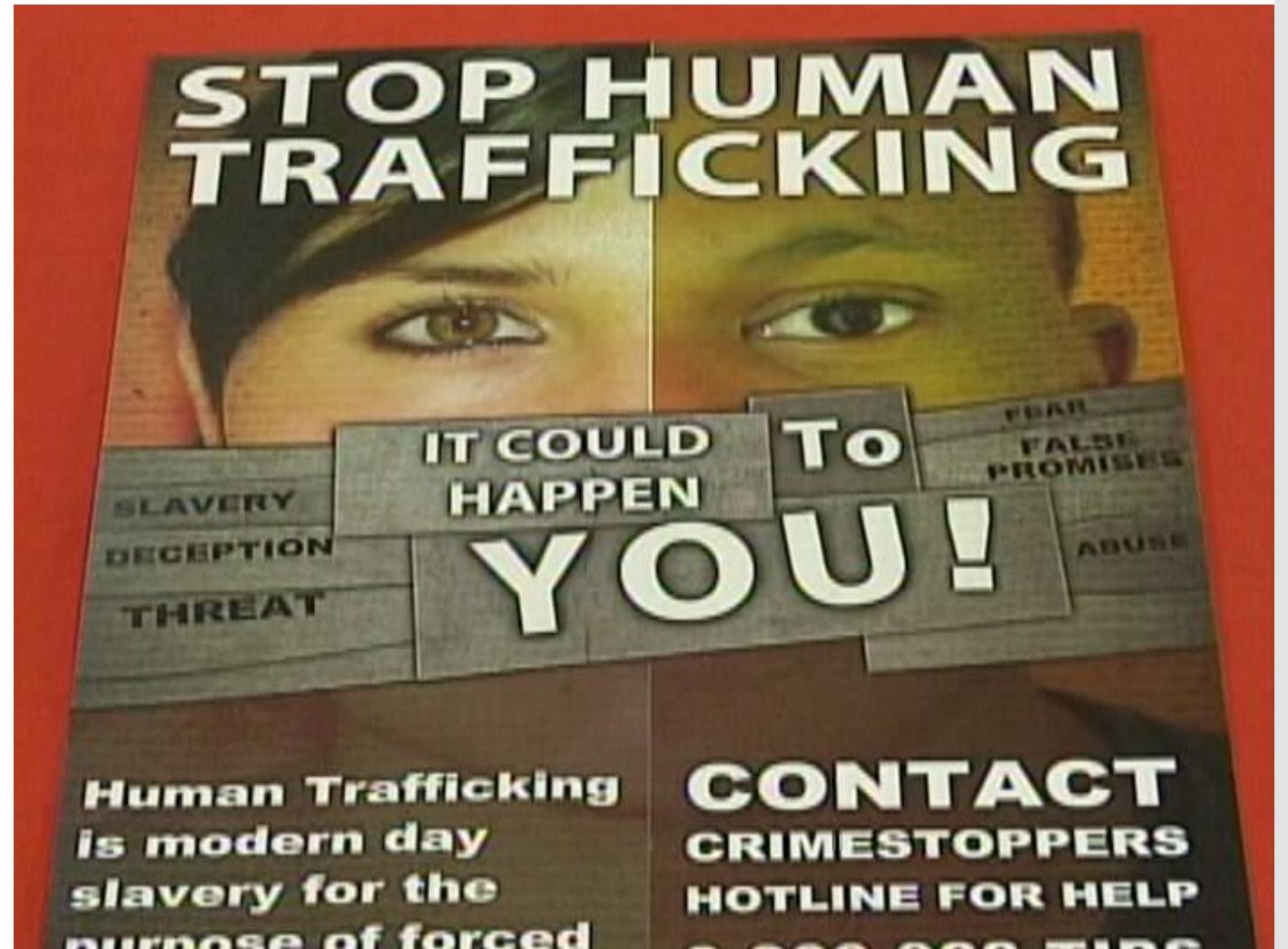
# Child Sexual and Physical Abuse Task Force

- **SR 58**
- Resolution Adopted as Amended 059-000-000
- Effective Date: May 31, 2021
- Primary Sponsor: Sen. Rachelle Crowe (D-56)

## SR 58

- The Task Force will investigate, assess and make recommendations on SASETA and its implementation
- The Task Force will report findings and recommendations to the Governor and the General Assembly by January 1, 2022 (**SR 523**)
- ICASA's CEO Carrie Ward serves on the Task Force

# HUMAN TRAFFICKING



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# Public Aid Benefits for Foreign-Born Victims of Human Trafficking

- **SB 506**
- Public Act 102-0031
- Effective Date: June 25, 2021
- Primary Sponsors: Sen. Jacqueline Y. Collins (D-16)  
Rep. Elizabeth Hernandez (D-24)

## **SB 506**

- Amends the Survivor Support and Trafficking Prevention Article of the Illinois Public Aid Code
- Removes the June 30, 2022, repeal date for public aid benefits for foreign born victims of trafficking, torture, or other serious crimes



# Human Trafficking Notice

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# HB 588

- Amends the Human Trafficking Resource Center Act
- Requires that certain businesses and establishments post notices in all restrooms open to the public
- Applies to airports, train and bus stations, truck stops, and rest areas

# Address Confidentiality Program

- **SB 593**
- Public Act 102-0292
- Effective Date: January 1, 2022
- Primary Sponsors: Sen. Suzy Glowiak Hilton (D-24)  
Rep. Terra Costa Howard (D-48)

## **SB 593**

- Trafficking victims will be eligible for the OAG's Address Confidentiality Program
- Participant's address and phone number on file with the OAG will not be disclosed under the Freedom of Information Act
- Program participants who are qualified to vote may register to vote by submitting an application to their appropriate election authority and their name and address will be excluded from registered voter lists

# Human Trafficking Task Force Act

- **SB 1599**
- Public Act 102-0323
- Effective Date: August 6, 2021
- Primary Sponsors: Sen. Jacqueline Y. Collins (D-16)  
Rep. Kambium Buckner (D-26)

# SB 1599

- Legislators and representatives from governmental agencies, regional human trafficking task forces, and the Illinois State Police will serve on the Task Force
- The Task Force will meet to:
  - Develop statewide plan to address human trafficking
  - Implement system to share human trafficking data between agencies
  - Increase public awareness
  - Promote safety and protect rights of human trafficking victims
- Report with findings and recommendations by June 30, 2024

# Human Trafficking Recognition Training

- **SB 1600**
- Public Act 102-0324
- Effective Date: January 1, 2022
- Primary Sponsors: Sen. Jacqueline Y. Collins (D-16)  
Rep. Rita Mayfield (D-60)

## **SB 1600**

- Requires restaurants and truck stops, in addition to hotels and motels, to provide employees with Human Trafficking Recognition Training
- The training will include protocols for reporting suspected human trafficking
- Employees must complete the training within 6 months of employment, and every 2 years for as long as they are employed

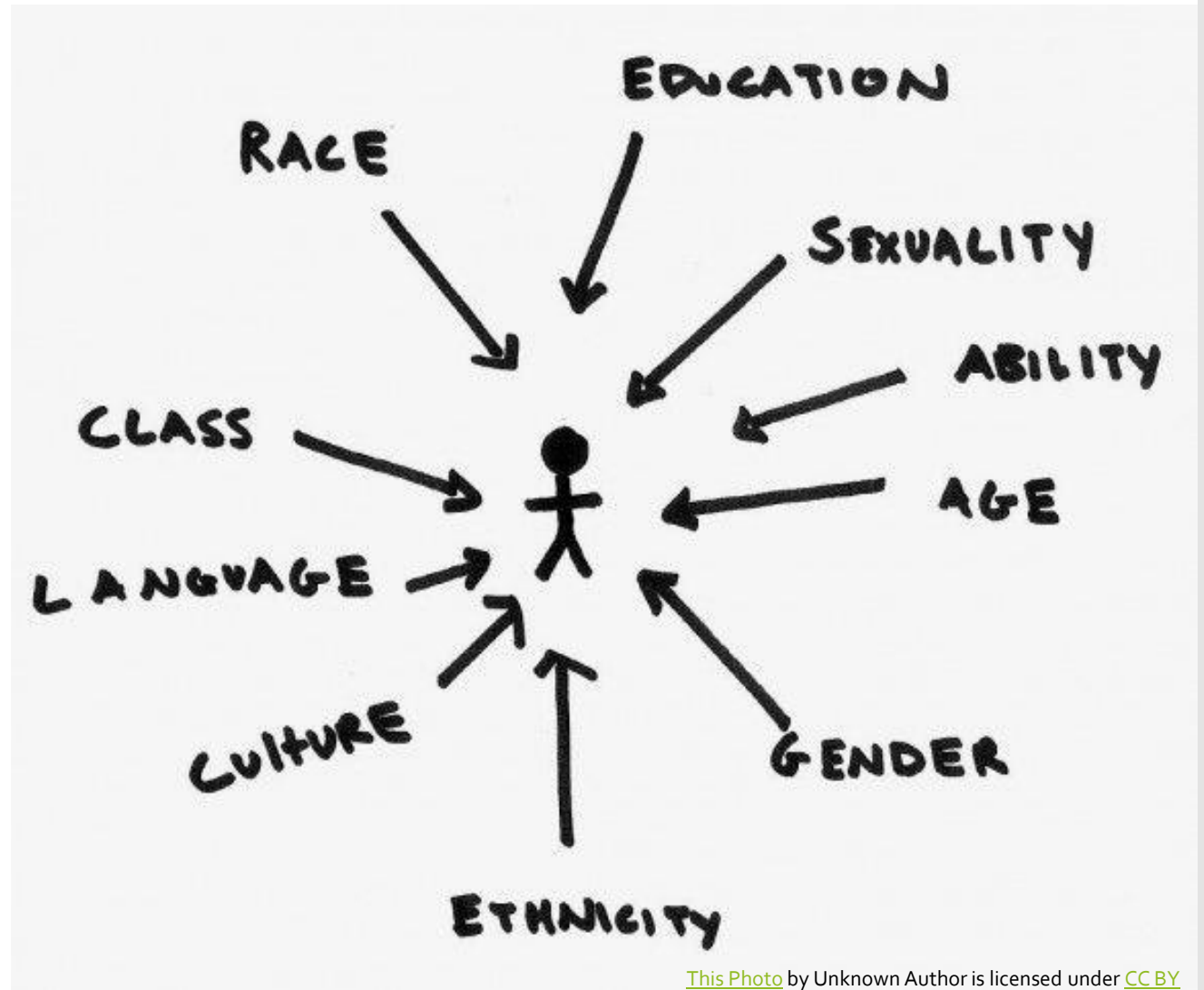




## **SB 2136**

- State law enforcement agencies shall automatically expunge all criminal history records of a conviction for felony prostitution committed prior to the law's effective date
- Establishes timelines for the automatic expungement of the records based on the date of the creation of the records

# ANTI- OPPRESSION



# Disability Rights

- **HB 3849**: The Supportive Decision-Making Agreement Act to provide “a less-restrictive alternative to guardianship for adults with intellectual and developmental disabilities who need assistance with decisions regarding daily living”

# Immigrants' Rights

- **HB 709**: DHS shall conduct a public information campaign to educate immigrants, refugees, asylum seekers, and other noncitizens residing in Illinois of their rights, including resources and contact information for organizations that aid in protecting and enforcing rights
- **HB 2790**: Public Defender may act as attorney to noncitizens in immigration cases in certain counties

# LGBTQ+ Bills

- **HB 1063**: Repeals offense of criminal transmission of HIV
- **HB 2590**: County clerk shall issue new marriage certificate when it receives legal documentation of legal name change
- **SB 139**: A married person may request a nongendered copy of their marriage certificate using an affidavit from the county clerk
- **SB 1730**: Publicly-traded corporations must report the self-identified sexual orientation and gender identity of their directors

# Racial Equity

- **HB 2914**: DCFS shall submit an annual report by 12/31 each year regarding racial disparities for children and families involved in the child welfare system in the prior fiscal year
- **HB 3821**: Racial Disproportionality in Child Welfare Task Force Act – Task Force has duties through 2023
- **HB 3922**: June 19th is an observed state holiday known as “Juneteenth National Freedom Day”

# Questions & Comments

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