

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 106B-5 as follows:

(725 ILCS 5/106B-5)

Sec. 106B-5. Testimony by a victim who is a child or a person with a moderate, severe, or profound intellectual disability or a person affected by a developmental disability.

(a) In a proceeding in the prosecution of an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery, or aggravated domestic battery, a court may order that the testimony of a victim who is a child under the age of 18 years or a person with a moderate, severe, or profound intellectual disability or a person affected by a developmental disability be taken outside the courtroom and shown in the courtroom by means of a closed circuit television if:

- (1) the testimony is taken during the proceeding; and
- (2) the judge determines that testimony by the child victim or victim with a moderate, severe, or profound intellectual disability or victim affected by a

developmental disability in the courtroom will result in the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability suffering serious emotional distress such that the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability cannot reasonably communicate or that the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability will suffer severe emotional distress that is likely to cause the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability to suffer severe adverse effects.

(b) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability.

(c) The operators of the closed circuit television shall make every effort to be unobtrusive.

(d) Only the following persons may be in the room with the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability when the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability testifies by closed circuit

television:

- (1) the prosecuting attorney;
- (2) the attorney for the defendant;
- (3) the judge;
- (4) the operators of the closed circuit television equipment; and
- (5) any person or persons whose presence, in the opinion of the court, contributes to the well-being of the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability, including a person who has dealt with the child in a therapeutic setting concerning the abuse, a parent or guardian of the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability, and court security personnel.

(e) During the child's or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability's testimony by closed circuit television, the defendant shall be in the courtroom and shall not communicate with the jury if the cause is being heard before a jury.

(f) The defendant shall be allowed to communicate with the persons in the room where the child or person with a moderate, severe, or profound intellectual disability or person affected by a developmental disability is testifying by any appropriate

electronic method.

(f-5) There is a rebuttable presumption that the testimony of a victim who is a child under 13 years of age shall testify outside the courtroom and the child's testimony shall be shown in the courtroom by means of a closed circuit television. This presumption may be overcome if the defendant can prove by clear and convincing evidence that the child victim will not suffer severe emotional distress.

(f-6) Before the court permits the testimony of a victim outside the courtroom that is to be shown in the courtroom by means of a closed circuit television, the court must make a finding that the testimony by means of closed circuit television does not prejudice the defendant.

(g) The provisions of this Section do not apply if the defendant represents himself pro se.

(h) This Section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(i) This Section applies to prosecutions pending on or commenced on or after the effective date of this amendatory Act of 1994.

(j) For the purposes of this Section, "developmental disability" includes, but is not limited to, cerebral palsy, epilepsy, and autism.

(Source: P.A. 99-143, eff. 7-27-15; 99-630, eff. 1-1-17.)