

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 8-802.3 as follows:

6 (735 ILCS 5/8-802.3)

7 Sec. 8-802.3. Informant's privilege.

8 (a) Except as provided in subsection (b), if an individual
9 (i) submits information concerning a criminal act to a law
10 enforcement agency or to a community organization that acts as
11 an intermediary in reporting to law enforcement and (ii)
12 requests anonymity, then the identity of that individual is
13 privileged and confidential and is not subject to discovery or
14 admissible in evidence in a proceeding.

15 (b) There is no privilege under subsection (a) if a court,
16 after a hearing in camera, finds that the party seeking
17 discovery or the proponent of the evidence has shown that:

18 (1) the identity of an individual who submits
19 information concerning a criminal act is sought or offered
20 in a court proceeding involving a felony or misdemeanor;

21 (2) the evidence is not otherwise available; and

22 (3) nondisclosure infringes upon a constitutional
23 right of an accused, or there is a need for the evidence

1 that substantially outweighs the interest in protecting
2 confidentiality.

3 (b-5) Except as provided in this subsection or under
4 subsection (j) of Supreme Court Rule 412, if a defendant's
5 counsel seeks to discover the identity of an informant, then
6 the defendant's counsel shall file a motion with the court
7 alleging a good faith factual basis for believing that the
8 prior representation of the informant creates a serious
9 potential for an actual conflict of interest. Upon such filing,
10 the court: (1) may deny the motion for lack of factual basis;
11 or (2) if it finds a sufficiently alleged factual basis, shall
12 conduct an in camera hearing with the informant, outside the
13 presence of all counsel, to ascertain whether an actual
14 conflict of interest exists. A transcript of the in camera
15 proceeding shall be made and sealed. After the in camera
16 hearing, the court shall: (i) deny the motion if there is no
17 basis to conclude that a serious potential for an actual
18 conflict exists; or (ii) inform the petitioning counsel that
19 his or her continued representation is a conflict. If the court
20 concludes that a conflict exists, it shall notify the counsel
21 of the nature of the conflict, subject to any condition of
22 nondisclosure that the court deems appropriate.

23 (c) The court may impose such sanctions as are necessary to
24 enforce its order.

25 (Source: P.A. 94-174, eff. 1-1-06.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.