



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4626

by Rep. Ron Stephens

SYNOPSIS AS INTRODUCED:

725 ILCS 5/106B-5

Amends the Code of Criminal Procedure of 1963. Provides that 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, or aggravated criminal sexual abuse, a court may order that the testimony of a victim who is a child under the age of 18 years or a moderately, severely, or profoundly mentally retarded person be taken outside the courtroom and shown in the courtroom by means of a videotape (presently just closed circuit television testimony is permitted). Provides that the parents or prosecuting attorney (presently the judge) must make the determination of whether to permit such out of court testimony. Eliminates exception for defendants who represent themselves pro se.

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1 AN ACT concerning criminal 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 Criminal Procedure of 1963 is
5 amended by changing Section 106B-5 as follows:

6 (725 ILCS 5/106B-5)

7 Sec. 106B-5. Testimony by a victim who is a child or a
8 moderately, severely, or profoundly mentally retarded person.

9 (a) In a proceeding in the prosecution of an offense of
10 criminal sexual assault, predatory criminal sexual assault of a
11 child, aggravated criminal sexual assault, criminal sexual
12 abuse, or aggravated criminal sexual abuse, a court may order
13 that the testimony of a victim who is a child under the age of
14 18 years or a moderately, severely, or profoundly mentally
15 retarded person be taken outside the courtroom and shown in the
16 courtroom by means of a closed circuit television or videotape
17 if:

18 (1) the testimony is taken during the proceeding; and

19 (2) the parents of the victim or the prosecuting
20 attorney ~~judge~~ determines that testimony by the child
21 victim or the moderately, severely, or profoundly mentally
22 retarded victim in the courtroom will result in the child
23 or moderately, severely, or profoundly mentally retarded

1 person suffering serious emotional distress such that the
2 child or moderately, severely, or profoundly mentally
3 retarded person cannot reasonably communicate or that the
4 child or moderately, severely, or profoundly mentally
5 retarded person will suffer severe emotional distress that
6 is likely to cause the child or moderately, severely, or
7 profoundly mentally retarded person to suffer severe
8 adverse effects.

9 (b) Only the prosecuting attorney, the attorney for the
10 defendant, and the judge may question the child or moderately,
11 severely, or profoundly mentally retarded person.

12 (c) The operators of the closed circuit television or
13 videocassette recorder shall make every effort to be
14 unobtrusive.

15 (d) Only the following persons may be in the room with the
16 child or moderately, severely, or profoundly mentally retarded
17 person when the child or moderately, severely, or profoundly
18 mentally retarded person testifies by closed circuit
19 television or videotape:

20 (1) the prosecuting attorney;

21 (2) the attorney for the defendant;

22 (3) the judge;

23 (4) the operators of the closed circuit television
24 equipment; and

25 (5) any person or persons whose presence, in the
26 opinion of the court, contributes to the well-being of the

1 child or moderately, severely, or profoundly mentally
2 retarded person, including a person who has dealt with the
3 child in a therapeutic setting concerning the abuse, a
4 parent or guardian of the child or moderately, severely, or
5 profoundly mentally retarded person, and court security
6 personnel.

7 (e) During the child's or moderately, severely, or
8 profoundly mentally retarded person's testimony by closed
9 circuit television or videotape, the defendant shall be in the
10 courtroom and shall not communicate with the jury if the cause
11 is being heard before a jury.

12 (f) The defendant shall be allowed to communicate with the
13 persons in the room where the child or moderately, severely, or
14 profoundly mentally retarded person is testifying by any
15 appropriate electronic method.

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

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

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

24 (j) This amendatory Act of the 95th General Assembly
25 applies to prosecutions pending on or commenced on or after the
26 effective date of this amendatory of the 95th General Assembly.

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1 (Source: P.A. 92-434, eff. 1-1-02.)