



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2273

Introduced 2/18/2009, by Rep. Julie Hamos

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. VIII Pt. 28 heading new  
735 ILCS 5/8-2801 new  
740 ILCS 22/212 rep.

Amends the Code of Civil Procedure. Provides that prior sexual activity or reputation is not admissible as evidence except if, otherwise admissible, evidence of specific instances of sexual behavior by the alleged victim (1) to prove that a person other than the accused was the source of semen, injury, or other physical evidence or (2) with respect to the accused to prove the victim's consent. Provides that a party intending to offer this type of evidence shall file a motion 14 days before trial and the court shall conduct a hearing in camera to hear from the victim and the parties, with the hearing record sealed. Repeals Section of the Civil No Contact Order Act that concerns the hearsay exception in proceedings for a no contact order and prosecutions for violating a no-contact order as to the prior sexual activity or the reputation of the petitioner and limits on that exception.

LRB096 08530 AJO 18651 b

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 adding  
5 the heading of Article VIII Pt. 28 and Section 8-2801 as  
6 follows:

7 (735 ILCS 5/Art. VIII Pt. 28 heading new)

8 PART 28. PRIOR SEXUAL ACTIVITY OR REPUTATION AS EVIDENCE

9 (735 ILCS 5/8-2801 new)

10 Sec. 8-2801. Admissibility of evidence; prior sexual  
11 activity or reputation.

12 (a) Evidence generally inadmissible. The following  
13 evidence is not admissible in any civil proceeding except as  
14 provided in subsections (b) and (c):

15 (1) evidence offered to prove that any alleged victim  
16 engaged in other sexual behavior; or

17 (2) evidence offered to prove any alleged victim's  
18 sexual predisposition.

19 (b) Exceptions.

20 (1) In a civil case, the following evidence is  
21 admissible, if otherwise admissible under this Act:

22 (A) evidence of specific instances of sexual

1 behavior by the alleged victim offered to prove that a  
2 person other than the accused was the source of semen,  
3 injury, or other physical evidence; and

4 (B) evidence of specific instances of sexual  
5 behavior by the alleged victim with respect to the  
6 person accused of the sexual misconduct offered by the  
7 accused to prove consent by the victim.

8 (c) Procedure to determine admissibility.

9 (1) A party intending to offer evidence under  
10 subsection (b) must:

11 (A) file a written motion at least 14 days before  
12 trial specifically describing the evidence and stating  
13 the purpose for which it is offered unless the court,  
14 for good cause requires a different time for filing or  
15 permits filing during trial; and

16 (B) serve the motion on all parties and notify the  
17 alleged victim or, when appropriate, the alleged  
18 victim's guardian or representative.

19 (2) Before admitting evidence under this Section the  
20 court must conduct a hearing in camera and afford the  
21 victim and parties a right to attend and be heard. The  
22 motion, related papers, and the record of the hearing must  
23 be sealed and remain under seal unless the court orders  
24 otherwise.

1           Section 10. The Civil No Contact Order Act is amended by  
2    repealing Section 212.