



Rep. Justin Slaughter

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10400HB0417ham001

LRB104 04274 RLC 36402 a

1 AMENDMENT TO HOUSE BILL 417

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 417 by replacing  
3 everything after the enacting clause with the following:

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 person with a moderate, severe, or profound intellectual  
9 disability or a person affected by a developmental disability.

10 (a) In a proceeding in the prosecution of an offense of  
11 criminal sexual assault, predatory criminal sexual assault of  
12 a child, aggravated criminal sexual assault, criminal sexual  
13 abuse, aggravated criminal sexual abuse, aggravated battery,  
14 or aggravated domestic battery, trafficking in persons,  
15 involuntary servitude, or involuntary sexual servitude of a  
16 minor, a court may order that the testimony of a victim who is

1 a child under the age of 18 years or a person with a moderate,  
2 severe, or profound intellectual disability or a person  
3 affected by a developmental disability be taken outside the  
4 courtroom and shown in the courtroom by means of a closed  
5 circuit television if:

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

7 (2) the judge determines that testimony by the child  
8 victim or victim with a moderate, severe, or profound  
9 intellectual disability or victim affected by a  
10 developmental disability in the courtroom will result in  
11 the child or person with a moderate, severe, or profound  
12 intellectual disability or person affected by a  
13 developmental disability suffering serious emotional  
14 distress such that the child or person with a moderate,  
15 severe, or profound intellectual disability or person  
16 affected by a developmental disability cannot reasonably  
17 communicate or that the child or person with a moderate,  
18 severe, or profound intellectual disability or person  
19 affected by a developmental disability will suffer severe  
20 emotional distress that is likely to cause the child or  
21 person with a moderate, severe, or profound intellectual  
22 disability or person affected by a developmental  
23 disability to suffer severe adverse effects.

24 (b) Only the prosecuting attorney, the attorney for the  
25 defendant, and the judge may question the child or person with  
26 a moderate, severe, or profound intellectual disability or

1 person affected by a developmental disability.

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

4 (d) Only the following persons may be in the room with the  
5 child or person with a moderate, severe, or profound  
6 intellectual disability or person affected by a developmental  
7 disability when the child or person with a moderate, severe,  
8 or profound intellectual disability or person affected by a  
9 developmental disability testifies by closed circuit  
10 television:

11 (1) the prosecuting attorney;

12 (2) the attorney for the defendant;

13 (3) the judge;

14 (4) the operators of the closed circuit television  
15 equipment; and

16 (5) any person or persons whose presence, in the  
17 opinion of the court, contributes to the well-being of the  
18 child or person with a moderate, severe, or profound  
19 intellectual disability or person affected by a  
20 developmental disability, including a person who has dealt  
21 with the child in a therapeutic setting concerning the  
22 abuse, a parent or guardian of the child or person with a  
23 moderate, severe, or profound intellectual disability or  
24 person affected by a developmental disability, and court  
25 security personnel.

26 (e) During the child's or person with a moderate, severe,

1 or profound intellectual disability or person affected by a  
2 developmental disability's testimony by closed circuit  
3 television, the defendant shall be in the courtroom and shall  
4 not communicate with the jury if the cause is being heard  
5 before a jury.

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

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

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

23 (f-7) If the court denies the State's request for the  
24 child victim's testimony to be taken outside the courtroom,  
25 the court shall toll the speedy trial requirements under  
26 Section 103-5 for 30 days to allow the State to present the

1 motion to the court again before trial requesting the child's  
2 testimony to be taken outside the courtroom by means of a  
3 closed circuit television.

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

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

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

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

16 (Source: P.A. 103-164, eff. 1-1-24; 104-159, eff. 1-1-26.)".