



Rep. Mary Beth Canty

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10400HB3311ham002

LRB104 08912 JRC 24757 a

1 AMENDMENT TO HOUSE BILL 3311

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3311 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. References to Act. This Act may be referred to  
5 as the Protect Survivors Reporting Act.

6 Section 5. The Code of Civil Procedure is amended by  
7 adding Article XXIV as follows:

8 (735 ILCS 5/Art. XXIV heading new)

9 ARTICLE XXIV. GENDER-BASED VIOLENCE

10 (735 ILCS 5/24-105 new)

11 Sec. 24-105. Declaration of public policy. Gender-based  
12 violence is a pervasive societal problem, and only a small  
13 percentage of incidents are reported, and of those reported an  
14 even smaller percentage lead to an arrest or conviction.

1 Survivors of gender-based violence are often silenced by fear  
2 of retaliation, including the threat of being sued for  
3 defamation, slander, libel, harassment, or other claims  
4 related to speaking out. The fear of such lawsuits deters  
5 survivors from reporting and allows perpetrators to avoid the  
6 consequences of their actions. The use of the legal system to  
7 silence survivors has a corrosive effect on survivors and does  
8 not serve the public good. The General Assembly recognizes  
9 that reporting gender-based violence is a right protected by  
10 the Illinois Constitution and the United States Constitution.

11 (735 ILCS 5/24-110 new)

12 Sec. 24-110. Definitions. In this Article:

13 "Claim" means any lawsuit, action, claim, crossclaim,  
14 counterclaim, or other judicial pleading or filing alleging  
15 injury.

16 "Gender-based violence" means one or more acts of  
17 violence, aggression, or abuse satisfying the elements of any  
18 criminal or civil offense under the laws of this State that are  
19 committed, at least in part, on the basis of a person's actual  
20 or perceived sex or gender, regardless of whether the acts  
21 were reported to law enforcement or resulted in legal action,  
22 including, but not limited to, any act of domestic abuse as  
23 defined in the Illinois Domestic Violence Act of 1986, dating  
24 violence, human trafficking, sexual assault, sexual abuse,  
25 sexual harassment, or stalking.

1       "Motion" includes any motion to dismiss, for summary  
2 judgment, or to strike, or any other judicial pleading filed  
3 to dispose of a judicial claim.

4       "Moving party" means any person on whose behalf a motion  
5 described in Section 24-115 is filed seeking dismissal of a  
6 claim.

7       "Person" includes any individual, corporation,  
8 association, organization, partnership, 2 or more persons  
9 having a joint or common interest, or other legal entity.

10       "Reporting gender-based violence" includes making a  
11 disclosure of gender-based violence to authorities, an  
12 employer, an educational institution, a public entity, or  
13 nonprofit agency, to the press or media or at a public forum,  
14 in print, electronically, or via social media, or to another  
15 person verbally, in writing, or via electronic means.

16       "Responding party" means any person against whom a motion  
17 described in Section 24-115 is filed.

18       (735 ILCS 5/24-115 new)

19       Sec. 24-115. Applicability.

20       (a) This Article applies to any motion to dispose of a  
21 claim that is based on, relates to, or is in response to the  
22 moving party's reporting gender-based violence. This includes,  
23 but is not limited to, claims alleging defamation, slander,  
24 libel, harassment, and actions arising out of the alleged  
25 perpetrator of gender-based violence being publicly named. If

1 a court finds that the civil action is based on the moving  
2 party reporting gender-based violence, it shall grant a motion  
3 to dismiss the claim unless it finds that the responding party  
4 has established by a preponderance of the evidence that the  
5 moving party's reporting gender-based violence was done with  
6 knowledge that the report was false or with reckless disregard  
7 of whether it was false or not.

8 (b) The following is not evidence that the moving party's  
9 reporting gender-based violence was done with knowledge that  
10 the report was false or with reckless disregard of whether it  
11 was false or not:

12 (1) the moving party not seeking health care or social  
13 services related to the gender-based violence;

14 (2) the moving party not having reported to law  
15 enforcement;

16 (3) a State's Attorney's decision not to prosecute;

17 (4) a grand jury's decision not to indict;

18 (5) a criminal case not resulting in a conviction;

19 (6) the moving party not seeking or obtaining a  
20 protective order or other civil or administrative relief;

21 (7) the moving party not reporting to an employer,  
22 educational institution, or other authority; or

23 (8) an employer, educational institution, or other  
24 authority determining the responding party is not  
25 responsible for the gender-based violence.

1 (735 ILCS 5/24-120 new)

2 Sec. 24-120. Motion procedure and standards.

3 (a) On the filing of any motion as described in Section  
4 24-115, a hearing and decision on the motion must occur within  
5 90 days after notice of the motion is given to the responding  
6 party. An appellate court shall expedite any appeal or other  
7 writ, whether interlocutory or not, from a trial court order  
8 denying that motion or from a trial court's failure to rule on  
9 that motion within 90 days after that trial court's order or  
10 failure to rule.

11 (b) Discovery shall be suspended pending a decision on the  
12 motion. However, discovery may be taken, upon leave of court  
13 for good cause shown, on the issue of whether the moving  
14 party's report was made with knowledge that it was false or  
15 with reckless disregarding of whether it was false or not.

16 (735 ILCS 5/24-125 new)

17 Sec. 24-125. Attorney's fees, costs, and injunctive relief  
18 on the motion. The court shall award a moving party who  
19 prevails in a motion under this Article reasonable attorney's  
20 fees and costs incurred in connection with the motion, and  
21 appropriate injunctive relief, if requested by the moving  
22 party. The court may also award a moving party treble damages  
23 for any harm caused to the moving party by the action against  
24 them and punitive damages. This relief is only available to  
25 the moving party.

1 (735 ILCS 5/24-130 new)

2 Sec. 24-130. Damages in the case. In any case in which the  
3 moving party filed a motion under this Article, but the claim  
4 is not dismissed under Section 24-115, at the conclusion of  
5 the case, a prevailing defendant is entitled to reasonable  
6 attorney's fees and costs for successfully defending the  
7 litigation, plus treble damages for any harm caused by the  
8 action, punitive damages, appropriate injunctive relief if  
9 requested by the defendant, or any other relief otherwise  
10 permitted by law.

11 (735 ILCS 5/24-135 new)

12 Sec. 24-135. Construction of Article.

13 (a) Nothing in this Article shall limit or preclude any  
14 rights the moving party may have under any other  
15 constitutional, statutory, case or common law, or rule  
16 provisions.

17 (b) This Article shall be construed liberally to  
18 effectuate its purposes and intent fully.

19 Section 97. Severability. The provisions of this Act are  
20 severable under Section 1.31 of the Statute on Statutes.

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."