



Rep. Curtis J. Tarver, II

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10400SB1524ham002

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1 AMENDMENT TO SENATE BILL 1524

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1524 by replacing  
3 everything after the enacting clause with the following:

4 "Section 3. The Counties Code is amended by changing  
5 Section 3-4006 as follows:

6 (55 ILCS 5/3-4006) (from Ch. 34, par. 3-4006)

7 Sec. 3-4006. Duties of public defender. The Public  
8 Defender, as directed by the court, shall act as attorney,  
9 without fee, before any court within any county for all  
10 persons who are held in custody or who are charged with the  
11 commission of any criminal offense, and who the court finds  
12 are unable to employ counsel.

13 The Public Defender shall be the attorney, without fee,  
14 when so appointed by the court under Section 1-5 of the  
15 Juvenile Court Act of 1987.

16 In cases subject to Section 5-170 of the Juvenile Court

1 Act of 1987 involving a minor who was under 18 ~~15~~ years of age  
2 at the time of the commission of the offense, there is a  
3 rebuttable presumption the minor is indigent. If the offense  
4 ~~that~~ occurs in a county with a full-time public defender  
5 office, a public defender, without fee or appointment, shall  
6 ~~may~~ represent and have access to a minor during a custodial  
7 interrogation, unless the minor has legal representation or is  
8 exercising the minor's right to seek alternative counsel. In  
9 cases subject to Section 5-170 of the Juvenile Court Act of  
10 1987 involving a minor who was under 18 ~~15~~ years of age at the  
11 time of the commission of the offense, that occurs in a county  
12 without a full-time public defender, there is a rebuttable  
13 presumption the minor is indigent, and the law enforcement  
14 agency conducting the custodial interrogation shall, at the  
15 time of arrest or custodial interrogation, whichever is  
16 sooner, ensure that the minor is able to consult with and have  
17 an attorney who is under contract with the county to provide  
18 public defender services before any custodial interrogation  
19 may occur, unless the minor has legal representation or is  
20 exercising the minor's right to seek alternative counsel.  
21 Representation by the public defender shall terminate at the  
22 first court appearance if the court determines that the minor  
23 is not indigent.

24 Every court shall, with the consent of the defendant and  
25 where the court finds that the rights of the defendant would be  
26 prejudiced by the appointment of the public defender, appoint

1 counsel other than the public defender, except as otherwise  
2 provided in Section 113-3 of the "Code of Criminal Procedure  
3 of 1963". That counsel shall be compensated as is provided by  
4 law. He shall also, in the case of the conviction of any such  
5 person, prosecute any proceeding in review which in his  
6 judgment the interests of justice require.

7 In counties with a population over 3,000,000, the public  
8 defender, without fee or appointment and with the concurrence  
9 of the county board, may act as attorney to noncitizens in  
10 immigration cases. Representation by the public defender in  
11 immigration cases shall be limited to those arising in  
12 immigration courts located within the geographical boundaries  
13 of the county where the public defender has been appointed to  
14 office unless the board authorizes the public defender to  
15 provide representation outside the county.

16 (Source: P.A. 102-410, eff. 1-1-22; 102-1117, eff. 1-13-23.)

17 Section 5. The Juvenile Court Act of 1987 is amended by  
18 changing Sections 5-170, 5-401, and 5-401.5 as follows:

19 (705 ILCS 405/5-170)

20 Sec. 5-170. Representation by counsel.

21 (a) In a proceeding under this Article, a minor who was  
22 under 18 ~~15~~ years of age at the time of the commission of an  
23 act that, if committed by an adult, would be a misdemeanor or a  
24 felony under ~~that if committed by an adult would be a violation~~

1 ~~of Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 11-1.20,~~  
2 ~~11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1,~~  
3 ~~12-15, or 12-16 of the Criminal Code of 1961 or the Criminal~~  
4 Code of 2012 must be represented by counsel throughout the  
5 entire custodial interrogation of the minor.

6 (b) In a judicial proceeding under this Article, a minor  
7 may not waive the right to the assistance of counsel in the  
8 minor's defense.

9 (Source: P.A. 103-22, eff. 8-8-23.)

10 (705 ILCS 405/5-401)

11 Sec. 5-401. Arrest and taking into custody of a minor.

12 (1) A law enforcement officer may, without a warrant,

13 (a) arrest a minor whom the officer with probable  
14 cause believes to be a delinquent minor; or

15 (b) take into custody a minor who has been adjudged a  
16 ward of the court and has escaped from any commitment  
17 ordered by the court under this Act; or

18 (c) take into custody a minor whom the officer  
19 reasonably believes has violated the conditions of  
20 probation or supervision ordered by the court.

21 (2) Whenever a petition has been filed under Section 5-520  
22 and the court finds that the conduct and behavior of the minor  
23 may endanger the health, person, welfare, or property of the  
24 minor or others or that the circumstances of the minor's home  
25 environment may endanger the minor's health, person, welfare

1 or property, a warrant may be issued immediately to take the  
2 minor into custody.

3 (3) Except for minors accused of violation of an order of  
4 the court, any minor accused of any act under federal or State  
5 law, or a municipal or county ordinance that would not be  
6 illegal if committed by an adult, cannot be placed in a jail,  
7 municipal lockup, detention center, or secure correctional  
8 facility. Juveniles accused with underage consumption and  
9 underage possession of alcohol or cannabis cannot be placed in  
10 a jail, municipal lockup, detention center, or correctional  
11 facility.

12 (4) Whenever a law enforcement officer arrests or takes  
13 into custody a minor, the minor shall immediately have the  
14 right to legal representation. The right to legal  
15 representation shall not be waived by any person, including,  
16 but not limited to, the minor's parent or legal guardian. The  
17 minor shall not be subject to a custodial interrogation: (i)  
18 before legal representation has been obtained; and (ii)  
19 without legal representation present for the entirety of the  
20 custodial interrogation.

21 (Source: P.A. 103-22, eff. 8-8-23.)

22 (705 ILCS 405/5-401.5)

23 Sec. 5-401.5. When statements by minor may be used.

24 (a) In this Section, "custodial interrogation" means any  
25 interrogation (i) during which a reasonable person in the

1 subject's position would consider the subject to be in custody  
2 and (ii) during which a question is asked that is reasonably  
3 likely to elicit an incriminating response.

4 In this Section, "electronic recording" includes motion  
5 picture, audiotape, videotape, or digital recording.

6 In this Section, "place of detention" means a building or  
7 a police station that is a place of operation for a municipal  
8 police department or county sheriff department or other law  
9 enforcement agency at which persons are or may be held in  
10 detention in connection with criminal charges against those  
11 persons or allegations that those persons are delinquent  
12 minors.

13 (a-5) An oral, written, or sign language statement of a  
14 minor, who at the time of the commission of the offense was  
15 under 18 years of age, is presumed to be inadmissible when the  
16 minor does not have legal representation present during the  
17 custodial interrogation and the statement is obtained from the  
18 minor while the minor is subject to custodial interrogation by  
19 a law enforcement officer, State's Attorney, juvenile officer,  
20 or other public official or employee prior to the officer,  
21 State's Attorney, public official, or employee:

22 (1) continuously reads to the minor, in its entirety  
23 and without stopping for purposes of a response from the  
24 minor or verifying comprehension, the following statement:  
25 "You have the right to remain silent. That means you do not  
26 have to say anything. Anything you do say can be used

1           against you in court. You have the right to get help from a  
2           lawyer. If you cannot pay for a lawyer, the court will get  
3           you one for free. You can ask for a lawyer at any time. You  
4           have the right to stop this interview at any time."; and

5           (2) after reading the statement required by paragraph  
6           (1) of this subsection (a-5), the public official or  
7           employee shall ask the minor the following questions and  
8           wait for the minor's response ~~to each question:~~

9                     ~~(A) "Do you want to have a lawyer?"~~

10                    ~~(B) "Do you want to talk to me?"~~

11           (b) An oral, written, or sign language statement of a  
12           minor who, at the time of the commission of the offense was  
13           under the age of 18 years, made as a result of a custodial  
14           interrogation conducted at a police station or other place of  
15           detention on or after January 1, 2017 (the effective date of  
16           Public Act 99-882) ~~this amendatory Act of the 99th General~~  
17           ~~Assembly~~ and before the effective date of this amendatory Act  
18           of the 104th General Assembly shall be presumed to be  
19           inadmissible as evidence against the minor in any criminal  
20           proceeding or juvenile court proceeding, for an act that if  
21           committed by an adult would be a misdemeanor offense under  
22           Article 11 of the Criminal Code of 2012 or any felony offense  
23           unless:

24                    (1) an electronic recording is made of the custodial  
25                    interrogation; and

26                    (2) the recording is substantially accurate and not

1 intentionally altered.

2 (b-1) On and after the effective date of this amendatory  
3 Act of the 104th General Assembly, an oral, written, or sign  
4 language statement of a minor who, at the time of the  
5 commission of the offense was under the age of 18 years, made  
6 as a result of a custodial interrogation conducted at a police  
7 station or other place of detention shall be presumed to be  
8 inadmissible as evidence against the minor in any criminal  
9 proceeding or juvenile court proceeding, for an act that if  
10 committed by an adult would be a misdemeanor or felony offense  
11 under the Criminal Code of 2012 unless:

12 (1) an electronic recording is made of the custodial  
13 interrogation;

14 (2) the recording is substantially accurate and not  
15 intentionally altered; and

16 (3) a minor has legal representation present during  
17 the entire custodial interrogation.

18 (b-5) (Blank).

19 (b-10) If, during the course of an electronically recorded  
20 custodial interrogation conducted under this Section of a  
21 minor who, at the time of the commission of the offense was  
22 under the age of 18 years, the minor makes a statement that  
23 creates a reasonable suspicion to believe the minor has  
24 committed an act that if committed by an adult would be an  
25 offense other than an offense required to be recorded under  
26 subsection (b), the interrogators may, without the minor's

1 consent, continue to record the interrogation as it relates to  
2 the other offense notwithstanding any provision of law to the  
3 contrary. Any oral, written, or sign language statement of a  
4 minor made as a result of an interrogation under this  
5 subsection shall be presumed to be inadmissible as evidence  
6 against the minor in any criminal proceeding or juvenile court  
7 proceeding, unless the recording is substantially accurate and  
8 not intentionally altered.

9 (c) Every electronic recording made under this Section  
10 must be preserved until such time as the minor's adjudication  
11 for any offense relating to the statement is final and all  
12 direct and habeas corpus appeals are exhausted, or the  
13 prosecution of such offenses is barred by law.

14 (d) If the court finds, by a preponderance of the  
15 evidence, that the minor was subjected to a custodial  
16 interrogation in violation of this Section, then any  
17 statements made by the minor during or following that  
18 non-recorded custodial interrogation, even if otherwise in  
19 compliance with this Section, are presumed to be inadmissible  
20 in any criminal proceeding or juvenile court proceeding  
21 against the minor except for the purposes of impeachment.

22 (e) Nothing in this Section precludes the admission (i) of  
23 a statement made by the minor in open court in any criminal  
24 proceeding or juvenile court proceeding, before a grand jury,  
25 or at a preliminary hearing, (ii) of a statement made during a  
26 custodial interrogation that was not recorded as required by

1 this Section because electronic recording was not feasible,  
2 (iii) of a voluntary statement, whether or not the result of a  
3 custodial interrogation, that has a bearing on the credibility  
4 of the accused as a witness, (iv) of a spontaneous statement  
5 that is not made in response to a question, (v) of a statement  
6 made after questioning that is routinely asked during the  
7 processing of the arrest of the suspect, (vi) of a statement  
8 made during a custodial interrogation by a suspect who  
9 requests, prior to making the statement, to respond to the  
10 interrogator's questions only if an electronic recording is  
11 not made of the statement, provided that an electronic  
12 recording is made of the statement of agreeing to respond to  
13 the interrogator's question, only if a recording is not made  
14 of the statement, (vii) of a statement made during a custodial  
15 interrogation that is conducted out-of-state, (viii) of a  
16 statement given in violation of subsection (b) at a time when  
17 the interrogators are unaware that a death has in fact  
18 occurred, (ix) (blank), or (x) of any other statement that may  
19 be admissible under law. The State shall bear the burden of  
20 proving, by a preponderance of the evidence, that one of the  
21 exceptions described in this subsection (e) is applicable.  
22 Nothing in this Section precludes the admission of a  
23 statement, otherwise inadmissible under this Section, that is  
24 used only for impeachment and not as substantive evidence.

25 (f) The presumption of inadmissibility of a statement made  
26 by a suspect at a custodial interrogation at a police station

1 or other place of detention may be overcome by a preponderance  
2 of the evidence that the statement was voluntarily given and  
3 is reliable, based on the totality of the circumstances.

4 (g) Any electronic recording of any statement made by a  
5 minor during a custodial interrogation that is compiled by any  
6 law enforcement agency as required by this Section for the  
7 purposes of fulfilling the requirements of this Section shall  
8 be confidential and exempt from public inspection and copying,  
9 as provided under Section 7 of the Freedom of Information Act,  
10 and the information shall not be transmitted to anyone except  
11 as needed to comply with this Section.

12 (h) A statement, admission, confession, or incriminating  
13 information made by or obtained from a minor related to the  
14 instant offense, as part of any behavioral health screening,  
15 assessment, evaluation, or treatment, whether or not  
16 court-ordered, shall not be admissible as evidence against the  
17 minor on the issue of guilt only in the instant juvenile court  
18 proceeding. The provisions of this subsection (h) are in  
19 addition to and do not override any existing statutory and  
20 constitutional prohibition on the admission into evidence in  
21 delinquency proceedings of information obtained during  
22 screening, assessment, or treatment.

23 (i) The changes made to this Section by Public Act 98-61  
24 apply to statements of a minor made on or after January 1, 2014  
25 (the effective date of Public Act 98-61).

26 (Source: P.A. 103-22, eff. 8-8-23.)

1           Section 10. The Code of Criminal Procedure of 1963 is  
2 amended by changing Section 106B-5 as follows:

3           (725 ILCS 5/106B-5)

4           Sec. 106B-5. Testimony by a victim who is a child or a  
5 person with a moderate, severe, or profound intellectual  
6 disability or a person affected by a developmental disability.

7           (a) In a proceeding in the prosecution of an offense of  
8 criminal sexual assault, predatory criminal sexual assault of  
9 a child, aggravated criminal sexual assault, criminal sexual  
10 abuse, aggravated criminal sexual abuse, aggravated battery,  
11 or aggravated domestic battery, a court may order that the  
12 testimony of a victim who is a child under the age of 18 years  
13 or a person with a moderate, severe, or profound intellectual  
14 disability or a person affected by a developmental disability  
15 be taken outside the courtroom and shown in the courtroom by  
16 means of a closed circuit television if:

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

18           (2) the judge determines that testimony by the child  
19 victim or victim with a moderate, severe, or profound  
20 intellectual disability or victim affected by a  
21 developmental disability in the courtroom will result in  
22 the child or person with a moderate, severe, or profound  
23 intellectual disability or person affected by a  
24 developmental disability suffering serious emotional

1           distress such that the child or person with a moderate,  
2           severe, or profound intellectual disability or person  
3           affected by a developmental disability cannot reasonably  
4           communicate or that the child or person with a moderate,  
5           severe, or profound intellectual disability or person  
6           affected by a developmental disability will suffer severe  
7           emotional distress that is likely to cause the child or  
8           person with a moderate, severe, or profound intellectual  
9           disability or person affected by a developmental  
10          disability to suffer severe adverse effects.

11          (b) Only the prosecuting attorney, the attorney for the  
12          defendant, and the judge may question the child or person with  
13          a moderate, severe, or profound intellectual disability or  
14          person affected by a developmental disability.

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

17          (d) Only the following persons may be in the room with the  
18          child or person with a moderate, severe, or profound  
19          intellectual disability or person affected by a developmental  
20          disability when the child or person with a moderate, severe,  
21          or profound intellectual disability or person affected by a  
22          developmental disability testifies by closed circuit  
23          television:

- 24                 (1) the prosecuting attorney;  
25                 (2) the attorney for the defendant;  
26                 (3) the judge;

1 (4) the operators of the closed circuit television  
2 equipment; and

3 (5) any person or persons whose presence, in the  
4 opinion of the court, contributes to the well-being of the  
5 child or person with a moderate, severe, or profound  
6 intellectual disability or person affected by a  
7 developmental disability, including a person who has dealt  
8 with the child in a therapeutic setting concerning the  
9 abuse, a parent or guardian of the child or person with a  
10 moderate, severe, or profound intellectual disability or  
11 person affected by a developmental disability, and court  
12 security personnel.

13 (e) During the child's or person with a moderate, severe,  
14 or profound intellectual disability or person affected by a  
15 developmental disability's testimony by closed circuit  
16 television, the defendant shall be in the courtroom and shall  
17 not communicate with the jury if the cause is being heard  
18 before a jury.

19 (f) The defendant shall be allowed to communicate with the  
20 persons in the room where the child or person with a moderate,  
21 severe, or profound intellectual disability or person affected  
22 by a developmental disability is testifying by any appropriate  
23 electronic method.

24 (f-5) (Blank). ~~There is a rebuttable presumption that the~~  
25 ~~testimony of a victim who is a child under 13 years of age~~  
26 ~~shall testify outside the courtroom and the child's testimony~~

1 ~~shall be shown in the courtroom by means of a closed circuit~~  
2 ~~television. This presumption may be overcome if the defendant~~  
3 ~~can prove by clear and convincing evidence that the child~~  
4 ~~victim will not suffer severe emotional distress.~~

5 (f-6) Before the court permits the testimony of a victim  
6 outside the courtroom that is to be shown in the courtroom by  
7 means of a closed circuit television, the court must make a  
8 finding that the testimony by means of closed circuit  
9 television does not prejudice the defendant.

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

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

16 (i) This Section applies to prosecutions pending on or  
17 commenced on or after the effective date of this amendatory  
18 Act of 1994.

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

22 (Source: P.A. 103-164, eff. 1-1-24.)".