



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

**HB4541**

by Rep. Natalie A. Manley

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/114-13

from Ch. 38, par. 114-13

Amends the Code of Criminal Procedure of 1963. Provides that notwithstanding Illinois Supreme Court Rules, in a criminal proceeding, any property or material that constitutes child pornography shall remain in the care, custody, and control of either the State or the court. Provides that a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography, so long as the prosecution makes the property or material reasonably available to the defendant. Provides that property or material shall be deemed to be reasonably available to the defendant if the prosecution provides ample opportunity for inspection, viewing, and examination at a government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

LRB098 14775 RLC 49696 b

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 114-13 as follows:

6 (725 ILCS 5/114-13) (from Ch. 38, par. 114-13)

7 Sec. 114-13. Discovery in criminal cases.

8 (a) Except as provided in paragraphs (1) and (2) of this  
9 subsection (a), discovery ~~Discovery~~ procedures in criminal  
10 cases shall be in accordance with Supreme Court Rules.

11 (1) In a criminal proceeding, any property or material  
12 that constitutes child pornography (as defined in Section  
13 11-20.1 of the Criminal Code of 2012) shall remain in the  
14 care, custody, and control of either the State or the  
15 court.

16 (2) Notwithstanding Illinois Supreme Court Rule 412, a  
17 court shall deny, in any criminal proceeding, any request  
18 by the defendant to copy, photograph, duplicate, or  
19 otherwise reproduce any property or material that  
20 constitutes child pornography (as defined in Section  
21 11-20.1 of the Criminal Code of 2012), so long as the  
22 prosecution makes the property or material reasonably  
23 available to the defendant. For the purposes of this

1 paragraph (2), property or material shall be deemed to be  
2 reasonably available to the defendant if the prosecution  
3 provides ample opportunity for inspection, viewing, and  
4 examination at a government facility of the property or  
5 material by the defendant, his or her attorney, and any  
6 individual the defendant may seek to qualify to furnish  
7 expert testimony at trial.

8 (b) Any public investigative, law enforcement, or other  
9 public agency responsible for investigating any homicide  
10 offense or participating in an investigation of any homicide  
11 offense, other than defense investigators, shall provide to the  
12 authority prosecuting the offense all investigative material,  
13 including but not limited to reports, memoranda, and field  
14 notes, that have been generated by or have come into the  
15 possession of the investigating agency concerning the homicide  
16 offense being investigated. In addition, the investigating  
17 agency shall provide to the prosecuting authority any material  
18 or information, including but not limited to reports,  
19 memoranda, and field notes, within its possession or control  
20 that would tend to negate the guilt of the accused of the  
21 offense charged or reduce his or her punishment for the  
22 homicide offense. Every investigative and law enforcement  
23 agency in this State shall adopt policies to ensure compliance  
24 with these standards. Any investigative, law enforcement, or  
25 other public agency responsible for investigating any  
26 "non-homicide felony" offense or participating in an

1 investigation of any "non-homicide felony" offense, other than  
2 defense investigators, shall provide to the authority  
3 prosecuting the offense all investigative material, including  
4 but not limited to reports and memoranda that have been  
5 generated by or have come into the possession of the  
6 investigating agency concerning the "non-homicide felony"  
7 offense being investigated. In addition, the investigating  
8 agency shall provide to the prosecuting authority any material  
9 or information, including but not limited to reports and  
10 memoranda, within its possession or control that would tend to  
11 negate the guilt of the accused of the "non-homicide felony"  
12 offense charged or reduce his or her punishment for the  
13 "non-homicide felony" offense. This obligation to furnish  
14 exculpatory evidence exists whether the information was  
15 recorded or documented in any form. Every investigative and law  
16 enforcement agency in this State shall adopt policies to ensure  
17 compliance with these standards.

18 (Source: P.A. 93-605, eff. 11-19-03.)