



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0269

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.

LRB099 04117 MRW 24136 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.)