

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by changing Section 8-802.3 as follows:

(735 ILCS 5/8-802.3)

Sec. 8-802.3. Informant's privilege.

(a) Except as provided in subsection (b), if an individual (i) submits information concerning a criminal act to a law enforcement agency or to a community organization that acts as an intermediary in reporting to law enforcement and (ii) requests anonymity, then the identity of that individual is privileged and confidential and is not subject to discovery or admissible in evidence in a proceeding.

(b) There is no privilege under subsection (a) if a court, after a hearing in camera, finds that the party seeking discovery or the proponent of the evidence has shown that:

(1) the identity of an individual who submits information concerning a criminal act is sought or offered in a court proceeding involving a felony or misdemeanor;

(2) the evidence is not otherwise available; and

(3) nondisclosure infringes upon a constitutional right of an accused, or there is a need for the evidence

that substantially outweighs the interest in protecting confidentiality.

(b-5) Except as provided in this subsection or under subsection (j) of Supreme Court Rule 412, if a defendant's counsel seeks to discover the identity of an informant, then the defendant's counsel shall file a motion with the court alleging a good faith factual basis for believing that the prior representation of the informant creates a serious potential for an actual conflict of interest. Upon such filing, the court: (1) may deny the motion for lack of factual basis; or (2) if it finds a sufficiently alleged factual basis, shall conduct an in camera hearing with the informant, outside the presence of all counsel, to ascertain whether an actual conflict of interest exists. A transcript of the in camera proceeding shall be made and sealed. After the in camera hearing, the court shall: (i) deny the motion if there is no basis to conclude that a serious potential for an actual conflict exists; or (ii) inform the petitioning counsel that his or her continued representation is a conflict. If the court concludes that a conflict exists, it shall notify the counsel of the nature of the conflict, subject to any condition of nondisclosure that the court deems appropriate.

(c) The court may impose such sanctions as are necessary to enforce its order.

(Source: P.A. 94-174, eff. 1-1-06.)

Section 99. Effective date. This Act takes effect upon

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becoming law.