

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3393

Introduced 2/18/2025, by Rep. Adam M. Niemerg

SYNOPSIS AS INTRODUCED:

725 ILCS 5/106B-5

Amends the Code of Criminal Procedure of 1963. In a provision concerning the prosecution of a person for an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery, or aggravated domestic battery, deletes which states that there is provision a rebuttable presumption that the testimony of a victim who is a child under 13 years of age shall occur outside the courtroom and the child's testimony shall be shown in the courtroom by means of a closed circuit television. Deletes that this presumption may be overcome if the defendant can prove by clear and convincing evidence that the child victim will not suffer severe emotional distress. Provides that, if the court denies the State's request for the child victim's testimony to be taken outside the courtroom, the court shall toll the speedy trial requirements for 30 days to allow the State to present the motion to the court again before trial requesting the child's testimony to be taken outside the courtroom by means of a closed circuit television.

LRB104 08138 RLC 18184 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 106B-5 as follows:

6 (725 ILCS 5/106B-5)

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

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

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

21 (2) the judge determines that testimony by the child
22 victim or victim with a moderate, severe, or profound
23 intellectual disability or victim affected by a

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

15 (b) Only the prosecuting attorney, the attorney for the
16 defendant, and the judge may question the child or person with
17 a moderate, severe, or profound intellectual disability or
18 person affected by a developmental disability.

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

21 (d) Only the following persons may be in the room with the
22 child or person with a moderate, severe, or profound
23 intellectual disability or person affected by a developmental
24 disability when the child or person with a moderate, severe,
25 or profound intellectual disability or person affected by a
26 developmental disability testifies by closed circuit

1 television:

2 (1) the prosecuting attorney;

3 (2) the attorney for the defendant;

4 (3) the judge;

5 (4) the operators of the closed circuit television
6 equipment; and

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

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

23 (f) The defendant shall be allowed to communicate with the
24 persons in the room where the child or person with a moderate,
25 severe, or profound intellectual disability or person affected
26 by a developmental disability is testifying by any appropriate

1 electronic method.

2 (f-5) (Blank). ~~There is a rebuttable presumption that the~~
3 ~~testimony of a victim who is a child under 13 years of age~~
4 ~~shall testify outside the courtroom and the child's testimony~~
5 ~~shall be shown in the courtroom by means of a closed circuit~~
6 ~~television. This presumption may be overcome if the defendant~~
7 ~~can prove by clear and convincing evidence that the child~~
8 ~~victim will not suffer severe emotional distress.~~

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

14 (f-7) If the court denies the State's request for the
15 child victim's testimony to be taken outside the courtroom,
16 the court shall toll the speedy trial requirements under
17 Section 103-5 for 30 days to allow the State to present the
18 motion to the court again before trial requesting the child's
19 testimony to be taken outside the courtroom by means of a
20 closed circuit television.

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

23 (h) This Section may not be interpreted to preclude, for
24 purposes of identification of a defendant, the presence of
25 both the victim and the defendant in the courtroom at the same
26 time.

1 (i) This Section applies to prosecutions pending on or
2 commenced on or after the effective date of this amendatory
3 Act of 1994.

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

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