

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 unduly prejudice the defendant.

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

16 (h) This Section may not be interpreted to preclude, for  
17 purposes of identification of a defendant, the presence of  
18 both the victim and the defendant in the courtroom at the same  
19 time.

20 (i) This Section applies to prosecutions pending on or  
21 commenced on or after the effective date of this amendatory  
22 Act of 1994.

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

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