

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 adding Section 804.5 as follows:

(735 ILCS 5/804.5 new)

Sec. 804.5. Parties to a restorative justice practice.

(a) This Section is intended to encourage the use of restorative justice practices by providing a privilege for participation in such practices and ensuring that anything said or done during the practice, or in anticipation of or as a follow-up to the practice, is privileged and may not be used in any future proceeding unless the privilege is waived by the informed consent of the party or parties covered by the privilege. The General Assembly affords this privilege in recognition of restorative justice as a powerful tool in addressing the needs of victims, offenders, and the larger community in the process of repairing the fabric of community peace. The General Assembly encourages residents of this State to employ restorative justice practices, not only in justiciable matters, but in all aspects of life and law.

(b) As used in this Section:

"Circle" means a versatile restorative practice that can

be used proactively, to develop relationships and build community, or reactively, to respond to wrongdoing, conflicts, and problems.

"Conference" means a structured meeting between offenders, victims, and both parties' family and friends, in which they deal with the consequences of a crime or wrongdoing and decide how best to repair the harm.

"Facilitator" means a person who is trained to facilitate a restorative justice practice.

"Party" means a person, including a facilitator, an individual who has caused harm, an individual who has been harmed, a community member, and any other participant, who voluntarily consents to participate with others who have agreed to participate in a restorative justice practice.

"Proceeding" means any legal action subject to this Code, including, but not limited to, civil, criminal, juvenile, or administrative hearings.

"Restorative justice practice" or "practice" means a gathering, such as a conference or circle, in which parties who have caused harm or who have been harmed and community stakeholders collectively gather to identify and repair harm to the extent possible, address trauma, reduce the likelihood of further harm, and strengthen community ties by focusing on the needs and obligations of all parties involved through a participatory process.

(c) Anything said or done during or in preparation for a

restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened, is privileged and cannot be referred to, used, or admitted in any civil, criminal, juvenile, or administrative proceeding unless the privilege is waived, during the proceeding or in writing, by the party or parties protected by the privilege. Privileged information is not subject to discovery or disclosure in any judicial or extrajudicial proceedings.

Any waiver of privilege is limited to the participation and communication of the waiving party only, and the participation or communications of any other participant remain privileged unless waived by the other participant.

(d) Evidence that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because it was discussed or used in a restorative justice practice.

(e) The legitimacy of a restorative justice practice, if challenged in any civil, juvenile, criminal, or administrative proceeding, shall be determined by a judge. In a hearing conducted pursuant to this subsection, the judge may consider information that would otherwise be privileged to the extent that the information is probative of the issue.

(f) The privilege afforded by this Section does not apply if:

(1) disclosure is necessary to prevent death, great

bodily harm, or the commission of a crime;

(2) necessary to comply with another law; or

(3) a court, tribunal, or administrative body requires a report on a restorative justice practice, but such report shall be limited to the fact that a practice has taken place, an opinion regarding the success of the practice, and whether further restorative justice practices are expected.

(g) This Section applies to all restorative justice practices that are convened on or after the effective date of this amendatory Act of the 102nd General Assembly.

Section 99. Effective date. This Act takes effect upon becoming law.