

1 AN ACT in relation to 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 adding Section 115-16.1 as follows:

6 (725 ILCS 5/115-16.1 new)

7 Sec. 115-16.1. Witness qualification in first degree
8 murder trial.

9 (a) In a prosecution for first degree murder where the
10 State has given notice of its intention to seek the death
11 penalty, the prosecution must promptly notify the court and
12 the defendant's attorney of the intention to introduce
13 testimony at trial from a person who is in custody or who was
14 in custody at the time of the factual matters to which the
15 person will testify. The notice to the defendant's attorney
16 must include the identification, criminal history, and
17 background of the witness. The prosecution must also promptly
18 notify the defendant's attorney of any discussion,
19 inducement, benefit, or agreement between that witness and a
20 law enforcement agency, officer, or prosecutor for that
21 witness.

22 (b) After notice has been given to the court pursuant to
23 subsection (a), the court must prior to trial conduct an
24 evidentiary hearing to determine the reliability and
25 admissibility of the testimony of the witness. The
26 prosecution has the burden of proving by a preponderance of
27 the evidence the reliability of the testimony of the witness.
28 In making its determination, the court may consider:

29 (1) the specific statements or facts to which the
30 witness will testify;

31 (2) the time, place, and other circumstances

1 regarding the statements or facts to which the witness
2 will testify;

3 (3) any discussion, inducement, benefit, or
4 agreement between the witness and a law enforcement
5 agency or officer for that witness;

6 (4) the criminal history of the witness;

7 (5) whether the witness has ever recanted his or
8 her testimony;

9 (6) other criminal cases in which the witness has
10 testified;

11 (7) the presence or absence of any relationship
12 between the accused and the witness; and

13 (8) any other evidence relevant to the credibility
14 of the witness.