



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0503

Introduced 1/27/2005, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-118

from Ch. 110, par. 9-118

Amends the Code of Civil Procedure. Adds aggravated criminal sexual abuse to the list of crimes for which a person may be subject to an emergency eviction.

LRB094 05557 LCB 35606 b

1 AN ACT concerning civil 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 Civil Procedure is amended by  
5 changing Section 9-118 as follows:

6 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

7 Sec. 9-118. Emergency housing eviction proceedings.

8 (a) As used in this Section:

9 "Cannabis" has the meaning ascribed to that term in the  
10 Cannabis Control Act.

11 "Narcotics" and "controlled substance" have the meanings  
12 ascribed to those terms in the Illinois Controlled Substances  
13 Act.

14 (b) This Section applies only if all of the following  
15 conditions are met:

16 (1) The complaint seeks possession of premises that are  
17 owned or managed by a housing authority established under  
18 the Housing Authorities Act or privately owned and managed.

19 (2) The verified complaint alleges that there is direct  
20 evidence of any of the following:

21 (A) unlawful possessing, serving, storing,  
22 manufacturing, cultivating, delivering, using,  
23 selling, giving away, or trafficking in cannabis,  
24 narcotics, or controlled substances within or upon the  
25 premises by or with the knowledge and consent of, or in  
26 concert with the person or persons named in the  
27 complaint; or

28 (B) the possession, use, sale, or delivery of a  
29 firearm which is otherwise prohibited by State law  
30 within or upon the premises by or with the knowledge  
31 and consent of, or in concert with, the person or  
32 persons named in the complaint; or

1 (C) murder, attempted murder, kidnapping,  
2 attempted kidnapping, arson, attempted arson,  
3 aggravated battery, criminal sexual assault, attempted  
4 criminal sexual assault, aggravated criminal sexual  
5 assault, predatory criminal sexual assault of a child,  
6 ~~or~~ criminal sexual abuse, or aggravated criminal  
7 sexual abuse within or upon the premises by or with the  
8 knowledge and consent of, or in concert with, the  
9 person or persons named in the complaint.

10 (3) Notice by verified complaint setting forth the  
11 relevant facts, and a demand for possession of the type  
12 specified in Section 9-104 is served on the tenant or  
13 occupant of the premises at least 14 days before a hearing  
14 on the complaint is held, and proof of service of the  
15 complaint is submitted by the plaintiff to the court.

16 (b-5) In all actions brought under this Section 9-118, no  
17 predicate notice of termination or demand for possession shall  
18 be required to initiate an eviction action.

19 (c) When a complaint has been filed under this Section, a  
20 hearing on the complaint shall be scheduled on any day after  
21 the expiration of 14 days following the filing of the  
22 complaint. The summons shall advise the defendant that a  
23 hearing on the complaint shall be held at the specified date  
24 and time, and that the defendant should be prepared to present  
25 any evidence on his or her behalf at that time.

26 If a plaintiff which is a public housing authority accepts  
27 rent from the defendant after an action is initiated under this  
28 Section, the acceptance of rent shall not be a cause for  
29 dismissal of the complaint.

30 (d) If the defendant does not appear at the hearing,  
31 judgment for possession of the premises in favor of the  
32 plaintiff shall be entered by default. If the defendant  
33 appears, a trial shall be held immediately as is prescribed in  
34 other proceedings for possession. The matter shall not be  
35 continued beyond 7 days from the date set for the first hearing  
36 on the complaint except by agreement of both the plaintiff and

1 the defendant. After a trial, if the court finds, by a  
2 preponderance of the evidence, that the allegations in the  
3 complaint have been proven, the court shall enter judgment for  
4 possession of the premises in favor of the plaintiff and the  
5 court shall order that the plaintiff shall be entitled to  
6 re-enter the premises immediately.

7 (d-5) If cannabis, narcotics, or controlled substances are  
8 found or used anywhere in the premises, there is a rebuttable  
9 presumption either (1) that the cannabis, narcotics, or  
10 controlled substances were used or possessed by a tenant or  
11 occupant or (2) that a tenant or occupant permitted the  
12 premises to be used for that use or possession, and knew or  
13 should have reasonably known that the substance was used or  
14 possessed.

15 (e) A judgment for possession entered under this Section  
16 may not be stayed for any period in excess of 7 days by the  
17 court. Thereafter the plaintiff shall be entitled to re-enter  
18 the premises immediately. The sheriff or other lawfully  
19 deputized officers shall give priority to service and execution  
20 of orders entered under this Section over other possession  
21 orders.

22 (f) This Section shall not be construed to prohibit the use  
23 or possession of cannabis, narcotics, or a controlled substance  
24 that has been legally obtained in accordance with a valid  
25 prescription for the personal use of a lawful occupant of a  
26 dwelling unit.

27 (Source: P.A. 90-557, eff. 6-1-98; 90-768, eff. 8-14-98;  
28 91-504, eff. 8-13-99.)