

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 changing Section 111-3 as follows:

6 (725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

7 (Text of Section after amendment by P.A. 95-1052)

8 Sec. 111-3. Form of charge.

9 (a) A charge shall be in writing and allege the commission  
10 of an offense by:

11 (1) Stating the name of the offense;

12 (2) Citing the statutory provision alleged to have been  
13 violated;

14 (3) Setting forth the nature and elements of the  
15 offense charged;

16 (4) Stating the date and county of the offense as  
17 definitely as can be done; and

18 (5) Stating the name of the accused, if known, and if  
19 not known, designate the accused by any name or description  
20 by which he can be identified with reasonable certainty.

21 (b) An indictment shall be signed by the foreman of the  
22 Grand Jury and an information shall be signed by the State's  
23 Attorney and sworn to by him or another. A complaint shall be

1 sworn to and signed by the complainant; provided, that when a  
2 peace officer observes the commission of a misdemeanor and is  
3 the complaining witness, the signing of the complaint by the  
4 peace officer is sufficient to charge the defendant with the  
5 commission of the offense, and the complaint need not be sworn  
6 to if the officer signing the complaint certifies that the  
7 statements set forth in the complaint are true and correct and  
8 are subject to the penalties provided by law for false  
9 certification under Section 1-109 of the Code of Civil  
10 Procedure and perjury under Section 32-2 of the Criminal Code  
11 of 1961; and further provided ~~Provided~~, however, that when a  
12 citation is issued on a Uniform Traffic Ticket or Uniform  
13 Conservation Ticket (in a form prescribed by the Conference of  
14 Chief Circuit Judges and filed with the Supreme Court), the  
15 copy of such Uniform Ticket which is filed with the circuit  
16 court constitutes a complaint to which the defendant may plead,  
17 unless he specifically requests that a verified complaint be  
18 filed.

19 (c) When the State seeks an enhanced sentence because of a  
20 prior conviction, the charge shall also state the intention to  
21 seek an enhanced sentence and shall state such prior conviction  
22 so as to give notice to the defendant. However, the fact of  
23 such prior conviction and the State's intention to seek an  
24 enhanced sentence are not elements of the offense and may not  
25 be disclosed to the jury during trial unless otherwise  
26 permitted by issues properly raised during such trial. For the

1 purposes of this Section, "enhanced sentence" means a sentence  
2 which is increased by a prior conviction from one  
3 classification of offense to another higher level  
4 classification of offense set forth in Section 5-4.5-10 of the  
5 Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not  
6 include an increase in the sentence applied within the same  
7 level of classification of offense.

8 (c-5) Notwithstanding any other provision of law, in all  
9 cases in which the imposition of the death penalty is not a  
10 possibility, if an alleged fact (other than the fact of a prior  
11 conviction) is not an element of an offense but is sought to be  
12 used to increase the range of penalties for the offense beyond  
13 the statutory maximum that could otherwise be imposed for the  
14 offense, the alleged fact must be included in the charging  
15 instrument or otherwise provided to the defendant through a  
16 written notification before trial, submitted to a trier of fact  
17 as an aggravating factor, and proved beyond a reasonable doubt.  
18 Failure to prove the fact beyond a reasonable doubt is not a  
19 bar to a conviction for commission of the offense, but is a bar  
20 to increasing, based on that fact, the range of penalties for  
21 the offense beyond the statutory maximum that could otherwise  
22 be imposed for that offense. Nothing in this subsection (c-5)  
23 requires the imposition of a sentence that increases the range  
24 of penalties for the offense beyond the statutory maximum that  
25 could otherwise be imposed for the offense if the imposition of  
26 that sentence is not required by law.

1           (d) At any time prior to trial, the State on motion shall  
2 be permitted to amend the charge, whether brought by  
3 indictment, information or complaint, to make the charge comply  
4 with subsection (c) or (c-5) of this Section. Nothing in  
5 Section 103-5 of this Code precludes such an amendment or a  
6 written notification made in accordance with subsection (c-5)  
7 of this Section.

8           (e) The provisions of subsection (a) of Section 5-4.5-95 of  
9 the Unified Code of Corrections (730 ILCS 5/5-4.5-95) shall not  
10 be affected by this Section.

11       (Source: P.A. 95-1052, eff. 7-1-09.)