



Sen. Jacqueline Y. Collins

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09800HB2471sam002

LRB098 06662 MRW 45921 a

1 AMENDMENT TO HOUSE BILL 2471

2 AMENDMENT NO. _____. Amend House Bill 2471 by replacing
3 everything after the enacting clause with the following:

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 Sec. 111-3. Form of charge.

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

10 (1) Stating the name of the offense;

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

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

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

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

4 (a-5) If the victim is alleged to have been subjected to an
5 offense involving an illegal sexual act including, but not
6 limited to, a sexual offense defined in Article 11 or Section
7 10-9 of the Criminal Code of 2012, the charge shall state the
8 identity of the victim by name, initials, or description.

9 (b) An indictment shall be signed by the foreman of the
10 Grand Jury and an information shall be signed by the State's
11 Attorney and sworn to by him or another. A complaint shall be
12 sworn to and signed by the complainant; provided, that when a
13 peace officer observes the commission of a misdemeanor and is
14 the complaining witness, the signing of the complaint by the
15 peace officer is sufficient to charge the defendant with the
16 commission of the offense, and the complaint need not be sworn
17 to if the officer signing the complaint certifies that the
18 statements set forth in the complaint are true and correct and
19 are subject to the penalties provided by law for false
20 certification under Section 1-109 of the Code of Civil
21 Procedure and perjury under Section 32-2 of the Criminal Code
22 of 2012; and further provided, however, that when a citation is
23 issued on a Uniform Traffic Ticket or Uniform Conservation
24 Ticket (in a form prescribed by the Conference of Chief Circuit
25 Judges and filed with the Supreme Court), the copy of such
26 Uniform Ticket which is filed with the circuit court

1 constitutes a complaint to which the defendant may plead,
2 unless he specifically requests that a verified complaint be
3 filed.

4 (c) When the State seeks an enhanced sentence because of a
5 prior conviction, the charge shall also state the intention to
6 seek an enhanced sentence and shall state such prior conviction
7 so as to give notice to the defendant. However, the fact of
8 such prior conviction and the State's intention to seek an
9 enhanced sentence are not elements of the offense and may not
10 be disclosed to the jury during trial unless otherwise
11 permitted by issues properly raised during such trial. For the
12 purposes of this Section, "enhanced sentence" means a sentence
13 which is increased by a prior conviction from one
14 classification of offense to another higher level
15 classification of offense set forth in Section 5-4.5-10 of the
16 Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not
17 include an increase in the sentence applied within the same
18 level of classification of offense.

19 (c-5) Notwithstanding any other provision of law, in all
20 cases in which the imposition of the death penalty is not a
21 possibility, if an alleged fact (other than the fact of a prior
22 conviction) is not an element of an offense but is sought to be
23 used to increase the range of penalties for the offense beyond
24 the statutory maximum that could otherwise be imposed for the
25 offense, the alleged fact must be included in the charging
26 instrument or otherwise provided to the defendant through a

1 written notification before trial, submitted to a trier of fact
2 as an aggravating factor, and proved beyond a reasonable doubt.
3 Failure to prove the fact beyond a reasonable doubt is not a
4 bar to a conviction for commission of the offense, but is a bar
5 to increasing, based on that fact, the range of penalties for
6 the offense beyond the statutory maximum that could otherwise
7 be imposed for that offense. Nothing in this subsection (c-5)
8 requires the imposition of a sentence that increases the range
9 of penalties for the offense beyond the statutory maximum that
10 could otherwise be imposed for the offense if the imposition of
11 that sentence is not required by law.

12 (d) At any time prior to trial, the State on motion shall
13 be permitted to amend the charge, whether brought by
14 indictment, information or complaint, to make the charge comply
15 with subsection (c) or (c-5) of this Section. Nothing in
16 Section 103-5 of this Code precludes such an amendment or a
17 written notification made in accordance with subsection (c-5)
18 of this Section.

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

22 (Source: P.A. 96-1206, eff. 1-1-11; 97-1150, eff. 1-25-13.)

23 Section 99. Effective date. This Act takes effect January
24 1, 2014."