



Rep. Kelly M. Cassidy

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09800HB2471ham001

LRB098 06662 MRW 43149 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           and-

5           (6) Stating the identity of a victim alleged to have  
6           been subjected to an offense involving an illegal sexual  
7           act including, but not limited to, involuntary sexual  
8           servitude of a minor as defined in Section 10-9 and the  
9           sexual offenses defined in Article 11 of the Criminal Code  
10           of 2012, by name, initials, or description.

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

1 Judges and filed with the Supreme Court), the copy of such  
2 Uniform Ticket which is filed with the circuit court  
3 constitutes a complaint to which the defendant may plead,  
4 unless he specifically requests that a verified complaint be  
5 filed.

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

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

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

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

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

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

25 Section 99. Effective date. This Act takes effect January

1 1, 2014.".