

SB2376



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2376

Introduced 2/26/2021, by Sen. John Connor

SYNOPSIS AS INTRODUCED:

725 ILCS 5/111-3
730 ILCS 5/5-4.5-120 new

from Ch. 38, par. 111-3

Amends the Code of Criminal Procedure of 1963. Provides that when charging an offense based upon responsibility for conduct of another under the Parties to Crime Article of the Criminal Code of 2012, the fact that the defendant is being charged based on accountability shall be specified in the charge. Amends the Unified Code of Corrections. Provides that when a person is convicted of an offense based on the person's responsibility for conduct that is an element of an offense if the conduct is that of another and he or she is legally accountable for that conduct as provided in Parties to Crime Article of the Criminal Code of 2012, the court shall not impose a mandatory minimum sentence for the offense if that mandatory minimum sentence is required for the underlying offense under the Criminal Code of 2012, this Code, or any other law, and shall sentence the person to not more than one-half the maximum sentence that may be imposed for the underlying offense.

LRB102 10347 RLC 15674 b

A BILL FOR

1 AN ACT concerning 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 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
12 been 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

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

21 (a-1) When charging an offense based upon responsibility
22 for conduct of another under Article 5 of the Criminal Code of
23 2012, the fact that the defendant is being charged based on

1 accountability shall be specified in the charge.

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

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

1 filed.

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

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

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

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

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

21 (Source: P.A. 97-1150, eff. 1-25-13; 98-416, eff. 1-1-14.)

22 Section 10. The Unified Code of Corrections is amended by
23 adding Section 5-4.5-120 as follows:

24 (730 ILCS 5/5-4.5-120 new)

1 Sec. 5-4.5-120. Accountability; limitation on imposition
2 of sentence. When a person is convicted of an offense based on
3 the person's responsibility for conduct that is an element of
4 an offense if the conduct is that of another and he or she is
5 legally accountable for that conduct as provided in Section
6 5-2 of the Criminal Code of 2012, the court shall not impose a
7 mandatory minimum sentence for the offense if that mandatory
8 minimum sentence is required for the underlying offense under
9 the Criminal Code of 2012, this Code, or any other law, and
10 shall sentence the person to not more than one-half the
11 maximum sentence that may be imposed for the underlying
12 offense.