

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 Sec. 111-3. Form of charge.

8 (a) A charge shall be in writing and allege the
9 commission 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
18 if not known, designate the accused by any name or
19 description by which he can be identified with reasonable
20 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
24 sworn to and signed by the complainant; provided, that when a
25 peace officer observes the commission of a misdemeanor and is
26 the complaining witness, the signing of the complaint by the
27 peace officer is sufficient to charge the defendant with the
28 commission of the offense, and the complaint need not be
29 sworn to if the officer signing the complaint certifies that
30 the statements set forth in the complaint are true and
31 correct and are subject to the penalties provided by law for

1 false certification under Section 1-109 of the Code of Civil
2 Procedure and perjury under Section 32-2 of the Criminal Code
3 of 1961; and further provided, however, that when a citation
4 is issued on a Uniform Traffic Ticket or Uniform Conservation
5 Ticket (in a form prescribed by the Conference of Chief
6 Circuit Judges and filed with the Supreme Court), the copy of
7 such Uniform Ticket which is filed with the circuit court
8 constitutes a complaint to which the defendant may plead,
9 unless he specifically requests that a verified complaint be
10 filed.

11 (c) When the State seeks an enhanced sentence because of
12 a prior conviction, the charge shall also state the intention
13 to seek an enhanced sentence and shall state such prior
14 conviction so as to give notice to the defendant. However,
15 the fact of such prior conviction and the State's intention
16 to seek an enhanced sentence are not elements of the offense
17 and may not be disclosed to the jury during trial unless
18 otherwise permitted by issues properly raised during such
19 trial. For the purposes of this Section, "enhanced sentence"
20 means a sentence which is increased by a prior conviction
21 from one classification of offense to another higher level
22 classification of offense set forth in Section 5-5-1 of the
23 "Unified Code of Corrections", approved July 26, 1972, as
24 amended; it does not include an increase in the sentence
25 applied within the same level of classification of offense.

26 (c-5) Notwithstanding any other provision of law, in all
27 cases in which the imposition of the death penalty is not a
28 possibility, if an alleged fact (other than the fact of a
29 prior conviction) is not an element of an offense but is
30 sought to be used to increase the range of penalties for the
31 offense beyond the statutory maximum that could otherwise be
32 imposed for the offense, the alleged fact must be included in
33 the charging instrument or otherwise provided to the
34 defendant through a written notification before trial,

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

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

19 (e) The provisions of Article 33B of the Criminal Code
20 of 1961, as amended, shall not be affected by this Section.

21 (Source: P.A. 91-953, eff. 2-23-01.)