



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2516

Introduced 2/3/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-118

from Ch. 110, par. 9-118

Amends the Code of Civil Procedure. Makes technical changes in the Section relating to proceedings for evictions from housing authority property.

LRB093 20414 LCB 46192 b

1 AN ACT in relation to civil procedure.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 9-118 as follows:

6 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

7 Sec. 9-118. Emergency housing eviction proceedings.

8 (a) As used in this Section:

9 "Cannabis" has the meaning ascribed to that term in the
10 Cannabis Control Act.

11 "Narcotics" and "controlled substance" have the meanings
12 ascribed to those terms in the Illinois Controlled Substances
13 Act.

14 (b) This Section applies only if all of the following
15 conditions are met:

16 (1) The complaint seeks possession of premises that are
17 owned or managed by a housing authority established under
18 the Housing Authorities Act or privately owned and managed.

19 (2) The verified complaint alleges that there is direct
20 evidence of any of the following:

21 (A) unlawful possessing, serving, storing,
22 manufacturing, cultivating, delivering, using,
23 selling, giving away, or trafficking in cannabis,
24 narcotics, or controlled substances within or upon the
25 premises by or with the knowledge and consent of, or in
26 concert with the person or persons named in the
27 complaint; or

28 (B) the possession, use, sale, or delivery of a
29 firearm which is otherwise prohibited by State law
30 within or upon the premises by or with the knowledge
31 and consent of, or in concert with, the person or
32 persons named in the complaint; or

1 (C) murder, attempted murder, kidnapping,
2 attempted kidnapping, arson, attempted arson,
3 aggravated battery, criminal sexual assault, attempted
4 criminal sexual assault, aggravated criminal sexual
5 assault, predatory criminal sexual assault of a child,
6 or criminal sexual abuse within or upon the premises by
7 or with the knowledge and consent of, or in concert
8 with, the person or persons named in the complaint.

9 (3) Notice by verified complaint setting forth the
10 relevant facts, and a demand for possession of the type
11 specified in Section 9-104 is served on the tenant or
12 occupant of the premises at least 14 days before a hearing
13 on the complaint is held, and proof of service of the
14 complaint is submitted by the plaintiff to the court.

15 (b-5) In all actions brought under this Section 9-118, no
16 predicate notice of termination or demand for possession shall
17 be required to initiate an eviction action.

18 (c) When a complaint has been filed under this Section, a
19 hearing on the complaint shall be scheduled on any day after
20 the expiration of 14 days following the filing of the
21 complaint. The summons shall advise the defendant that a
22 hearing on the complaint shall be held at the specified date
23 and time, and that the defendant should be prepared to present
24 any evidence on his or her behalf at that time.

25 If a plaintiff ~~which~~ is a public housing authority and
26 accepts rent from the defendant after an action is initiated
27 under this Section, the acceptance of rent shall not be a cause
28 for dismissal of the complaint.

29 (d) If the defendant does not appear at the hearing,
30 judgment for possession of the premises in favor of the
31 plaintiff shall be entered by default. If the defendant
32 appears, a trial shall be held immediately as is prescribed in
33 other proceedings for possession. The matter shall not be
34 continued beyond 7 days from the date set for the first hearing
35 on the complaint except by agreement of both the plaintiff and
36 the defendant. After a trial, if the court finds, by a

1 preponderance of the evidence, that the allegations in the
2 complaint have been proven, the court shall enter judgment for
3 possession of the premises in favor of the plaintiff and the
4 court shall order that the plaintiff shall be entitled to
5 re-enter the premises immediately.

6 (d-5) If cannabis, narcotics, or controlled substances are
7 found or used anywhere in the premises, there is a rebuttable
8 presumption either (1) that the cannabis, narcotics, or
9 controlled substances were used or possessed by a tenant or
10 occupant or (2) that a tenant or occupant permitted the
11 premises to be used for that use or possession, and knew or
12 should have reasonably known that the substance was used or
13 possessed.

14 (e) A judgment for possession entered under this Section
15 may not be stayed for any period in excess of 7 days by the
16 court. Thereafter the plaintiff shall be entitled to re-enter
17 the premises immediately. The sheriff or other lawfully
18 deputized officers shall give priority to service and execution
19 of orders entered under this Section over other possession
20 orders.

21 (f) This Section shall not be construed to prohibit the use
22 or possession of cannabis, narcotics, or a controlled substance
23 that has been legally obtained in accordance with a valid
24 prescription for the personal use of a lawful occupant of a
25 dwelling unit.

26 (Source: P.A. 90-557, eff. 6-1-98; 90-768, eff. 8-14-98;
27 91-504, eff. 8-13-99.)