



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB2612

Introduced 2/18/2005, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-3-1
730 ILCS 5/5-3-2

from Ch. 38, par. 1005-3-1
from Ch. 38, par. 1005-3-2

Amends the Unified Code of Corrections. Provides that an offender being considered for probation for any felony offense that is sexually motivated need not submit to an evaluation where the State's Attorney, the probation department, and the Court agree to waive such evaluation, provided that the Sex Offender Management Board has adopted uniform statewide standards to waive such an evaluation and the Chief Judge of the circuit has issued a judicial order endorsing the uniform standard promulgated by the Sex Offender Management Board.

LRB094 07592 RXD 37763 b

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 Unified Code of Corrections is amended by
5 changing Sections 5-3-1 and 5-3-2 as follows:

6 (730 ILCS 5/5-3-1) (from Ch. 38, par. 1005-3-1)

7 Sec. 5-3-1. Presentence Investigation. A defendant shall
8 not be sentenced for a felony before a written presentence
9 report of investigation is presented to and considered by the
10 court.

11 However, other than for felony sex offenders being
12 considered for probation, the court need not order a
13 presentence report of investigation where both parties agree to
14 the imposition of a specific sentence, provided there is a
15 finding made for the record as to the defendant's history of
16 delinquency or criminality, including any previous sentence to
17 a term of probation, periodic imprisonment, conditional
18 discharge, or imprisonment, unless waived under the provisions
19 of subsection b-5 of Section 5-3-2 of this Code.

20 The court may order a presentence investigation of any
21 defendant.

22 (Source: P.A. 93-616, eff. 1-1-04; 93-970, eff. 8-20-04.)

23 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)

24 Sec. 5-3-2. Presentence Report.

25 (a) In felony cases, the presentence report shall set
26 forth:

27 (1) the defendant's history of delinquency or
28 criminality, physical and mental history and condition,
29 family situation and background, economic status,
30 education, occupation and personal habits;

31 (2) information about special resources within the

1 community which might be available to assist the
2 defendant's rehabilitation, including treatment centers,
3 residential facilities, vocational training services,
4 correctional manpower programs, employment opportunities,
5 special educational programs, alcohol and drug abuse
6 programming, psychiatric and marriage counseling, and
7 other programs and facilities which could aid the
8 defendant's successful reintegration into society;

9 (3) the effect the offense committed has had upon the
10 victim or victims thereof, and any compensatory benefit
11 that various sentencing alternatives would confer on such
12 victim or victims;

13 (4) information concerning the defendant's status
14 since arrest, including his record if released on his own
15 recognizance, or the defendant's achievement record if
16 released on a conditional pre-trial supervision program;

17 (5) when appropriate, a plan, based upon the personal,
18 economic and social adjustment needs of the defendant,
19 utilizing public and private community resources as an
20 alternative to institutional sentencing;

21 (6) any other matters that the investigatory officer
22 deems relevant or the court directs to be included; and

23 (7) information concerning defendant's eligibility for
24 a sentence to a county impact incarceration program under
25 Section 5-8-1.2 of this Code.

26 (b) The investigation shall include a physical and mental
27 examination of the defendant when so ordered by the court. If
28 the court determines that such an examination should be made,
29 it shall issue an order that the defendant submit to
30 examination at such time and place as designated by the court
31 and that such examination be conducted by a physician,
32 psychologist or psychiatrist designated by the court. Such an
33 examination may be conducted in a court clinic if so ordered by
34 the court. The cost of such examination shall be paid by the
35 county in which the trial is held.

36 (b-5) In cases involving felony sex offenses in which the

1 offender is being considered for probation or any felony
2 offense that is sexually motivated as defined in the Sex
3 Offender Management Board Act in which the offender is being
4 considered for probation, the investigation shall include a sex
5 offender evaluation by an evaluator approved by the Board and
6 conducted in conformance with the standards developed under the
7 Sex Offender Management Board Act. An offender being considered
8 for probation for any felony offense that is sexually motivated
9 need not submit to an evaluation where the State's Attorney,
10 the probation department, and the Court agree to waive such
11 evaluation, provided that the Sex Offender Management Board has
12 adopted uniform statewide standards to waive such an evaluation
13 and the Chief Judge of the circuit has issued a judicial order
14 endorsing the uniform standard promulgated by the Sex Offender
15 Management Board.

16 (c) In misdemeanor, business offense or petty offense
17 cases, except as specified in subsection (d) of this Section,
18 when a presentence report has been ordered by the court, such
19 presentence report shall contain information on the
20 defendant's history of delinquency or criminality and shall
21 further contain only those matters listed in any of paragraphs
22 (1) through (6) of subsection (a) or in subsection (b) of this
23 Section as are specified by the court in its order for the
24 report.

25 (d) In cases under Section 12-15 and Section 12-30 of the
26 Criminal Code of 1961, as amended, the presentence report shall
27 set forth information about alcohol, drug abuse, psychiatric,
28 and marriage counseling or other treatment programs and
29 facilities, information on the defendant's history of
30 delinquency or criminality, and shall contain those additional
31 matters listed in any of paragraphs (1) through (6) of
32 subsection (a) or in subsection (b) of this Section as are
33 specified by the court.

34 (e) Nothing in this Section shall cause the defendant to be
35 held without bail or to have his bail revoked for the purpose
36 of preparing the presentence report or making an examination.

1 (Source: P.A. 93-616, eff. 1-1-04; 93-970, eff. 8-20-04.)