



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4169

Introduced 2/27/2009, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-3-2

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

Amends the Unified Code of Corrections. Provides that when a penalty is being considered for a felony sex offense or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act, a sex offender evaluation will be required only in cases where the sex offender is being considered for probation without a mandatory prison sentence.

LRB096 02002 RLC 12013 b

FISCAL NOTE ACT
MAY APPLY

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 Unified Code of Corrections is amended by
5 changing Section 5-3-2 as follows:

6 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)
7 Sec. 5-3-2. Presentence Report.

8 (a) In felony cases, the presentence report shall set
9 forth:

10 (1) the defendant's history of delinquency or
11 criminality, physical and mental history and condition,
12 family situation and background, economic status,
13 education, occupation and personal habits;

14 (2) information about special resources within the
15 community which might be available to assist the
16 defendant's rehabilitation, including treatment centers,
17 residential facilities, vocational training services,
18 correctional manpower programs, employment opportunities,
19 special educational programs, alcohol and drug abuse
20 programming, psychiatric and marriage counseling, and
21 other programs and facilities which could aid the
22 defendant's successful reintegration into society;

23 (3) the effect the offense committed has had upon the

1 victim or victims thereof, and any compensatory benefit
2 that various sentencing alternatives would confer on such
3 victim or victims;

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

8 (5) when appropriate, a plan, based upon the personal,
9 economic and social adjustment needs of the defendant,
10 utilizing public and private community resources as an
11 alternative to institutional sentencing;

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

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

17 (b) The investigation shall include a physical and mental
18 examination of the defendant when so ordered by the court. If
19 the court determines that such an examination should be made,
20 it shall issue an order that the defendant submit to
21 examination at such time and place as designated by the court
22 and that such examination be conducted by a physician,
23 psychologist or psychiatrist designated by the court. Such an
24 examination may be conducted in a court clinic if so ordered by
25 the court. The cost of such examination shall be paid by the
26 county in which the trial is held.

1 (b-5) In cases involving felony sex offenses in which the
2 offender is being considered for probation only or any felony
3 offense that is sexually motivated as defined in the Sex
4 Offender Management Board Act in which the offender is being
5 considered for probation only, the investigation shall include
6 a sex offender evaluation by an evaluator approved by the Board
7 and conducted in conformance with the standards developed under
8 the Sex Offender Management Board Act. In cases in which the
9 offender is being considered for any mandatory prison sentence,
10 the investigation shall not include a sex offender evaluation.

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

20 (d) In cases under Section 12-15 and Section 12-30 of the
21 Criminal Code of 1961, as amended, the presentence report shall
22 set forth information about alcohol, drug abuse, psychiatric,
23 and marriage counseling or other treatment programs and
24 facilities, information on the defendant's history of
25 delinquency or criminality, and shall contain those additional
26 matters listed in any of paragraphs (1) through (6) of

1 subsection (a) or in subsection (b) of this Section as are
2 specified by the court.

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

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