



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5923

by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-15

from Ch. 38, par. 104-15

Amends the Code of Criminal Procedure of 1963. Provides that a person retained by the State or the defense to conduct a fitness examination shall, upon written request, make his or her notes, other evaluations, and any videotaped interviews available to another examiner of the defendant. Allows an examiner to use these materials as part of a diagnosis or explanation. Prohibits disclosure of the examination's contents except as otherwise provided in the Code. Effective immediately.

LRB098 16392 JLK 51952 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 Code of Criminal Procedure of 1963 is  
5 amended by changing Section 104-15 as follows:

6 (725 ILCS 5/104-15) (from Ch. 38, par. 104-15)

7 Sec. 104-15. Report.➤ (a) The person or persons conducting  
8 an examination of the defendant, pursuant to paragraph (a) or  
9 (b) of Section 104-13 shall submit a written report to the  
10 court, the State, and the defense within 30 days of the date of  
11 the order. The report shall include:

12 (1) A diagnosis and an explanation as to how it was reached  
13 and the facts upon which it is based;

14 (2) A description of the defendant's mental or physical  
15 disability, if any; its severity; and an opinion as to whether  
16 and to what extent it impairs the defendant's ability to  
17 understand the nature and purpose of the proceedings against  
18 him or to assist in his defense, or both.

19 (b) If the report indicates that the defendant is not fit  
20 to stand trial or to plead because of a disability, the report  
21 shall include an opinion as to the likelihood of the defendant  
22 attaining fitness within one year if provided with a course of  
23 treatment. If the person or persons preparing the report are

1 unable to form such an opinion, the report shall state the  
2 reasons therefor. The report may include a general description  
3 of the type of treatment needed and of the least physically  
4 restrictive form of treatment therapeutically appropriate.

5 (c) The report shall indicate what information, if any,  
6 contained therein may be harmful to the mental condition of the  
7 defendant if made known to him.

8 (d) In addition to the report, a person retained by the  
9 State or the defense to conduct an examination shall, upon  
10 written request, make his or her notes, other evaluations, and  
11 any videotaped interviews available to another examiner of the  
12 defendant. An examiner may use these materials as part of his  
13 or her diagnosis and explanation but shall not otherwise  
14 disclose the contents, including at a hearing before the court,  
15 except as otherwise provided in Section 104-14 of this Code.

16 (Source: P.A. 81-1217.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.