

HB6306



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6306

Introduced 2/11/2016, by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

725 ILCS 5/111-3

from Ch. 38, par. 111-3

Amends the Code of Criminal Procedure of 1963. Provides that an information shall state whether the document is filed based upon personal knowledge, or upon information and belief.

LRB099 19039 SLF 43428 b

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 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 commission
9 of an offense by:

10 (1) Stating the name of the offense;

11 (2) Citing the statutory provision alleged to have been
12 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 if
18 not known, designate the accused by any name or description
19 by which he can be identified with reasonable certainty.

20 (a-5) If the victim is alleged to have been subjected to an
21 offense involving an illegal sexual act including, but not
22 limited to, a sexual offense defined in Article 11 or Section
23 10-9 of the Criminal Code of 2012, the charge shall state the

1 identity of the victim by name, initials, or description.

2 (b) An indictment shall be signed by the foreman of the
3 Grand Jury and an information shall be signed by the State's
4 Attorney and sworn to by him or another, and shall state
5 whether the information is filed based on personal knowledge,
6 or upon information and belief. A complaint shall be sworn to
7 and signed by the complainant; provided, that when a peace
8 officer observes the commission of a misdemeanor and is the
9 complaining witness, the signing of the complaint by the peace
10 officer is sufficient to charge the defendant with the
11 commission of the offense, and the complaint need not be sworn
12 to if the officer signing the complaint certifies that the
13 statements set forth in the complaint are true and correct and
14 are subject to the penalties provided by law for false
15 certification under Section 1-109 of the Code of Civil
16 Procedure and perjury under Section 32-2 of the Criminal Code
17 of 2012; and further provided, however, that when a citation is
18 issued on a Uniform Traffic Ticket or Uniform Conservation
19 Ticket (in a form prescribed by the Conference of Chief Circuit
20 Judges and filed with the Supreme Court), the copy of such
21 Uniform Ticket which is filed with the circuit court
22 constitutes a complaint to which the defendant may plead,
23 unless he specifically requests that a verified complaint be
24 filed.

25 (c) When the State seeks an enhanced sentence because of a
26 prior conviction, the charge shall also state the intention to

1 seek an enhanced sentence and shall state such prior conviction
2 so as to give notice to the defendant. However, the fact of
3 such prior conviction and the State's intention to seek an
4 enhanced sentence are not elements of the offense and may not
5 be disclosed to the jury during trial unless otherwise
6 permitted by issues properly raised during such trial. For the
7 purposes of this Section, "enhanced sentence" means a sentence
8 which is increased by a prior conviction from one
9 classification of offense to another higher level
10 classification of offense set forth in Section 5-4.5-10 of the
11 Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not
12 include an increase in the sentence applied within the same
13 level of classification of offense.

14 (c-5) Notwithstanding any other provision of law, in all
15 cases in which the imposition of the death penalty is not a
16 possibility, if an alleged fact (other than the fact of a prior
17 conviction) is not an element of an offense but is sought to be
18 used to increase the range of penalties for the offense beyond
19 the statutory maximum that could otherwise be imposed for the
20 offense, the alleged fact must be included in the charging
21 instrument or otherwise provided to the defendant through a
22 written notification before trial, submitted to a trier of fact
23 as an aggravating factor, and proved beyond a reasonable doubt.
24 Failure to prove the fact beyond a reasonable doubt is not a
25 bar to a conviction for commission of the offense, but is a bar
26 to increasing, based on that fact, the range of penalties for

1 the offense beyond the statutory maximum that could otherwise
2 be imposed for that offense. Nothing in this subsection (c-5)
3 requires the imposition of a sentence that increases the range
4 of penalties for the offense beyond the statutory maximum that
5 could otherwise be imposed for the offense if the imposition of
6 that sentence is not required by law.

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

14 (e) The provisions of subsection (a) of Section 5-4.5-95 of
15 the Unified Code of Corrections (730 ILCS 5/5-4.5-95) shall not
16 be affected by this Section.

17 (Source: P.A. 97-1150, eff. 1-25-13; 98-416, eff. 1-1-14.)