

1 AN ACT to amend the Code of Criminal Procedure of 1963 by  
2 adding Section 100-3 and changing the heading of Article 100  
3 of Title I.

4 Be it enacted by the People of the State of Illinois,  
5 represented in the General Assembly:

6 Section 5. The Code of Criminal Procedure of 1963 is  
7 amended by adding Section 100-3 and changing the heading of  
8 Article 100 of Title I as follows:

9 (725 ILCS 5/Title I, Art. 100 heading)

10 ARTICLE 100. GENERAL PROVISIONS TITLE-AND-SCOPE

11 (725 ILCS 5/100-3 new)

12 Sec. 100-3. Facts sought to be used to increase the range  
13 of penalties for an offense. Notwithstanding any other  
14 provision of law, in all non-death penalty cases, if an  
15 alleged fact (other than the fact of a prior conviction) is  
16 not an element of an offense but is sought to be used to  
17 increase the range of penalties for the offense beyond the  
18 statutory maximum that could otherwise be imposed for the  
19 offense, the alleged fact must be included in the charging  
20 instrument, submitted to the trier of fact as an element of  
21 the offense, and proved beyond a reasonable doubt. Failure  
22 to prove the fact beyond a reasonable doubt is not a bar to a  
23 conviction for commission of the offense, but is a bar to  
24 increasing, based on that fact, the range of penalties for  
25 the offense beyond the statutory maximum that could otherwise  
26 be imposed for the offense. If a conviction is reversed  
27 solely for the failure to prove beyond a reasonable doubt a  
28 fact used to increase the range of penalties for the offense  
29 beyond the statutory maximum that could otherwise be imposed  
30 for the offense or solely for the failure to include the fact

1 in the charging instrument, the trial court must conduct a  
2 new sentencing hearing for the defendant based on the maximum  
3 penalty authorized for the offense. Nothing in this Section  
4 requires the imposition of a sentence that increases the  
5 range of penalties for the offense beyond the statutory  
6 maximum that could otherwise be imposed for the offense if  
7 the imposition of that sentence is not required by law. In  
8 addition to any other verdict authorized by law, the trier of  
9 fact may find the defendant not guilty, guilty of the offense  
10 charged together with one or more facts authorizing an  
11 increase in the range of penalties beyond the statutory  
12 maximum that could otherwise be imposed for the offense, or  
13 guilty of the offense charged without any fact authorizing an  
14 increase in the range of penalties beyond the statutory  
15 maximum that could otherwise be imposed for the offense. If  
16 the trier of fact finds the defendant guilty without any fact  
17 authorizing an increase in the range of penalties beyond the  
18 statutory maximum that could otherwise be imposed for the  
19 offense, then the defendant may not be sentenced to a term of  
20 imprisonment beyond the statutory maximum that could  
21 otherwise be imposed for the offense.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.