

1 AN ACT in relation to sentencing.

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 adding Section 116-5 as follows:

6 (725 ILCS 5/116-5 new)

7 Sec. 116-5. Prosecutor's misconduct during sentencing;
8 resentencing.

9 (a) The court may resentence a defendant in a capital
10 case on the grounds of a prosecutor's misconduct during
11 sentencing that the court determines is sufficiently material
12 to effect the reliability of the sentence imposed.

13 (b) The court may resentence a defendant under this
14 Section on the defendant's written motion or on the court's
15 own motion.

16 (c) The court may impose sanctions against a defendant's
17 counsel if the court determines that the counsel made a
18 motion under this Section other than in good faith. For
19 purposes of this subsection, a counsel's motion shall be
20 considered to be in good faith if the counsel reasonably
21 believed that the prosecutor's conduct was sufficient to
22 warrant resentencing of the defendant under this Section.

23 Section 10. The Unified Code of Corrections is amended by
24 adding Section 5-4-1.5 as follows:

25 (730 ILCS 5/5-4-1.5 new)

26 Sec. 5-4-1.5. Prosecutor's misconduct during sentencing;
27 resentencing.

28 (a) The court may resentence a defendant in a capital
29 case on the grounds of a prosecutor's misconduct during

1 sentencing that the court determines is sufficiently material
2 to affect the reliability of the sentence imposed.

3 (b) The court may resentence a defendant under this
4 Section on the defendant's oral or written motion or on the
5 court's own motion. A motion under this subsection may be
6 made any time after sentencing.

7 (c) The court may impose sanctions against a defendant's
8 counsel if the court determines that the counsel made a
9 motion under this Section other than in good faith. For
10 purposes of this subsection, a counsel's motion shall be
11 considered to be in good faith if the counsel reasonably
12 believed that the prosecutor's conduct was sufficient to
13 warrant resentencing of the defendant under this Section.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.