

1 AN ACT concerning criminal procedure.

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 115-21 as follows:

6 (725 ILCS 5/115-21 new)

7 Sec. 115-21. Prosecutor's misconduct; mistrial.

8 (a) The court may declare a mistrial in a capital case on
9 the grounds of a prosecutor's misconduct during trial that
10 the court determines is sufficiently material to affect the
11 reliability of the verdict. Instances of such misconduct
12 include, without limitation, a prosecutor's ad hominem attack
13 on the defendant during the prosecutor's closing argument and
14 a prosecutor's making of improper inferences from the
15 defendant's failure to testify on his or her own behalf.

16 (b) The court may declare a mistrial under this Section
17 on the defendant's oral or written motion or on the court's
18 own motion. Such a motion may be made at any time during the
19 course of the trial.

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

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.