92_SB2095 LRB9215702ACcd

- 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 <u>Sec. 115-21. Prosecutor's misconduct; mistrial.</u>
- 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 <u>the court determines is sufficiently material to affect the</u>
- 11 reliability of the verdict. Instances of such misconduct
- 12 <u>include</u>, without limitation, a prosecutor's ad hominem attack
- on the defendant during the prosecutor's closing argument and
- 14 <u>a prosecutor's making of improper inferences from the</u>
- defendant's failure to testify on his or her own behalf.
- 16 (b) The court may declare a mistrial under this Section
- 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 <u>course of the trial.</u>
- 20 <u>(c) The court may impose sanctions against a defendant's</u>
- 21 counsel if the court determines that the counsel made a
- 22 <u>motion under this Section other than in good faith.</u> For
- 23 <u>purposes of this subsection, a counsel's motion shall be</u>
- 24 <u>considered to be in good faith if the counsel reasonably</u>
- 25 <u>believed that the prosecutor's conduct was sufficient to</u>
- 26 warrant the court to declare a mistrial under this Section.
- 27 Section 99. Effective date. This Act takes effect upon
- 28 becoming law.