

HB2562



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2562

by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-4

from Ch. 38, par. 1005-8-4

Amends the Unified Code of Corrections. Provides that mandatory consecutive sentencing does not apply to a violation of a condition of electronic home monitoring under the Electronic Monitoring and Home Detention Law.

LRB100 09560 RLC 19726 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 Unified Code of Corrections is amended by
5 changing Section 5-8-4 as follows:

6 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

7 Sec. 5-8-4. Concurrent and consecutive terms of
8 imprisonment.

9 (a) Concurrent terms; multiple or additional sentences.
10 When an Illinois court (i) imposes multiple sentences of
11 imprisonment on a defendant at the same time or (ii) imposes a
12 sentence of imprisonment on a defendant who is already subject
13 to a sentence of imprisonment imposed by an Illinois court, a
14 court of another state, or a federal court, then the sentences
15 shall run concurrently unless otherwise determined by the
16 Illinois court under this Section.

17 (b) Concurrent terms; misdemeanor and felony. A defendant
18 serving a sentence for a misdemeanor who is convicted of a
19 felony and sentenced to imprisonment shall be transferred to
20 the Department of Corrections, and the misdemeanor sentence
21 shall be merged in and run concurrently with the felony
22 sentence.

23 (c) Consecutive terms; permissive. The court may impose

1 consecutive sentences in any of the following circumstances:

2 (1) If, having regard to the nature and circumstances
3 of the offense and the history and character of the
4 defendant, it is the opinion of the court that consecutive
5 sentences are required to protect the public from further
6 criminal conduct by the defendant, the basis for which the
7 court shall set forth in the record.

8 (2) If one of the offenses for which a defendant was
9 convicted was a violation of Section 32-5.2 (aggravated
10 false personation of a peace officer) of the Criminal Code
11 of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision
12 (b) (5) or (b) (6) of Section 17-2 of the Criminal Code of
13 1961 or the Criminal Code of 2012 (720 ILCS 5/17-2) and the
14 offense was committed in attempting or committing a
15 forcible felony.

16 (d) Consecutive terms; mandatory. The court shall impose
17 consecutive sentences in each of the following circumstances:

18 (1) One of the offenses for which the defendant was
19 convicted was first degree murder or a Class X or Class 1
20 felony and the defendant inflicted severe bodily injury.

21 (2) The defendant was convicted of a violation of
22 Section 11-1.20 or 12-13 (criminal sexual assault),
23 11-1.30 or 12-14 (aggravated criminal sexual assault), or
24 11-1.40 or 12-14.1 (predatory criminal sexual assault of a
25 child) of the Criminal Code of 1961 or the Criminal Code of
26 2012 (720 ILCS 5/11-20.1, 5/11-20.1B, 5/11-20.3,

1 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or
2 5/12-14.1).

3 (2.5) The defendant was convicted of a violation of
4 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a)
5 of Section 11-20.1 (child pornography) or of paragraph (1),
6 (2), (3), (4), (5), or (7) of subsection (a) of Section
7 11-20.1B or 11-20.3 (aggravated child pornography) of the
8 Criminal Code of 1961 or the Criminal Code of 2012; or the
9 defendant was convicted of a violation of paragraph (6) of
10 subsection (a) of Section 11-20.1 (child pornography) or of
11 paragraph (6) of subsection (a) of Section 11-20.1B or
12 11-20.3 (aggravated child pornography) of the Criminal
13 Code of 1961 or the Criminal Code of 2012, when the child
14 depicted is under the age of 13.

15 (3) The defendant was convicted of armed violence based
16 upon the predicate offense of any of the following:
17 solicitation of murder, solicitation of murder for hire,
18 heinous battery as described in Section 12-4.1 or
19 subdivision (a)(2) of Section 12-3.05, aggravated battery
20 of a senior citizen as described in Section 12-4.6 or
21 subdivision (a)(4) of Section 12-3.05, criminal sexual
22 assault, a violation of subsection (g) of Section 5 of the
23 Cannabis Control Act (720 ILCS 550/5), cannabis
24 trafficking, a violation of subsection (a) of Section 401
25 of the Illinois Controlled Substances Act (720 ILCS
26 570/401), controlled substance trafficking involving a

1 Class X felony amount of controlled substance under Section
2 401 of the Illinois Controlled Substances Act (720 ILCS
3 570/401), a violation of the Methamphetamine Control and
4 Community Protection Act (720 ILCS 646/), calculated
5 criminal drug conspiracy, or streetgang criminal drug
6 conspiracy.

7 (4) The defendant was convicted of the offense of
8 leaving the scene of a motor vehicle accident involving
9 death or personal injuries under Section 11-401 of the
10 Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)
11 aggravated driving under the influence of alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or
13 any combination thereof under Section 11-501 of the
14 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
15 homicide under Section 9-3 of the Criminal Code of 1961 or
16 the Criminal Code of 2012 (720 ILCS 5/9-3), or (C) both an
17 offense described in item (A) and an offense described in
18 item (B).

19 (5) The defendant was convicted of a violation of
20 Section 9-3.1 or Section 9-3.4 (concealment of homicidal
21 death) or Section 12-20.5 (dismembering a human body) of
22 the Criminal Code of 1961 or the Criminal Code of 2012 (720
23 ILCS 5/9-3.1 or 5/12-20.5).

24 (5.5) The defendant was convicted of a violation of
25 Section 24-3.7 (use of a stolen firearm in the commission
26 of an offense) of the Criminal Code of 1961 or the Criminal

1 Code of 2012.

2 (6) If the defendant was in the custody of the
3 Department of Corrections at the time of the commission of
4 the offense, the sentence shall be served consecutive to
5 the sentence under which the defendant is held by the
6 Department of Corrections. If, however, the defendant is
7 sentenced to punishment by death, the sentence shall be
8 executed at such time as the court may fix without regard
9 to the sentence under which the defendant may be held by
10 the Department.

11 (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)
12 for escape or attempted escape shall be served consecutive
13 to the terms under which the offender is held by the
14 Department of Corrections.

15 (8) If a person charged with a felony commits a
16 separate felony while on pretrial release or in pretrial
17 detention in a county jail facility or county detention
18 facility, then the sentences imposed upon conviction of
19 these felonies shall be served consecutively regardless of
20 the order in which the judgments of conviction are entered.
21 Mandatory consecutive sentencing under this paragraph (8)
22 does not apply to a violation of a condition of electronic
23 home monitoring under Section 5-8A-4.1 of this Code.

24 (8.5) If a person commits a battery against a county
25 correctional officer or sheriff's employee while serving a
26 sentence or in pretrial detention in a county jail

1 facility, then the sentence imposed upon conviction of the
2 battery shall be served consecutively with the sentence
3 imposed upon conviction of the earlier misdemeanor or
4 felony, regardless of the order in which the judgments of
5 conviction are entered.

6 (9) If a person admitted to bail following conviction
7 of a felony commits a separate felony while free on bond or
8 if a person detained in a county jail facility or county
9 detention facility following conviction of a felony
10 commits a separate felony while in detention, then any
11 sentence following conviction of the separate felony shall
12 be consecutive to that of the original sentence for which
13 the defendant was on bond or detained. Mandatory
14 consecutive sentencing under this paragraph (9) does not
15 apply to a violation of a condition of electronic home
16 monitoring under Section 5-8A-4.1 of this Code.

17 (10) If a person is found to be in possession of an
18 item of contraband, as defined in Section 31A-0.1 of the
19 Criminal Code of 2012, while serving a sentence in a county
20 jail or while in pre-trial detention in a county jail, the
21 sentence imposed upon conviction for the offense of
22 possessing contraband in a penal institution shall be
23 served consecutively to the sentence imposed for the
24 offense in which the person is serving sentence in the
25 county jail or serving pretrial detention, regardless of
26 the order in which the judgments of conviction are entered.

1 (11) If a person is sentenced for a violation of bail
2 bond under Section 32-10 of the Criminal Code of 1961 or
3 the Criminal Code of 2012, any sentence imposed for that
4 violation shall be served consecutive to the sentence
5 imposed for the charge for which bail had been granted and
6 with respect to which the defendant has been convicted.

7 (e) Consecutive terms; subsequent non-Illinois term. If an
8 Illinois court has imposed a sentence of imprisonment on a
9 defendant and the defendant is subsequently sentenced to a term
10 of imprisonment by a court of another state or a federal court,
11 then the Illinois sentence shall run consecutively to the
12 sentence imposed by the court of the other state or the federal
13 court. That same Illinois court, however, may order that the
14 Illinois sentence run concurrently with the sentence imposed by
15 the court of the other state or the federal court, but only if
16 the defendant applies to that same Illinois court within 30
17 days after the sentence imposed by the court of the other state
18 or the federal court is finalized.

19 (f) Consecutive terms; aggregate maximums and minimums.
20 The aggregate maximum and aggregate minimum of consecutive
21 sentences shall be determined as follows:

22 (1) For sentences imposed under law in effect prior to
23 February 1, 1978, the aggregate maximum of consecutive
24 sentences shall not exceed the maximum term authorized
25 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
26 Chapter V for the 2 most serious felonies involved. The

1 aggregate minimum period of consecutive sentences shall
2 not exceed the highest minimum term authorized under
3 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
4 V for the 2 most serious felonies involved. When sentenced
5 only for misdemeanors, a defendant shall not be
6 consecutively sentenced to more than the maximum for one
7 Class A misdemeanor.

8 (2) For sentences imposed under the law in effect on or
9 after February 1, 1978, the aggregate of consecutive
10 sentences for offenses that were committed as part of a
11 single course of conduct during which there was no
12 substantial change in the nature of the criminal objective
13 shall not exceed the sum of the maximum terms authorized
14 under Article 4.5 of Chapter V for the 2 most serious
15 felonies involved, but no such limitation shall apply for
16 offenses that were not committed as part of a single course
17 of conduct during which there was no substantial change in
18 the nature of the criminal objective. When sentenced only
19 for misdemeanors, a defendant shall not be consecutively
20 sentenced to more than the maximum for one Class A
21 misdemeanor.

22 (g) Consecutive terms; manner served. In determining the
23 manner in which consecutive sentences of imprisonment, one or
24 more of which is for a felony, will be served, the Department
25 of Corrections shall treat the defendant as though he or she
26 had been committed for a single term subject to each of the

1 following:

2 (1) The maximum period of a term of imprisonment shall
3 consist of the aggregate of the maximums of the imposed
4 indeterminate terms, if any, plus the aggregate of the
5 imposed determinate sentences for felonies, plus the
6 aggregate of the imposed determinate sentences for
7 misdemeanors, subject to subsection (f) of this Section.

8 (2) The parole or mandatory supervised release term
9 shall be as provided in paragraph (e) of Section 5-4.5-50
10 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
11 involved.

12 (3) The minimum period of imprisonment shall be the
13 aggregate of the minimum and determinate periods of
14 imprisonment imposed by the court, subject to subsection
15 (f) of this Section.

16 (4) The defendant shall be awarded credit against the
17 aggregate maximum term and the aggregate minimum term of
18 imprisonment for all time served in an institution since
19 the commission of the offense or offenses and as a
20 consequence thereof at the rate specified in Section 3-6-3
21 (730 ILCS 5/3-6-3).

22 (Source: P.A. 97-475, eff. 8-22-11; 97-1108, eff. 1-1-13;
23 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-437, eff.
24 1-1-14.)