



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB0005

Introduced 1/9/2025, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-105

Amends the Unified Code of Corrections. Provides that, on or after the effective date of the amendatory Act, when a person commits an offense and the person is under 21 years of age at the time of the commission of the offense, the court, at the sentencing hearing, shall consider certain additional factors in mitigation in determining the appropriate sentence. Provides, that notwithstanding any other provision of law, if the defendant is under 18 at the time of the commission of the offense and convicted of first degree murder and would otherwise be subject to sentencing under certain provisions, the court shall impose a sentence of not less than 40 years of imprisonment. Provides that, in addition, the court may, in its discretion, decline to impose the sentencing enhancements based upon the possession or use of a firearm during the commission of the offense.

LRB104 03393 RLC 13415 b

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 5-4.5-105 as follows:

6 (730 ILCS 5/5-4.5-105)

7 Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF
8 21 ~~18~~ AT THE TIME OF THE COMMISSION OF AN OFFENSE.

9 (a) On or after January 1, 2016 (the effective date of
10 Public Act 99-69 and before the effective date of this
11 amendatory Act of the 104th General Assembly), when a person
12 commits an offense and the person is under 18 years of age at
13 the time of the commission of the offense, the court, at the
14 sentencing hearing conducted under Section 5-4-1, shall
15 consider the following additional factors in mitigation in
16 determining the appropriate sentence:

17 (1) the person's age, impetuosity, and level of
18 maturity at the time of the offense, including the ability
19 to consider risks and consequences of behavior, and the
20 presence of cognitive or developmental disability, or
21 both, if any;

22 (2) whether the person was subjected to outside
23 pressure, including peer pressure, familial pressure, or

1 negative influences;

2 (3) the person's family, home environment, educational
3 and social background, including any history of parental
4 neglect, domestic or sexual violence, sexual exploitation,
5 physical abuse, or other childhood trauma including
6 adverse childhood experiences (or ACEs);

7 (4) the person's potential for rehabilitation or
8 evidence of rehabilitation, or both;

9 (5) the circumstances of the offense;

10 (6) the person's degree of participation and specific
11 role in the offense, including the level of planning by
12 the defendant before the offense;

13 (7) whether the person was able to meaningfully
14 participate in his or her defense;

15 (8) the person's prior juvenile or criminal history;

16 (9) the person's involvement in the child welfare
17 system;

18 (10) involvement of the person in the community;

19 (11) if a comprehensive mental health evaluation of
20 the person was conducted by a qualified mental health
21 professional, the outcome of the evaluation; and

22 (12) any other information the court finds relevant
23 and reliable, including an expression of remorse, if
24 appropriate. However, if the person, on advice of counsel
25 chooses not to make a statement, the court shall not
26 consider a lack of an expression of remorse as an

1 aggravating factor.

2 (a-5) On or after the effective date of this amendatory
3 Act of the 104th General Assembly, when a person commits an
4 offense and the person is under 21 years of age at the time of
5 the commission of the offense, the court, at the sentencing
6 hearing conducted under Section 5-4-1, shall consider the
7 following additional factors in mitigation in determining the
8 appropriate sentence:

9 (1) the person's age, impetuosity, and level of
10 maturity at the time of the offense, including the ability
11 to consider risks and consequences of behavior, and the
12 presence of cognitive or developmental disability, or
13 both, if any;

14 (2) whether the person was subjected to outside
15 pressure, including peer pressure, familial pressure, or
16 negative influences;

17 (3) the person's family, home environment, educational
18 and social background, including any history of parental
19 neglect, physical abuse, or other childhood trauma;

20 (4) the person's potential for rehabilitation or
21 evidence of rehabilitation, or both;

22 (5) the circumstances of the offense;

23 (6) the person's degree of participation and specific
24 role in the offense, including the level of planning by
25 the defendant before the offense;

26 (7) whether the person was able to meaningfully

1 participate in his or her defense;

2 (8) the person's prior juvenile or criminal history;

3 and

4 (9) any other information the court finds relevant and
5 reliable, including an expression of remorse, if
6 appropriate. However, if the person, on advice of counsel
7 chooses not to make a statement, the court shall not
8 consider a lack of an expression of remorse as an
9 aggravating factor.

10 (b) The trial judge shall specify on the record its
11 consideration of the factors under subsection (a) of this
12 Section.

13 (c) Notwithstanding any other provision of law, if the
14 court determines by clear and convincing evidence that the
15 individual against whom the person is convicted of committing
16 the offense previously committed a crime under Section 10-9,
17 Section 11-1.20, Section 11-1.30, Section 11-1.40, Section
18 11-1.50, Section 11-1.60, Section 11-6, Section 11-6.5,
19 Section 11-6.6, Section 11-9.1, Section 11-14.3, Section
20 11-14.4 or Section 11-18.1 of the Criminal Code of 2012
21 against the person within 3 years before the offense in which
22 the person was convicted, the court may, in its discretion:

23 (1) transfer the person to juvenile court for
24 sentencing under Section 5-710 of the Juvenile Court Act
25 of 1987;

26 (2) depart from any mandatory minimum sentence,

1 maximum sentence, or sentencing enhancement; or

2 (3) suspend any portion of an otherwise applicable
3 sentence.

4 (d) Subsection (c) shall be construed as prioritizing the
5 successful treatment and rehabilitation of persons under 18
6 years of age who are sex crime victims who commit acts of
7 violence against their abusers. It is the General Assembly's
8 intent that these persons be viewed as victims and provided
9 treatment and services in the community and in the juvenile or
10 family court system.

11 (e) Except as provided in subsections (f) and (g), the
12 court may sentence the defendant to any disposition authorized
13 for the class of the offense of which he or she was found
14 guilty as described in Article 4.5 of this Code, and may, in
15 its discretion, decline to impose any otherwise applicable
16 sentencing enhancement based upon firearm possession,
17 possession with personal discharge, or possession with
18 personal discharge that proximately causes great bodily harm,
19 permanent disability, permanent disfigurement, or death to
20 another person.

21 (f) Notwithstanding any other provision of law, if the
22 defendant is under 18 at the time of the commission of the
23 offense and convicted of first degree murder and would
24 otherwise be subject to sentencing under clause (iii), (iv),
25 (v), or (vii) of subparagraph (c) of paragraph (1) of
26 subsection (a) of Section 5-8-1 of this Code based on the

1 category of persons identified therein, the court shall impose
2 a sentence of not less than 40 years of imprisonment, except
3 for persons convicted of first degree murder where subsection
4 (c) applies. In addition, the court may, in its discretion,
5 decline to impose the sentencing enhancements based upon the
6 possession or use of a firearm during the commission of the
7 offense included in subsection (d) of Section 5-8-1.

8 (g) Fines and assessments, such as fees or administrative
9 costs, shall not be ordered or imposed against a minor subject
10 to this Code or against the minor's parent, guardian, or legal
11 custodian. For the purposes of this subsection (g), "minor"
12 has the meaning provided in Section 1-3 of the Juvenile Court
13 Act of 1987 and includes any minor under the age of 18
14 transferred to adult court or excluded from juvenile court
15 jurisdiction under Article V of the Juvenile Court Act of
16 1987.

17 (Source: P.A. 103-191, eff. 1-1-24; 103-379, eff. 7-28-23;
18 103-605, eff. 7-1-24.)