

HB1241



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1241

Introduced 1/28/2025, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-105

Amends the Unified Code of Corrections. Provides that, except for certain types of first degree murder, the court may, in its discretion, sentence a defendant who was under 21 years of age at the time of the commission of the offense to a sentence that is less than the applicable minimum determinate sentence of imprisonment for the offense authorized by the Code. Provides that the court, at the sentencing hearing, shall consider certain mitigating factors when a person commits an offense and the person is under 21 (rather than 18) years of age at the time of the commission of the offense. Effective immediately.

LRB104 06055 RLC 16088 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 5-4.5-105 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), when a person commits an offense and the
11 person is under 21 ~~18~~ years of age at the time of the
12 commission of the offense, the court, at the sentencing
13 hearing conducted under Section 5-4-1, shall consider the
14 following additional factors in mitigation in determining the
15 appropriate sentence:

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

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

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

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

(5) the circumstances of the offense;

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

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

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

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

(10) involvement of the person in the community;

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

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

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

(b-5) Except as provided in subsection (c), the court may, in its discretion, sentence a defendant who was under 21 years of age at the time of the commission of the offense to a sentence that is less than the applicable minimum determinate sentence of imprisonment for the offense authorized by this Code.

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

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

(2) depart from any mandatory minimum sentence, maximum sentence, or sentencing enhancement; or

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

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

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

(f) Notwithstanding any other provision of law, if the defendant is convicted of first degree murder and would otherwise be subject to sentencing under clause (iii), (iv), (v), or (vii) of subparagraph (c) of paragraph (1) of subsection (a) of Section 5-8-1 of this Code based on the category of persons identified therein, the court shall impose a sentence of not less than 40 years of imprisonment, except for persons convicted of first degree murder where subsection (c) applies. In addition, the court may, in its discretion,

1 decline to impose the sentencing enhancements based upon the
2 possession or use of a firearm during the commission of the
3 offense included in subsection (d) of Section 5-8-1.

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

13 (Source: P.A. 103-191, eff. 1-1-24; 103-379, eff. 7-28-23;
14 103-605, eff. 7-1-24.)

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