

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 adding Section 5-4.5-120 as follows:

6 (730 ILCS 5/5-4.5-120 new)

7 Sec. 5-4.5-120. SENTENCING REVIEW OF PERSONS UNDER THE AGE  
8 OF 21 AT THE TIME OF THE COMMISSION OF AN OFFENSE. A person  
9 under 21 years of age at the time of the commission of an  
10 offense or offenses, other than first degree murder, shall be  
11 eligible for sentencing review after serving 10 years or more  
12 of his or her sentence or cumulative sentences. A person under  
13 21 years of age at the time of the commission of first degree  
14 murder shall be eligible for sentencing review after serving  
15 20 years or more of his or her sentence or cumulative  
16 sentences, except for those subject to a term of natural life  
17 imprisonment under Section 5-8-1 of this Code or any person  
18 subject to sentencing under subsection (f) of Section  
19 5-4.5-105 of this Code, who shall be eligible for sentencing  
20 review after serving 30 years or more of his or her sentence or  
21 cumulative sentences. Any eligible person shall submit a  
22 petition for sentencing review in the circuit court of the  
23 county in which he or she was originally sentenced. The

1 procedure for sentencing review shall occur in the following  
2 manner:

3 (1) The chief judge of the criminal division of the  
4 circuit located in a county of 2,000,000 or more inhabitants,  
5 or in counties under 2,000,000 inhabitants, the chief judge of  
6 the circuit or a judge assigned by the chief judge, in which  
7 the petition is filed, shall assign the matter to any judge.

8 (2) Upon receipt of the petition and assignment to a  
9 judge, the judge shall determine within 30 days if the  
10 petitioner has sought filing in the appropriate court and has  
11 served the appropriate amount of time of his or her sentence as  
12 set forth in this Section. If the court determines that either  
13 of those factors are not satisfied, it shall dismiss the  
14 petition and notify the petitioner of the reason for the  
15 dismissal. This notification shall be served upon the  
16 petitioner by certified mail within 10 days of its entry. If  
17 the court determines the petition was appropriately filed, it  
18 shall docket the petition. If the petitioner is without  
19 counsel and alleges in the petition for sentencing review that  
20 he or she is without means to procure counsel, he or she shall  
21 state whether or not he or she wishes counsel to be appointed  
22 to represent him or her. If appointment of counsel is  
23 requested, the court shall appoint the Public Defender if the  
24 court is satisfied that the petitioner has no means to procure  
25 counsel. The clerk of the circuit court shall serve a copy of  
26 the petition to the State's Attorney of that county or his or

1 her representative.

2 (3) Upon receipt of the petition for sentencing review,  
3 the State's Attorney's Office shall provide notice to the  
4 victim or his or her family, or both, and notice to the victim  
5 or his or her family, or both, of any restorative justice  
6 programs or any other resources available in the State or the  
7 local area. The State's Attorney may also include, but is not  
8 limited to, providing a copy of the petition by certified mail  
9 and connection to a victim advocate. The State's Attorney  
10 shall make every effort to provide such notice and, if  
11 unsuccessful, shall notify the chief judge of the circuit  
12 court and the judge assigned to the sentencing review.

13 (4) The petitioner, if pro se, or his or her attorney may  
14 amend the petition for sentencing review.

15 (5) The State's Attorney must be afforded an opportunity  
16 to respond to the petition and the court shall provide the  
17 petitioner with the opportunity to reply.

18 (6) Within 90 days after the filing of the petition for  
19 sentencing review, the court shall set the matter for a  
20 hearing. This date may be extended by motion of either party  
21 and at the court's discretion for good cause shown.

22 (7) At the sentencing review hearing, the court shall:

23 (A) consider in mitigation the factors listed in  
24 subparagraphs (A) through (K) of paragraph (8) of this  
25 Section;

26 (B) consider any evidence, factual basis, and

1 testimony, if any, received at trial or plea agreement;

2 (C) consider any presentence reports;

3 (D) consider the financial impact of incarceration  
4 based on the financial impact statement filed with the  
5 clerk of the court by the Department of Corrections;

6 (E) consider any additional evidence and information  
7 offered by the parties in aggravation and mitigation,  
8 including, but not limited to, scientific evidence of  
9 recidivism;

10 (F) consider the person's overall record of behavior  
11 while incarcerated, including disciplinary history,  
12 participation in educational and vocational programs  
13 available to the petitioner, including but not limited to  
14 restorative justice programs, and extent of cooperation  
15 with staff;

16 (G) hear arguments as to sentencing alternatives;

17 (H) afford the petitioner the opportunity to make a  
18 statement on his or her own behalf without being subject  
19 to cross-examination; and

20 (I) afford the victim or family of the victim of the  
21 crime, or both, for which the petitioner was originally  
22 sentenced an opportunity to present an oral or written  
23 statement, as guaranteed by Article I, Section 8.1 of the  
24 Illinois Constitution and provided in Section 6 of the  
25 Rights of Crime Victims and Witnesses Act. The court shall  
26 allow a victim to make an oral statement if the victim is

1 present in the courtroom and requests to make an oral or  
2 written statement. An oral or written statement includes  
3 the victim or a representative of the victim reading the  
4 written statement. A victim and any person making an oral  
5 statement shall not be put under oath or subject to  
6 cross-examination. All statements offered under this  
7 paragraph shall become part of the record of the court.

8 (8) Following the hearing, the court may affirm or reduce  
9 the petitioner's sentence and shall be authorized to depart  
10 downward from any mandatory minimum or mandatory sentence  
11 enhancement, taking into consideration the following factors:

12 (A) the petitioner's current age, as well as the  
13 petitioner's age, impetuosity, and level of maturity at  
14 the time of the offense, including the ability to consider  
15 risks and consequences of behavior, and the presence of  
16 cognitive or developmental disability, if any;

17 (B) whether the petitioner was subjected to outside  
18 pressure, including peer pressure, familial pressure, or  
19 negative influences;

20 (C) the petitioner's family and community  
21 circumstances, home environment, educational and social  
22 background, including any history of parental neglect,  
23 physical, mental, or sexual abuse, involvement in the  
24 child welfare system, or other childhood trauma including  
25 adverse childhood experiences (or ACEs);

26 (D) the nature and circumstances of the offense;

1           (E) the petitioner's degree of participation and  
2           specific role in the offense, including the level of  
3           planning by the defendant before the offense;

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

6           (G) the petitioner's prior juvenile or criminal  
7           history;

8           (H) the history and characteristics of the petitioner  
9           at the time of the petition, including rehabilitation and  
10          maturity demonstrated by the petitioner;

11          (I) any report from a physical, mental, or psychiatric  
12          examination of the petitioner conducted by a licensed  
13          health professional;

14          (J) any changes to the law governing criminal  
15          convictions, dispositions, or length of stay since the  
16          time of sentencing; and

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

23          The order following a sentencing review hearing is a final  
24          judgment. Any final judgment entered upon the petition shall  
25          be reviewed in a manner pursuant to the rules of the Supreme  
26          Court.

1       (9) Notwithstanding any provision of this Section to the  
2 contrary, any petitioner who has petitioned the circuit court  
3 for sentencing review pursuant to this Section shall not be  
4 eligible to submit a second and final petition for sentencing  
5 review until at least 5 years have elapsed since the date on  
6 which the circuit court ruled upon the initial petition. In  
7 considering the second petition, the court shall follow the  
8 procedure stated in paragraphs (2) through (8) of this  
9 Section. Following a hearing on the second petition pursuant  
10 to this paragraph (9), the court may affirm or reduce the  
11 petitioner's sentence. The order following a hearing pursuant  
12 to this paragraph is a final judgment.

13       (10) This Section operates retroactively to provide any  
14 person incarcerated for a crime or crimes committed before the  
15 effective date of this amendatory Act of the 104th General  
16 Assembly, with the opportunity to file a motion for  
17 resentencing under this Section under the terms provided in  
18 this Section.

19       (11) Notwithstanding anything else to the contrary in this  
20 Section, nothing in this Section shall be construed to delay  
21 release consideration for petitioners who, prior to the  
22 effective date of this amendatory Act of the 104th General  
23 Assembly, are or will be eligible for release earlier than  
24 this Section provides.

25       (12) The clerk of the court shall serve copies of the  
26 petitions, any amendments to the petition and the final orders

1 to the Illinois Sentencing Policy Advisory Council. The  
2 Illinois Sentencing Policy Advisory Council shall report on  
3 the impact of resentencing motions on the prison population  
4 contingent on having sufficient reliable data to support the  
5 analysis. The report shall be due 3 years after the effective  
6 date of this amendatory Act of the 104th General Assembly.

7       Section 99. Effective date. This Act takes effect upon  
8 becoming law.