

SB2256



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2256

Introduced 2/7/2025, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-120 new

Amends the Unified Code of Corrections. Provides that any person imprisoned in the penitentiary may, after serving 10 years or more of his or her sentence or cumulative sentences, submit a petition for sentencing review in the circuit court of the county in which he or she was originally sentenced. Establishes procedures for filing petitions for sentencing review and the manner in which hearings on those petitions are held. Provides that the Illinois Sentencing Policy Advisory Council shall report on the impact of resentencing motions on the prison population contingent on having sufficient reliable data to support the analysis. Provides that the report shall be due 3 years after the effective date of the amendatory Act. Effective immediately.

LRB104 09299 RLC 22299 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 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 INCARCERATED
8 INDIVIDUALS. Any person imprisoned in the penitentiary may,
9 after serving 10 years or more of his or her sentence or
10 cumulative sentences, submit a petition for sentencing review
11 in the circuit court of the county in which he or she was
12 originally sentenced. The procedure for sentencing review
13 shall occur in the following manner:

14 (1) The chief judge of the criminal division of the
15 circuit located in a county of 2,000,000 or more inhabitants,
16 or in counties under 2,000,000 inhabitants, the chief judge of
17 the circuit or a judge assigned by the chief judge, in which
18 the petition is filed, shall assign the matter to any judge.

19 (2) Upon receipt of the petition and assignment to a
20 judge, the judge shall determine within 30 days if the
21 petitioner has sought filing in the appropriate court and has
22 served 10 or more years of his or her sentence. If the court
23 determines that either of those factors are not satisfied, it

1 shall dismiss the petition and notify the petitioner of the
2 reason for the dismissal. This notification shall be served
3 upon the petitioner by certified mail within 10 days of its
4 entry. If the court determines the petition was appropriately
5 filed, it shall docket the petition. If the petitioner is
6 without counsel and alleges in the petition for sentencing
7 review that he or she is without means to procure counsel, he
8 or she shall state whether he or she wishes counsel to be
9 appointed to represent him or her. If appointment of counsel
10 is requested, the court shall appoint the Public Defender if
11 the court is satisfied that the petitioner has no means to
12 procure counsel. The clerk of the circuit court shall serve a
13 copy of the petition to the State's Attorney of that county or
14 his or her representative.

15 (3) Upon receipt of the petition for sentencing review,
16 the State's Attorney's Office shall provide notice to the
17 victim or his or her family, or both, and notice to the victim
18 or his or her family, or both, of any restorative justice
19 programs or any other resources available in the State or the
20 local area. The State's Attorney may also include, but is not
21 limited to, providing a copy of the petition by certified mail
22 and connection to a victim advocate. The State's Attorney
23 shall make every effort to provide such notice and, if
24 unsuccessful, shall notify the chief judge of the circuit
25 court and the judge assigned to the sentencing review.

26 (4) The petitioner, if pro se, or his or her attorney may

1 amend the petition for sentencing review.

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

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

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

10 (A) consider in mitigation the factors listed in
11 subparagraphs (A) through (L) of paragraph (8) of this
12 Section;

13 (B) consider the evidence, if any, received at trial;

14 (C) consider any presentence reports;

15 (D) consider the financial impact of incarceration
16 based on the financial impact statement filed with the
17 clerk of the court by the Department of Corrections;

18 (E) consider any additional evidence and information
19 offered by the parties in aggravation and mitigation,
20 including, but not limited to, scientific evidence of
21 recidivism;

22 (F) consider the person's overall record of behavior
23 while incarcerated, including disciplinary history,
24 participation in educational and vocational programs
25 available to the petitioner, including, but not limited
26 to, restorative justice programs and extent of cooperation

1 with staff;

2 (G) hear arguments as to sentencing alternatives;

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

6 (I) afford the victim or family of the victim of the
7 crime, or both, for which the petitioner was originally
8 sentenced an opportunity to provide a victim impact
9 statement to the court. The court shall permit those
10 statements and consider the live testimony of a victim or
11 a victim representative.

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

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

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

24 (C) the petitioner's family and community
25 circumstances, home environment, educational and social
26 background, including any history of parental neglect,

1 physical, mental, or sexual abuse, involvement in the
2 child welfare system, or other childhood trauma including
3 adverse childhood experiences (or ACEs);

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

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

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

10 (G) the petitioner's prior juvenile or criminal
11 history;

12 (H) the history and characteristics of the petitioner
13 at the time of the petition, including rehabilitation and
14 maturity demonstrated by the petitioner;

15 (I) the involvement of the petitioner in the
16 community, either prior to or during the period of
17 incarceration;

18 (J) any report from a physical, mental, or psychiatric
19 examination of the petitioner conducted by a licensed
20 health professional;

21 (K) any changes to the law governing criminal
22 convictions, dispositions, or length of stay since the
23 time of sentencing; and

24 (L) any other information the court finds relevant and
25 reliable, including an expression of remorse, if
26 appropriate. However, if the person, on advice of counsel

1 chooses not to make a statement, the court shall not
2 consider a lack of an expression of remorse as an
3 aggravating factor.

4 The order following a sentencing review hearing is a final
5 judgment. Any final judgment entered upon the petition shall
6 be reviewed in a manner pursuant to the rules of the Supreme
7 Court.

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

19 (10) The petitioner may file a motion seeking leave for
20 sentencing review when 5 years have elapsed since the date on
21 which the circuit court ruled on a petition filed pursuant to
22 paragraph (9) of this Section. The motion must clearly set
23 forth the need for sentencing review, including the efforts
24 the petitioner has made towards rehabilitation and his or her
25 demonstrated maturity.

26 (A) Within 90 days after the filing of this motion,

1 the court shall examine the motion and enter an order on
2 the motion. In considering a motion under this paragraph,
3 the court may examine the court file of the proceeding in
4 which the petitioner was convicted, any action taken by an
5 appellate court in that proceeding, any transcripts of
6 that proceeding, and any transcript or court documents
7 from previous proceedings under this Section. If the court
8 determines the motion is frivolous or is patently without
9 merit, it shall deny the motion in a written order,
10 specifying the underlying basis for its decision that
11 continued incarceration is appropriate and necessary. The
12 order is a final judgment and shall be served upon the
13 petitioner by certified mail within 10 days of its entry.

14 (B) If the petition is not dismissed under
15 subparagraph (A), the court shall order the motion for
16 sentencing review to be docketed for further consideration
17 in accordance with the procedure stated in paragraphs (2)
18 through (8) of this Section.

19 (11) This Section shall operate retroactively to provide
20 any person incarcerated for a crime or crimes committed,
21 before the effective date of this amendatory Act of the 104th
22 General Assembly, with the opportunity to file a motion for
23 resentencing under this Section under the terms provided in
24 this Section.

25 (12) Notwithstanding anything else to the contrary in this
26 Section, nothing in this Section shall be construed to delay

1 parole or mandatory supervised release consideration for
2 petitioners who, prior to the effective date of this
3 amendatory Act of the 104th General Assembly, are or will be
4 eligible for release earlier than this Section provides.

5 (13) The clerk of the court shall serve copies of the
6 petitions, any amendments to the petition and the final orders
7 to the Illinois Sentencing Policy Advisory Council. The
8 Illinois Sentencing Policy Advisory Council shall report on
9 the impact of resentencing motions on the prison population
10 contingent on having sufficient reliable data to support the
11 analysis. The report shall be due 3 years after the effective
12 date of this amendatory Act of the 104th General Assembly.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.