

HB3589



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3589

Introduced 2/22/2021, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1
720 ILCS 5/8-4

from Ch. 38, par. 1005-8-1
from Ch. 38, par. 8-4

Amends the Unified Code of Corrections. Provides that specified firearm sentencing enhancements are discretionary.

LRB102 14950 KMF 20305 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 5-8-1 as follows:

6 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

7 Sec. 5-8-1. Natural life imprisonment; enhancements for
8 use of a firearm; mandatory supervised release terms.

9 (a) Except as otherwise provided in the statute defining
10 the offense or in Article 4.5 of Chapter V, a sentence of
11 imprisonment for a felony shall be a determinate sentence set
12 by the court under this Section, subject to Section 5-4.5-115
13 of this Code, according to the following limitations:

14 (1) for first degree murder,

15 (a) (blank),

16 (b) if a trier of fact finds beyond a reasonable
17 doubt that the murder was accompanied by exceptionally
18 brutal or heinous behavior indicative of wanton
19 cruelty or, except as set forth in subsection
20 (a) (1) (c) of this Section, that any of the aggravating
21 factors listed in subsection (b) or (b-5) of Section
22 9-1 of the Criminal Code of 1961 or the Criminal Code
23 of 2012 are present, the court may sentence the

1 defendant, subject to Section 5-4.5-105, to a term of
2 natural life imprisonment, or

3 (c) the court shall sentence the defendant to a
4 term of natural life imprisonment if the defendant, at
5 the time of the commission of the murder, had attained
6 the age of 18, and

7 (i) has previously been convicted of first
8 degree murder under any state or federal law, or

9 (ii) is found guilty of murdering more than
10 one victim, or

11 (iii) is found guilty of murdering a peace
12 officer, fireman, or emergency management worker
13 when the peace officer, fireman, or emergency
14 management worker was killed in the course of
15 performing his official duties, or to prevent the
16 peace officer or fireman from performing his
17 official duties, or in retaliation for the peace
18 officer, fireman, or emergency management worker
19 from performing his official duties, and the
20 defendant knew or should have known that the
21 murdered individual was a peace officer, fireman,
22 or emergency management worker, or

23 (iv) is found guilty of murdering an employee
24 of an institution or facility of the Department of
25 Corrections, or any similar local correctional
26 agency, when the employee was killed in the course

1 of performing his official duties, or to prevent
2 the employee from performing his official duties,
3 or in retaliation for the employee performing his
4 official duties, or

5 (v) is found guilty of murdering an emergency
6 medical technician - ambulance, emergency medical
7 technician - intermediate, emergency medical
8 technician - paramedic, ambulance driver or other
9 medical assistance or first aid person while
10 employed by a municipality or other governmental
11 unit when the person was killed in the course of
12 performing official duties or to prevent the
13 person from performing official duties or in
14 retaliation for performing official duties and the
15 defendant knew or should have known that the
16 murdered individual was an emergency medical
17 technician - ambulance, emergency medical
18 technician - intermediate, emergency medical
19 technician - paramedic, ambulance driver, or other
20 medical assistant or first aid personnel, or

21 (vi) (blank), or

22 (vii) is found guilty of first degree murder
23 and the murder was committed by reason of any
24 person's activity as a community policing
25 volunteer or to prevent any person from engaging
26 in activity as a community policing volunteer. For

1 the purpose of this Section, "community policing
2 volunteer" has the meaning ascribed to it in
3 Section 2-3.5 of the Criminal Code of 2012.

4 For purposes of clause (v), "emergency medical
5 technician - ambulance", "emergency medical technician
6 - intermediate", "emergency medical technician -
7 paramedic", have the meanings ascribed to them in the
8 Emergency Medical Services (EMS) Systems Act.

9 (d) (i) if the person committed the offense while
10 armed with a firearm, 15 years may ~~shall~~ be added
11 to the term of imprisonment imposed by the court;

12 (ii) if, during the commission of the offense, the
13 person personally discharged a firearm, 20 years may
14 ~~shall~~ be added to the term of imprisonment imposed by
15 the court;

16 (iii) if, during the commission of the offense,
17 the person personally discharged a firearm that
18 proximately caused great bodily harm, permanent
19 disability, permanent disfigurement, or death to
20 another person, 25 years or up to a term of natural
21 life may ~~shall~~ be added to the term of imprisonment
22 imposed by the court.

23 (2) (blank);

24 (2.5) for a person who has attained the age of 18 years
25 at the time of the commission of the offense and who is
26 convicted under the circumstances described in subdivision

1 (b) (1) (B) of Section 11-1.20 or paragraph (3) of
2 subsection (b) of Section 12-13, subdivision (d) (2) of
3 Section 11-1.30 or paragraph (2) of subsection (d) of
4 Section 12-14, subdivision (b) (1.2) of Section 11-1.40 or
5 paragraph (1.2) of subsection (b) of Section 12-14.1,
6 subdivision (b) (2) of Section 11-1.40 or paragraph (2) of
7 subsection (b) of Section 12-14.1 of the Criminal Code of
8 1961 or the Criminal Code of 2012, the sentence shall be a
9 term of natural life imprisonment.

10 (b) (Blank).

11 (c) (Blank).

12 (d) Subject to earlier termination under Section 3-3-8,
13 the parole or mandatory supervised release term shall be
14 written as part of the sentencing order and shall be as
15 follows:

16 (1) for first degree murder or a Class X felony except
17 for the offenses of predatory criminal sexual assault of a
18 child, aggravated criminal sexual assault, and criminal
19 sexual assault if committed on or after the effective date
20 of this amendatory Act of the 94th General Assembly and
21 except for the offense of aggravated child pornography
22 under Section 11-20.1B, 11-20.3, or 11-20.1 with
23 sentencing under subsection (c-5) of Section 11-20.1 of
24 the Criminal Code of 1961 or the Criminal Code of 2012, if
25 committed on or after January 1, 2009, 3 years;

26 (2) for a Class 1 felony or a Class 2 felony except for

1 the offense of criminal sexual assault if committed on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly and except for the offenses of
4 manufacture and dissemination of child pornography under
5 clauses (a)(1) and (a)(2) of Section 11-20.1 of the
6 Criminal Code of 1961 or the Criminal Code of 2012, if
7 committed on or after January 1, 2009, 2 years;

8 (3) for a Class 3 felony or a Class 4 felony, 1 year;

9 (4) for defendants who commit the offense of predatory
10 criminal sexual assault of a child, aggravated criminal
11 sexual assault, or criminal sexual assault, on or after
12 the effective date of this amendatory Act of the 94th
13 General Assembly, or who commit the offense of aggravated
14 child pornography under Section 11-20.1B, 11-20.3, or
15 11-20.1 with sentencing under subsection (c-5) of Section
16 11-20.1 of the Criminal Code of 1961 or the Criminal Code
17 of 2012, manufacture of child pornography, or
18 dissemination of child pornography after January 1, 2009,
19 the term of mandatory supervised release shall range from
20 a minimum of 3 years to a maximum of the natural life of
21 the defendant;

22 (5) if the victim is under 18 years of age, for a
23 second or subsequent offense of aggravated criminal sexual
24 abuse or felony criminal sexual abuse, 4 years, at least
25 the first 2 years of which the defendant shall serve in an
26 electronic monitoring or home detention program under

1 Article 8A of Chapter V of this Code;

2 (6) for a felony domestic battery, aggravated domestic
3 battery, stalking, aggravated stalking, and a felony
4 violation of an order of protection, 4 years.

5 (e) (Blank).

6 (f) (Blank).

7 (Source: P.A. 100-431, eff. 8-25-17; 100-1182, eff. 6-1-19;
8 101-288, eff. 1-1-20.)

9 Section 10. The Criminal Code of 2012 is amended by
10 changing Section 8-4 as follows:

11 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)

12 Sec. 8-4. Attempt.

13 (a) Elements of the offense.

14 A person commits the offense of attempt when, with intent
15 to commit a specific offense, he or she does any act that
16 constitutes a substantial step toward the commission of that
17 offense.

18 (b) Impossibility.

19 It is not a defense to a charge of attempt that because of
20 a misapprehension of the circumstances it would have been
21 impossible for the accused to commit the offense attempted.

22 (c) Sentence.

23 A person convicted of attempt may be fined or imprisoned
24 or both not to exceed the maximum provided for the offense

1 attempted but, except for an attempt to commit the offense
2 defined in Section 33A-2 of this Code:

3 (1) the sentence for attempt to commit first degree
4 murder is the sentence for a Class X felony, except that

5 (A) an attempt to commit first degree murder when
6 at least one of the aggravating factors specified in
7 paragraphs (1), (2), and (12) of subsection (b) of
8 Section 9-1 is present is a Class X felony for which
9 the sentence shall be a term of imprisonment of not
10 less than 20 years and not more than 80 years;

11 (B) an attempt to commit first degree murder while
12 armed with a firearm is a Class X felony for which 15
13 years may ~~shall~~ be added to the term of imprisonment
14 imposed by the court;

15 (C) an attempt to commit first degree murder
16 during which the person personally discharged a
17 firearm is a Class X felony for which 20 years may
18 ~~shall~~ be added to the term of imprisonment imposed by
19 the court;

20 (D) an attempt to commit first degree murder
21 during which the person personally discharged a
22 firearm that proximately caused great bodily harm,
23 permanent disability, permanent disfigurement, or
24 death to another person is a Class X felony for which
25 25 years or up to a term of natural life may ~~shall~~ be
26 added to the term of imprisonment imposed by the

1 court; and

2 (E) if the defendant proves by a preponderance of
3 the evidence at sentencing that, at the time of the
4 attempted murder, he or she was acting under a sudden
5 and intense passion resulting from serious provocation
6 by the individual whom the defendant endeavored to
7 kill, or another, and, had the individual the
8 defendant endeavored to kill died, the defendant would
9 have negligently or accidentally caused that death,
10 then the sentence for the attempted murder is the
11 sentence for a Class 1 felony;

12 (2) the sentence for attempt to commit a Class X
13 felony is the sentence for a Class 1 felony;

14 (3) the sentence for attempt to commit a Class 1
15 felony is the sentence for a Class 2 felony;

16 (4) the sentence for attempt to commit a Class 2
17 felony is the sentence for a Class 3 felony; and

18 (5) the sentence for attempt to commit any felony
19 other than those specified in items (1), (2), (3), and (4)
20 of this subsection (c) is the sentence for a Class A
21 misdemeanor.

22 (Source: P.A. 96-710, eff. 1-1-10.)