

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) ~~this amendatory Act of the 99th General~~
11 ~~Assembly~~ and before the effective date of this amendatory Act
12 of the 103rd General Assembly, when a person commits an
13 offense and the person is under 18 years of age at the time of
14 the commission of the offense, the court, at the sentencing
15 hearing conducted under Section 5-4-1, shall consider the
16 following additional factors in mitigation in determining the
17 appropriate sentence:

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

23 (2) whether the person was subjected to outside

1 pressure, including peer pressure, familial pressure, or
2 negative influences;

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

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

8 (5) the circumstances of the offense;

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

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

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

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

22 (a-5) On or after the effective date of this amendatory
23 Act of the 103rd General Assembly, when a person commits an
24 offense and the person is under 21 years of age at the time of
25 the commission of the offense, the court, at the sentencing
26 hearing conducted under Section 5-4-1, shall consider the

1 following additional factors in mitigation in determining the
2 appropriate sentence:

3 (1) the person's age, impetuosity, and level of
4 maturity at the time of the offense, including the ability
5 to consider risks and consequences of behavior, and the
6 presence of cognitive or developmental disability, or
7 both, if any;

8 (2) whether the person was subjected to outside
9 pressure, including peer pressure, familial pressure, or
10 negative influences;

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

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

16 (5) the circumstances of the offense;

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

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

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

24 (9) 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 (b) Except as provided in subsection (c), the court may
5 sentence the defendant to any disposition authorized for the
6 class of the offense of which he or she was found guilty as
7 described in Article 4.5 of this Code, and may, in its
8 discretion, decline to impose any otherwise applicable
9 sentencing enhancement based upon firearm possession,
10 possession with personal discharge, or possession with
11 personal discharge that proximately causes great bodily harm,
12 permanent disability, permanent disfigurement, or death to
13 another person.

14 (c) Notwithstanding any other provision of law, if the
15 defendant is under 18 at the time of the commission of the
16 offense and convicted of first degree murder and would
17 otherwise be subject to sentencing under clause (iii), (iv),
18 (v), or (vii) of subparagraph (c) of paragraph (1) of
19 subsection (a) of Section 5-8-1 of this Code based on the
20 category of persons identified therein, the court shall impose
21 a sentence of not less than 40 years of imprisonment. In
22 addition, the court may, in its discretion, decline to impose
23 the sentencing enhancements based upon the possession or use
24 of a firearm during the commission of the offense included in
25 subsection (d) of Section 5-8-1.

26 (Source: P.A. 99-69, eff. 1-1-16; 99-258, eff. 1-1-16; 99-875,

1 eff. 1-1-17.)