



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3400

Introduced 2/8/2024, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

720 ILCS 5/5-2

from Ch. 38, par. 5-2

730 ILCS 5/5-4.5-120 new

Amends the Criminal Code of 2012 and the Unified Code of Corrections. Provides that a person found legally accountable for the conduct of another and convicted of an offense based on a determination that the person is responsible for conduct which is an element of that offense and the conduct was not that of the person legally accountable and was not done at the express direction of the person legally accountable, shall be sentenced under specified provisions of the General Sentencing Provision Article of the Unified Code of Corrections. Provides that no separate sentence shall be imposed for the offense if the conduct of another person satisfied an element of the offense for which the individual has been found guilty. Effective immediately.

LRB103 37467 RLC 67590 b

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 Criminal Code of 2012 is amended by
5 changing Section 5-2 as follows:

6 (720 ILCS 5/5-2) (from Ch. 38, par. 5-2)

7 Sec. 5-2. When accountability exists.

8 (A) A person is legally accountable for the conduct of
9 another when:

10 (a) having a mental state described by the statute
11 defining the offense, he or she causes another to perform
12 the conduct, and the other person in fact or by reason of
13 legal incapacity lacks such a mental state;

14 (b) the statute defining the offense makes him or her
15 so accountable; or

16 (c) either before or during the commission of an
17 offense, and with the specific intent to promote or
18 facilitate that commission, he or she solicits, aids,
19 abets, agrees, or attempts to aid that other person in the
20 planning or commission of the offense.

21 When 2 or more persons engage in a common criminal design
22 or agreement, any acts in the furtherance of that common
23 design committed by one party are considered to be the acts of

1 all parties to the common design or agreement and all are
2 ~~equally~~ responsible for the consequences of those further
3 acts. Mere presence at the scene of a crime does not render a
4 person accountable for an offense; a person's presence at the
5 scene of a crime, however, may be considered with other
6 circumstances by the trier of fact when determining
7 accountability.

8 A person is not so accountable, however, unless the
9 statute defining the offense provides otherwise, if:

10 (1) he or she is a victim of the offense committed;

11 (2) the offense is so defined that his or her conduct
12 was inevitably incident to its commission; or

13 (3) before the commission of the offense, he or she
14 terminates his or her effort to promote or facilitate that
15 commission and does one of the following: (i) wholly
16 deprives his or her prior efforts of effectiveness in that
17 commission, (ii) gives timely warning to the proper law
18 enforcement authorities, or (iii) otherwise makes proper
19 effort to prevent the commission of the offense.

20 (B) A person found legally accountable for the conduct of
21 another under paragraph (c) of subsection (A) and convicted of
22 an offense based on a determination that the person is
23 responsible for conduct which is an element of that offense
24 and the conduct was not that of the person legally accountable
25 and was not done at the express direction of the person legally
26 accountable, shall be sentenced under Section 5-4.5-120 of the

1 Unified Code of Corrections.

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

3 Section 10. The Unified Code of Corrections is amended by
4 adding Section 5-4.5-120 as follows:

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

6 Sec. 5-4.5-120. SENTENCING OF INDIVIDUALS ACCOUNTABLE FOR
7 THE CONDUCT OF ANOTHER. A person convicted under an
8 accountability theory as set forth in subsection (B) of
9 Section 5-2 of the Criminal Code of 2012 shall be sentenced
10 under this Section. No separate sentence shall be imposed for
11 the offense where the conduct of another person satisfied an
12 element of the offense for which the individual has been found
13 guilty.

14 (1) A person accountable for the conduct of another
15 convicted of first degree murder shall be sentenced to
16 imprisonment for a determinate term, subject to Section
17 5-4.5-115, of no more than 30 years. The sentence of
18 imprisonment for an extended term for first degree murder for
19 a person accountable for the conduct of another as provided in
20 Section 5-8-2, subject to Section 5-4.5-115, shall be no more
21 than 50 years. Except as provided in Section 3-3-8, the parole
22 or mandatory supervised release term shall be 2 years upon
23 release from imprisonment.

24 (2) A person accountable for the conduct of another

1 convicted of a Class X felony shall be sentenced to
2 imprisonment for a determinate term, subject to Section
3 5-4.5-115, of no more than 15 years. The sentence of
4 imprisonment for an extended term for a Class X felony for a
5 person accountable for the conduct of another, as provided in
6 Section 5-8-2, subject to Section 5-4.5-115, shall be no more
7 than 30 years. Except as provided in Section 3-3-8 or 5-8-1,
8 the parole or mandatory supervised release term shall be 2
9 years upon release from imprisonment.

10 (3) A person accountable for the conduct of another
11 convicted of a Class 1 felony, other than for second degree
12 murder, shall be sentenced for a determinate term, subject to
13 Section 5-4.5-115, of no more than 7 years. The sentence of
14 imprisonment for a person accountable for the conduct of
15 another convicted of second degree murder, shall be a
16 determinate term of no more than 10 years, subject to Section
17 5-4.5-115. The sentence of imprisonment for an extended term
18 for a Class 1 felony for a person accountable for the conduct
19 of another, as provided in Section 5-8-2, subject to Section
20 5-4.5-115, shall be no more than 15 years. Except as provided
21 in Section 3-3-8 or 5-8-1, the parole or mandatory supervised
22 release term shall be one year upon release from imprisonment.

23 (4) A person accountable for the conduct of another
24 convicted of a Class 2 felony shall be sentenced to a
25 determinate term of no more than 3 years. The sentence of
26 imprisonment for an extended term for a Class 2 felony for a

1 person accountable for the conduct of another, as provided in
2 Section 5-8-2, shall be no more than 7 years. Except as
3 provided in Section 3-3-8 or 5-8-1, the parole or mandatory
4 supervised release term shall be 1 year upon release from
5 imprisonment.

6 (5) A person accountable for the conduct of another
7 convicted of a Class 3 felony shall be sentenced to a
8 determinate term of no more than 2 years. The sentence of
9 imprisonment for an extended term for a Class 3 felony for a
10 person accountable for the conduct of another, as provided in
11 Section 5-8-2, shall be no more than 5 years. Except as
12 provided in Section 3-3-8 or 5-8-1, the parole or mandatory
13 supervised release term shall be 6 months upon release from
14 imprisonment.

15 (6) The sentence for a person accountable for the conduct
16 of another convicted of a felony other than those specified in
17 paragraphs (1), (2), (3), (4), and (5) is the sentence for a
18 Class A misdemeanor. A misdemeanant may be fined or imprisoned
19 or both.

20 (7) Except as otherwise provided in Section 5-5-3 or
21 5-7-1, a term of periodic imprisonment shall not be imposed
22 for a person accountable for the conduct of another convicted
23 of first degree murder; a sentence of periodic imprisonment
24 shall be for a definite term of 3 to 4 years for a Class X
25 felony under this Section; a sentence of periodic imprisonment
26 shall be for a definite term of 18 to 30 months for a Class 1

1 felony under this Section; a sentence of periodic imprisonment
2 shall be for a definite term of up to 18 months for a Class 2
3 felony under this Section; a sentence of periodic imprisonment
4 shall be for a definite term of up to 12 months for a Class 3
5 felony under this Section; and a sentence of periodic
6 imprisonment shall be for a definite term of up to 9 months for
7 any other felony not otherwise specified in this Section.

8 (8) The impact incarceration program or the county impact
9 incarceration program is not an authorized disposition for a
10 person accountable for the conduct of another convicted of
11 first degree murder under this Section. Sections 5-8-1.1 and
12 5-8-1.2 apply to eligibility for the impact incarceration
13 program or the county impact incarceration program for all
14 other felony classes under this Section.

15 (9) A period of probation or conditional discharge shall
16 not be imposed for a person accountable for the conduct of
17 another convicted of first degree murder under this section.
18 Except as provided in Section 5-5-3 or 5-6-2, the period of
19 probation or conditional discharge shall not exceed:

20 (A) 4 years for a person accountable for the conduct
21 of another convicted of a Class X felony. In no case shall
22 an offender be eligible for a disposition of probation or
23 conditional discharge for a Class X felony committed while
24 he or she was serving a term of probation or conditional
25 discharge for a felony;

26 (B) 3 years for a person accountable for the conduct

1 of another convicted of a Class 1 felony under this
2 Section;

3 (C) 30 months for a person accountable for the conduct
4 of another convicted of a Class 2 felony under this
5 Section;

6 (D) 24 months for a person accountable for the conduct
7 of another convicted of a Class 3 felony under this
8 Section; and

9 (E) 18 months for a person accountable for the conduct
10 of another convicted of a felony other than those
11 specified in this paragraph (9).

12 The court shall specify the conditions of probation or
13 conditional discharge as set forth in Section 5-6-3.

14 (10) Fines may be imposed as provided in Section 5-4.5-50.

15 (11) Restitution for individuals accountable for the
16 conduct of another may be imposed as provided in Section
17 5-5-6.

18 (12) The sentence shall be concurrent or consecutive as
19 provided in Section 5-8-4 and Section 5-4.5-50.

20 (13) Section 20 of the Drug Court Treatment Act applies to
21 eligibility for a drug court program by a person accountable
22 for the conduct of another.

23 (14) Section 5-4.5-100 applies to credit for time spent in
24 home detention prior to judgment of conviction for a person
25 accountable for the conduct of another.

26 (15) Section 3-6-3 or the County Jail Good Behavior

1 Allowance Act applies to rules and regulations for sentence
2 credit of a person accountable for the conduct of another.

3 (16) Section 5-8A-3 applies to the eligibility of a person
4 accountable for the conduct of another for electronic
5 monitoring and home detention.

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