



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by James H. Meyer

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

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

Amends the Unified Code of Corrections. Requires the court to impose a sentence of natural life imprisonment if the defendant is convicted of first degree murder and has previously been convicted of domestic battery or aggravated domestic battery committed against the murdered individual or has previously been convicted of violation of an order of protection in which the murdered individual was the protected person.

LRB093 19119 RLC 44854 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT in relation to 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. Sentence of Imprisonment for Felony.

8 (a) Except as otherwise provided in the statute defining
9 the offense, a sentence of imprisonment for a felony shall be a
10 determinate sentence set by the court under this Section,
11 according to the following limitations:

12 (1) for first degree murder,

13 (a) a term shall be not less than 20 years and not
14 more than 60 years, or

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

23 (c) the court shall sentence the defendant to a
24 term of natural life imprisonment when the death
25 penalty is not imposed if the defendant,

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

28 (ii) is a person who, at the time of the
29 commission of the murder, had attained the age of
30 17 or more and is found guilty of murdering an
31 individual under 12 years of age; or, irrespective
32 of the defendant's age at the time of the

1 commission of the offense, is found guilty of
2 murdering more than one victim, or

3 (iii) is found guilty of murdering a peace
4 officer or fireman when the peace officer or
5 fireman was killed in the course of performing his
6 official duties, or to prevent the peace officer or
7 fireman from performing his official duties, or in
8 retaliation for the peace officer or fireman
9 performing his official duties, and the defendant
10 knew or should have known that the murdered
11 individual was a peace officer or fireman, or

12 (iv) is found guilty of murdering an employee
13 of an institution or facility of the Department of
14 Corrections, or any similar local correctional
15 agency, when the employee was killed in the course
16 of performing his official duties, or to prevent
17 the employee from performing his official duties,
18 or in retaliation for the employee performing his
19 official duties, or

20 (v) is found guilty of murdering an emergency
21 medical technician - ambulance, emergency medical
22 technician - intermediate, emergency medical
23 technician - paramedic, ambulance driver or other
24 medical assistance or first aid person while
25 employed by a municipality or other governmental
26 unit when the person was killed in the course of
27 performing official duties or to prevent the
28 person from performing official duties or in
29 retaliation for performing official duties and the
30 defendant knew or should have known that the
31 murdered individual was an emergency medical
32 technician - ambulance, emergency medical
33 technician - intermediate, emergency medical
34 technician - paramedic, ambulance driver, or other
35 medical assistant or first aid personnel, or

36 (vi) is a person who, at the time of the

1 commission of the murder, had not attained the age
2 of 17, and is found guilty of murdering a person
3 under 12 years of age and the murder is committed
4 during the course of aggravated criminal sexual
5 assault, criminal sexual assault, or aggravated
6 kidnaping, or

7 (vii) is found guilty of first degree murder
8 and the murder was committed by reason of any
9 person's activity as a community policing
10 volunteer or to prevent any person from engaging in
11 activity as a community policing volunteer. For
12 the purpose of this Section, "community policing
13 volunteer" has the meaning ascribed to it in
14 Section 2-3.5 of the Criminal Code of 1961, or-

15 (viii) is convicted of first degree murder and
16 the defendant has previously been convicted of
17 domestic battery or aggravated domestic battery
18 committed against the murdered individual or has
19 previously been convicted of violation of an order
20 of protection in which the murdered individual was
21 the protected person.

22 For purposes of clause (v), "emergency medical
23 technician - ambulance", "emergency medical technician
24 - intermediate", "emergency medical technician -
25 paramedic", have the meanings ascribed to them in the
26 Emergency Medical Services (EMS) Systems Act.

27 (d) (i) if the person committed the offense while
28 armed with a firearm, 15 years shall be added to
29 the term of imprisonment imposed by the court;

30 (ii) if, during the commission of the offense,
31 the person personally discharged a firearm, 20
32 years shall be added to the term of imprisonment
33 imposed by the court;

34 (iii) if, during the commission of the
35 offense, the person personally discharged a
36 firearm that proximately caused great bodily harm,

1 permanent disability, permanent disfigurement, or
2 death to another person, 25 years or up to a term
3 of natural life shall be added to the term of
4 imprisonment imposed by the court.

5 (1.5) for second degree murder, a term shall be not
6 less than 4 years and not more than 20 years;

7 (2) for a person adjudged a habitual criminal under
8 Article 33B of the Criminal Code of 1961, as amended, the
9 sentence shall be a term of natural life imprisonment;

10 (2.5) for a person convicted under the circumstances
11 described in paragraph (3) of subsection (b) of Section
12 12-13, paragraph (2) of subsection (d) of Section 12-14,
13 paragraph (1.2) of subsection (b) of Section 12-14.1, or
14 paragraph (2) of subsection (b) of Section 12-14.1 of the
15 Criminal Code of 1961, the sentence shall be a term of
16 natural life imprisonment;

17 (3) except as otherwise provided in the statute
18 defining the offense, for a Class X felony, the sentence
19 shall be not less than 6 years and not more than 30 years;

20 (4) for a Class 1 felony, other than second degree
21 murder, the sentence shall be not less than 4 years and not
22 more than 15 years;

23 (5) for a Class 2 felony, the sentence shall be not
24 less than 3 years and not more than 7 years;

25 (6) for a Class 3 felony, the sentence shall be not
26 less than 2 years and not more than 5 years;

27 (7) for a Class 4 felony, the sentence shall be not
28 less than 1 year and not more than 3 years.

29 (b) The sentencing judge in each felony conviction shall
30 set forth his reasons for imposing the particular sentence he
31 enters in the case, as provided in Section 5-4-1 of this Code.
32 Those reasons may include any mitigating or aggravating factors
33 specified in this Code, or the lack of any such circumstances,
34 as well as any other such factors as the judge shall set forth
35 on the record that are consistent with the purposes and
36 principles of sentencing set out in this Code.

1 (c) A motion to reduce a sentence may be made, or the court
2 may reduce a sentence without motion, within 30 days after the
3 sentence is imposed. A defendant's challenge to the correctness
4 of a sentence or to any aspect of the sentencing hearing shall
5 be made by a written motion filed within 30 days following the
6 imposition of sentence. However, the court may not increase a
7 sentence once it is imposed.

8 If a motion filed pursuant to this subsection is timely
9 filed within 30 days after the sentence is imposed, the
10 proponent of the motion shall exercise due diligence in seeking
11 a determination on the motion and the court shall thereafter
12 decide such motion within a reasonable time.

13 If a motion filed pursuant to this subsection is timely
14 filed within 30 days after the sentence is imposed, then for
15 purposes of perfecting an appeal, a final judgment shall not be
16 considered to have been entered until the motion to reduce a
17 sentence has been decided by order entered by the trial court.

18 A motion filed pursuant to this subsection shall not be
19 considered to have been timely filed unless it is filed with
20 the circuit court clerk within 30 days after the sentence is
21 imposed together with a notice of motion, which notice of
22 motion shall set the motion on the court's calendar on a date
23 certain within a reasonable time after the date of filing.

24 (d) Except where a term of natural life is imposed, every
25 sentence shall include as though written therein a term in
26 addition to the term of imprisonment. For those sentenced under
27 the law in effect prior to February 1, 1978, such term shall be
28 identified as a parole term. For those sentenced on or after
29 February 1, 1978, such term shall be identified as a mandatory
30 supervised release term. Subject to earlier termination under
31 Section 3-3-8, the parole or mandatory supervised release term
32 shall be as follows:

33 (1) for first degree murder or a Class X felony, 3
34 years;

35 (2) for a Class 1 felony or a Class 2 felony, 2 years;

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

1 (4) if the victim is under 18 years of age, for a
2 second or subsequent offense of criminal sexual assault or
3 aggravated criminal sexual assault, 5 years, at least the
4 first 2 years of which the defendant shall serve in an
5 electronic home detention program under Article 8A of
6 Chapter V of this Code;

7 (5) if the victim is under 18 years of age, for a
8 second or subsequent offense of aggravated criminal sexual
9 abuse or felony criminal sexual abuse, 4 years, at least
10 the first 2 years of which the defendant shall serve in an
11 electronic home detention program under Article 8A of
12 Chapter V of this Code.

13 (e) A defendant who has a previous and unexpired sentence
14 of imprisonment imposed by another state or by any district
15 court of the United States and who, after sentence for a crime
16 in Illinois, must return to serve the unexpired prior sentence
17 may have his sentence by the Illinois court ordered to be
18 concurrent with the prior sentence in the other state. The
19 court may order that any time served on the unexpired portion
20 of the sentence in the other state, prior to his return to
21 Illinois, shall be credited on his Illinois sentence. The other
22 state shall be furnished with a copy of the order imposing
23 sentence which shall provide that, when the offender is
24 released from confinement of the other state, whether by parole
25 or by termination of sentence, the offender shall be
26 transferred by the Sheriff of the committing county to the
27 Illinois Department of Corrections. The court shall cause the
28 Department of Corrections to be notified of such sentence at
29 the time of commitment and to be provided with copies of all
30 records regarding the sentence.

31 (f) A defendant who has a previous and unexpired sentence
32 of imprisonment imposed by an Illinois circuit court for a
33 crime in this State and who is subsequently sentenced to a term
34 of imprisonment by another state or by any district court of
35 the United States and who has served a term of imprisonment
36 imposed by the other state or district court of the United

1 States, and must return to serve the unexpired prior sentence
2 imposed by the Illinois Circuit Court may apply to the court
3 which imposed sentence to have his sentence reduced.

4 The circuit court may order that any time served on the
5 sentence imposed by the other state or district court of the
6 United States be credited on his Illinois sentence. Such
7 application for reduction of a sentence under this subsection
8 (f) shall be made within 30 days after the defendant has
9 completed the sentence imposed by the other state or district
10 court of the United States.

11 (Source: P.A. 91-279, eff. 1-1-00; 91-404, eff. 1-1-00; 91-953,
12 eff. 2-23-01; 92-16, eff. 6-28-01.)