



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4306

by Rep. Harry R. Ramey, Jr.

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-13

from Ch. 38, par. 12-13

730 ILCS 5/5-8-1

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

Amends the Criminal Code of 1961 relating to criminal sexual assault. Provides that the maximum penalty for a second or subsequent offense of criminal sexual assault is natural life imprisonment. Amends the Unified Code of Corrections. Provides that the minimum mandatory supervised release term for defendants who commit a second or subsequent offense of criminal sexual assault on or after the effective date of this amendatory Act shall be the natural life of the defendant (rather than from 3 years to natural life).

LRB095 16654 RLC 42685 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Criminal Code of 1961 is amended by changing
5 Section 12-13 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 (Text of Section after amendment by P.A. 95-640)

8 Sec. 12-13. Criminal Sexual Assault.

9 (a) The accused commits criminal sexual assault if he or
10 she:

11 (1) commits an act of sexual penetration by the use of
12 force or threat of force; or

13 (2) commits an act of sexual penetration and the
14 accused knew that the victim was unable to understand the
15 nature of the act or was unable to give knowing consent; or

16 (3) commits an act of sexual penetration with a victim
17 who was under 18 years of age when the act was committed
18 and the accused was a family member; or

19 (4) commits an act of sexual penetration with a victim
20 who was at least 13 years of age but under 18 years of age
21 when the act was committed and the accused was 17 years of
22 age or over and held a position of trust, authority or
23 supervision in relation to the victim.

1 (b) Sentence.

2 (1) Criminal sexual assault is a Class 1 felony.

3 (2) A person who is convicted of the offense of
4 criminal sexual assault as defined in paragraph (a)(1) or
5 (a)(2) after having previously been convicted of the
6 offense of criminal sexual assault or the offense of
7 exploitation of a child, or who is convicted of the offense
8 of criminal sexual assault as defined in paragraph (a)(1)
9 or (a)(2) after having previously been convicted under the
10 laws of this State or any other state of an offense that is
11 substantially equivalent to the offense of criminal sexual
12 assault or to the offense of exploitation of a child,
13 ~~commits a Class X felony for which the person~~ shall be
14 sentenced to a term of imprisonment of not less than 30
15 years and not exceeding natural life imprisonment ~~more than~~
16 ~~60 years~~. The commission of the second or subsequent
17 offense is required to have been after the initial
18 conviction for this paragraph (2) to apply.

19 (3) A person who is convicted of the offense of
20 criminal sexual assault as defined in paragraph (a)(1) or
21 (a)(2) after having previously been convicted of the
22 offense of aggravated criminal sexual assault or the
23 offense of predatory criminal sexual assault of a child, or
24 who is convicted of the offense of criminal sexual assault
25 as defined in paragraph (a)(1) or (a)(2) after having
26 previously been convicted under the laws of this State or

1 any other state of an offense that is substantially
2 equivalent to the offense of aggravated criminal sexual
3 assault or the offense of criminal predatory sexual assault
4 shall be sentenced to a term of natural life imprisonment.
5 The commission of the second or subsequent offense is
6 required to have been after the initial conviction for this
7 paragraph (3) to apply.

8 (4) A person who is convicted for a ~~A~~ second or
9 subsequent offense conviction for a violation of paragraph
10 (a) (3) or (a) (4) or under any similar statute of this State
11 or any other state for any offense involving criminal
12 sexual assault that is substantially equivalent to or more
13 serious than the sexual assault prohibited under paragraph
14 (a) (3) or (a) (4) shall be sentenced to a term of
15 imprisonment of not less than 25 years and not exceeding
16 natural life imprisonment ~~is a Class X felony.~~

17 (5) (Blank) ~~When a person has any such prior~~
18 ~~conviction, the information or indictment charging that~~
19 ~~person shall state such prior conviction so as to give~~
20 ~~notice of the State's intention to treat the charge as a~~
21 ~~Class X felony. The fact of such prior conviction is not an~~
22 ~~element of the offense and may not be disclosed to the jury~~
23 ~~during trial unless otherwise permitted by issues properly~~
24 ~~raised during such trial.~~

25 (Source: P.A. 95-640, eff. 6-1-08.)

1 Section 10. The Unified Code of Corrections is amended by
2 changing Section 5-8-1 as follows:

3 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

4 Sec. 5-8-1. Sentence of Imprisonment for Felony.

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

9 (1) for first degree murder,

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

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

20 (c) the court shall sentence the defendant to a
21 term of natural life imprisonment when the death
22 penalty is not imposed if the defendant,

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

25 (ii) is a person who, at the time of the

1 commission of the murder, had attained the age of
2 17 or more and is found guilty of murdering an
3 individual under 12 years of age; or, irrespective
4 of the defendant's age at the time of the
5 commission of the offense, is found guilty of
6 murdering more than one victim, or

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

19 (iv) is found guilty of murdering an employee
20 of an institution or facility of the Department of
21 Corrections, or any similar local correctional
22 agency, when the employee was killed in the course
23 of performing his official duties, or to prevent
24 the employee from performing his official duties,
25 or in retaliation for the employee performing his
26 official duties, or

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

17 (vi) is a person who, at the time of the
18 commission of the murder, had not attained the age
19 of 17, and is found guilty of murdering a person
20 under 12 years of age and the murder is committed
21 during the course of aggravated criminal sexual
22 assault, criminal sexual assault, or aggravated
23 kidnaping, or

24 (vii) is found guilty of first degree murder
25 and the murder was committed by reason of any
26 person's activity as a community policing

1 volunteer or to prevent any person from engaging in
2 activity as a community policing volunteer. For
3 the purpose of this Section, "community policing
4 volunteer" has the meaning ascribed to it in
5 Section 2-3.5 of the Criminal Code of 1961.

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

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

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

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

25 (1.5) for second degree murder, a term shall be not
26 less than 4 years and not more than 20 years;

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

4 (2.5) for a person convicted under the circumstances
5 described in paragraph (3) of subsection (b) of Section
6 12-13, paragraph (2) of subsection (d) of Section 12-14,
7 paragraph (1.2) of subsection (b) of Section 12-14.1, or
8 paragraph (2) of subsection (b) of Section 12-14.1 of the
9 Criminal Code of 1961, the sentence shall be a term of
10 natural life imprisonment;

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

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

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

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

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

23 (b) The sentencing judge in each felony conviction shall
24 set forth his reasons for imposing the particular sentence he
25 enters in the case, as provided in Section 5-4-1 of this Code.
26 Those reasons may include any mitigating or aggravating factors

1 specified in this Code, or the lack of any such circumstances,
2 as well as any other such factors as the judge shall set forth
3 on the record that are consistent with the purposes and
4 principles of sentencing set out in this Code.

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

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

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

22 A motion filed pursuant to this subsection shall not be
23 considered to have been timely filed unless it is filed with
24 the circuit court clerk within 30 days after the sentence is
25 imposed together with a notice of motion, which notice of
26 motion shall set the motion on the court's calendar on a date

1 certain within a reasonable time after the date of filing.

2 (d) Except where a term of natural life is imposed, every
3 sentence shall include as though written therein a term in
4 addition to the term of imprisonment. For those sentenced under
5 the law in effect prior to February 1, 1978, such term shall be
6 identified as a parole term. For those sentenced on or after
7 February 1, 1978, such term shall be identified as a mandatory
8 supervised release term. Subject to earlier termination under
9 Section 3-3-8, the parole or mandatory supervised release term
10 shall be as follows:

11 (1) for first degree murder or a Class X felony except
12 for the offenses of predatory criminal sexual assault of a
13 child, aggravated criminal sexual assault, and criminal
14 sexual assault if committed on or after the effective date
15 of this amendatory Act of the 94th General Assembly, 3
16 years;

17 (2) for a Class 1 felony or a Class 2 felony except for
18 the offense of criminal sexual assault if committed on or
19 after the effective date of this amendatory Act of the 94th
20 General Assembly, 2 years;

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

22 (4) for defendants who commit the offense of predatory
23 criminal sexual assault of a child, aggravated criminal
24 sexual assault, or criminal sexual assault, on or after the
25 effective date of this amendatory Act of the 94th General
26 Assembly, the term of mandatory supervised release shall

1 range from a minimum of 3 years to a maximum of the natural
2 life of the defendant;

3 (4.5) for defendants who commit a second or subsequent
4 offense of criminal sexual assault on or after the
5 effective date of this amendatory Act of the 95th General
6 Assembly, the term of mandatory supervised release shall be
7 the natural life of the defendant;

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

14 (e) A defendant who has a previous and unexpired sentence
15 of imprisonment imposed by another state or by any district
16 court of the United States and who, after sentence for a crime
17 in Illinois, must return to serve the unexpired prior sentence
18 may have his sentence by the Illinois court ordered to be
19 concurrent with the prior sentence in the other state. The
20 court may order that any time served on the unexpired portion
21 of the sentence in the other state, prior to his return to
22 Illinois, shall be credited on his Illinois sentence. The other
23 state shall be furnished with a copy of the order imposing
24 sentence which shall provide that, when the offender is
25 released from confinement of the other state, whether by parole
26 or by termination of sentence, the offender shall be

1 transferred by the Sheriff of the committing county to the
2 Illinois Department of Corrections. The court shall cause the
3 Department of Corrections to be notified of such sentence at
4 the time of commitment and to be provided with copies of all
5 records regarding the sentence.

6 (f) A defendant who has a previous and unexpired sentence
7 of imprisonment imposed by an Illinois circuit court for a
8 crime in this State and who is subsequently sentenced to a term
9 of imprisonment by another state or by any district court of
10 the United States and who has served a term of imprisonment
11 imposed by the other state or district court of the United
12 States, and must return to serve the unexpired prior sentence
13 imposed by the Illinois Circuit Court may apply to the court
14 which imposed sentence to have his sentence reduced.

15 The circuit court may order that any time served on the
16 sentence imposed by the other state or district court of the
17 United States be credited on his Illinois sentence. Such
18 application for reduction of a sentence under this subsection
19 (f) shall be made within 30 days after the defendant has
20 completed the sentence imposed by the other state or district
21 court of the United States.

22 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
23 94-715, eff. 12-13-05.)