



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0115

Introduced 1/31/2007, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

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

Amends the Unified Code of Corrections. Provides that the court shall sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant is found guilty of murdering an active duty member of the Armed Forces of the United States or a veteran of the Armed Forces of the United States if the active duty member of the Armed Forces of the United States or veteran of the Armed Forces of the United States served combat duty in the most recent conflict authorized by the President of the United States and the defendant knew or should have known that the murdered individual was an active duty member of the Armed Forces of the United States or was a veteran of the Armed Forces of the United States who served combat duty in the most recent conflict authorized by the President of the United States. Effective immediately.

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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 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

1 term of natural life imprisonment when the death
2 penalty is not imposed if the defendant,

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

5 (ii) is a person who, at the time of the
6 commission of the murder, had attained the age of
7 17 or more and is found guilty of murdering an
8 individual under 12 years of age; or, irrespective
9 of the defendant's age at the time of the
10 commission of the offense, is found guilty of
11 murdering more than one victim, or

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

24 (iv) is found guilty of murdering an employee
25 of an institution or facility of the Department of
26 Corrections, or any similar local correctional

1 agency, when the employee was killed in the course
2 of performing his official duties, or to prevent
3 the employee from performing his official duties,
4 or in retaliation for the employee performing his
5 official duties, or

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

22 (vi) is a person who, at the time of the
23 commission of the murder, had not attained the age
24 of 17, and is found guilty of murdering a person
25 under 12 years of age and the murder is committed
26 during the course of aggravated criminal sexual

1 assault, criminal sexual assault, or aggravated
2 kidnaping, or

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

11 (viii) is found guilty of murdering an active
12 duty member of the Armed Forces of the United
13 States or a veteran of the Armed Forces of the
14 United States if the active duty member of the
15 Armed Forces of the United States or veteran of the
16 Armed Forces of the United States served combat
17 duty in the most recent conflict authorized by the
18 President of the United States and the defendant
19 knew or should have known that the murdered
20 individual was an active duty member of the Armed
21 Forces of the United States or was a veteran of the
22 Armed Forces of the United States who served combat
23 duty in the most recent conflict authorized by the
24 President of the United States. For purposes of
25 this clause (viii), "Armed Forces" means the Armed
26 Forces of the United States, any reserve component

1 of the Armed Forces of the United States, including
2 the United States Army Reserve, United States
3 Marine Corps Reserve, United States Navy Reserve,
4 United States Air Force Reserve, and United States
5 Coast Guard Reserve, or the Illinois Army National
6 Guard or Illinois Air National Guard.

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

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

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

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

26 (1.5) for second degree murder, a term shall be not

1 less than 4 years and not more than 20 years;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 motion shall set the motion on the court's calendar on a date
2 certain within a reasonable time after the date of filing.

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

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

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

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

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

1 Assembly, the term of mandatory supervised release shall
2 range from a minimum of 3 years to a maximum of the natural
3 life of the defendant;

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

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

1 records regarding the sentence.

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

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

18 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
19 94-715, eff. 12-13-05.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.