



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5843

Introduced 2/16/2012, by Rep. Kent Gaffney - Dennis M. Reboletti - John D. Cavaletto - Mike Bost

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-1.20  
730 ILCS 5/5-8-1

was 720 ILCS 5/12-13  
from Ch. 38, par. 1005-8-1

Amends the Criminal Code of 1961. Provides that a person who has been convicted of a second or subsequent offense for criminal sexual assault in which the penalty is not natural life imprisonment shall be sentenced to a term of imprisonment of not less than 25 years (unless the minimum sentence is greater than 25 years) and not exceeding 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 the amendatory Act shall be the natural life of the defendant (rather than from 3 years to natural life).

LRB097 19199 RLC 64441 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 11-1.20 as follows:

6 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

7 Sec. 11-1.20. Criminal Sexual Assault.

8 (a) A person commits criminal sexual assault if that person  
9 commits an act of sexual penetration and:

10 (1) uses force or threat of force;

11 (2) knows that the victim is unable to understand the  
12 nature of the act or is unable to give knowing consent;

13 (3) is a family member of the victim, and the victim is  
14 under 18 years of age; or

15 (4) is 17 years of age or over and holds a position of  
16 trust, authority, or supervision in relation to the victim,  
17 and the victim is at least 13 years of age but under 18  
18 years of age.

19 (b) Sentence.

20 (1) Criminal sexual assault is a Class 1 felony, except  
21 that:

22 (A) A person who is convicted of the offense of  
23 criminal sexual assault as defined in paragraph (a) (1)

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

17 (B) A person who is convicted of the offense of  
18 criminal sexual assault as defined in paragraph (a) (1)  
19 or (a) (2) after having previously been convicted of the  
20 offense of aggravated criminal sexual assault or the  
21 offense of predatory criminal sexual assault of a  
22 child, or who is convicted of the offense of criminal  
23 sexual assault as defined in paragraph (a) (1) or (a) (2)  
24 after having previously been convicted under the laws  
25 of this State or any other state of an offense that is  
26 substantially equivalent to the offense of aggravated

1 criminal sexual assault or the offense of predatory  
2 criminal sexual assault of a child shall be sentenced  
3 to a term of natural life imprisonment. The commission  
4 of the second or subsequent offense is required to have  
5 been after the initial conviction for this paragraph  
6 (B) to apply.

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

17 (Source: P.A. 95-640, eff. 6-1-08; 96-1551, eff. 7-1-11.)

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

20 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

21 Sec. 5-8-1. Natural life imprisonment; enhancements for  
22 use of a firearm; mandatory supervised release terms.

23 (a) Except as otherwise provided in the statute defining  
24 the offense or in Article 4.5 of Chapter V, a sentence of

1 imprisonment for a felony shall be a determinate sentence set  
2 by the court under this Section, according to the following  
3 limitations:

4 (1) for first degree murder,

5 (a) (blank),

6 (b) if a trier of fact finds beyond a reasonable  
7 doubt that the murder was accompanied by exceptionally  
8 brutal or heinous behavior indicative of wanton  
9 cruelty or, except as set forth in subsection (a)(1)(c)  
10 of this Section, that any of the aggravating factors  
11 listed in subsection (b) or (b-5) of Section 9-1 of the  
12 Criminal Code of 1961 are present, the court may  
13 sentence the defendant to a term of natural life  
14 imprisonment, or

15 (c) the court shall sentence the defendant to a  
16 term of natural life imprisonment when the death  
17 penalty is not imposed if the defendant,

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

20 (ii) is a person who, at the time of the  
21 commission of the murder, had attained the age of  
22 17 or more and is found guilty of murdering an  
23 individual under 12 years of age; or, irrespective  
24 of the defendant's age at the time of the  
25 commission of the offense, is found guilty of  
26 murdering more than one victim, or

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

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

21 (v) is found guilty of murdering an emergency  
22 medical technician - ambulance, emergency medical  
23 technician - intermediate, emergency medical  
24 technician - paramedic, ambulance driver or other  
25 medical assistance or first aid person while  
26 employed by a municipality or other governmental

1 unit when the person was killed in the course of  
2 performing official duties or to prevent the  
3 person from performing official duties or in  
4 retaliation for performing official duties and the  
5 defendant knew or should have known that the  
6 murdered individual was an emergency medical  
7 technician - ambulance, emergency medical  
8 technician - intermediate, emergency medical  
9 technician - paramedic, ambulance driver, or other  
10 medical assistant or first aid personnel, or

11 (vi) is a person who, at the time of the  
12 commission of the murder, had not attained the age  
13 of 17, and is found guilty of murdering a person  
14 under 12 years of age and the murder is committed  
15 during the course of aggravated criminal sexual  
16 assault, criminal sexual assault, or aggravated  
17 kidnaping, or

18 (vii) is found guilty of first degree murder  
19 and the murder was committed by reason of any  
20 person's activity as a community policing  
21 volunteer or to prevent any person from engaging in  
22 activity as a community policing volunteer. For  
23 the purpose of this Section, "community policing  
24 volunteer" has the meaning ascribed to it in  
25 Section 2-3.5 of the Criminal Code of 1961.

26 For purposes of clause (v), "emergency medical

1 technician - ambulance", "emergency medical technician  
2 - intermediate", "emergency medical technician -  
3 paramedic", have the meanings ascribed to them in the  
4 Emergency Medical Services (EMS) Systems Act.

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

8 (ii) if, during the commission of the offense,  
9 the person personally discharged a firearm, 20  
10 years shall be added to the term of imprisonment  
11 imposed by the court;

12 (iii) if, during the commission of the  
13 offense, the person personally discharged a  
14 firearm that proximately caused great bodily harm,  
15 permanent disability, permanent disfigurement, or  
16 death to another person, 25 years or up to a term  
17 of natural life shall be added to the term of  
18 imprisonment imposed by the court.

19 (2) (blank);

20 (2.5) for a person convicted under the circumstances  
21 described in subdivision (b)(1)(B) of Section 11-1.20 or  
22 paragraph (3) of subsection (b) of Section 12-13,  
23 subdivision (d)(2) of Section 11-1.30 or paragraph (2) of  
24 subsection (d) of Section 12-14, subdivision (b)(1.2) of  
25 Section 11-1.40 or paragraph (1.2) of subsection (b) of  
26 Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or



1 paragraph (2) of subsection (b) of Section 12-14.1 of the  
2 Criminal Code of 1961, the sentence shall be a term of  
3 natural life imprisonment.

4 (b) (Blank).

5 (c) (Blank).

6 (d) Subject to earlier termination under Section 3-3-8, the  
7 parole or mandatory supervised release term shall be written as  
8 part of the sentencing order and shall be as follows:

9 (1) for first degree murder or a Class X felony except  
10 for the offenses of predatory criminal sexual assault of a  
11 child, aggravated criminal sexual assault, and criminal  
12 sexual assault if committed on or after the effective date  
13 of this amendatory Act of the 94th General Assembly and  
14 except for the offense of aggravated child pornography  
15 under Section 11-20.1B or 11-20.3 of the Criminal Code of  
16 1961, if committed on or after January 1, 2009, 3 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 and except for the offenses of manufacture  
21 and dissemination of child pornography under clauses  
22 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code  
23 of 1961, if committed on or after January 1, 2009, 2 years;

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

25 (4) for defendants who commit the offense of predatory  
26 criminal sexual assault of a child, aggravated criminal

1 sexual assault, or criminal sexual assault, on or after the  
2 effective date of this amendatory Act of the 94th General  
3 Assembly, or who commit the offense of aggravated child  
4 pornography, manufacture of child pornography, or  
5 dissemination of child pornography after January 1, 2009,  
6 the term of mandatory supervised release shall range from a  
7 minimum of 3 years to a maximum of the natural life of the  
8 defendant;

9 (4.5) for defendants who commit a second or subsequent  
10 offense of criminal sexual assault on or after the  
11 effective date of this amendatory Act of the 97th General  
12 Assembly, the term of mandatory supervised release shall be  
13 the natural life of the defendant;

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

20 (6) for a felony domestic battery, aggravated domestic  
21 battery, stalking, aggravated stalking, and a felony  
22 violation of an order of protection, 4 years.

23 (e) (Blank).

24 (f) (Blank).

25 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;  
26 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.

1 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; revised  
2 9-14-11.)