



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1348

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 2012 and the Unified Code of Corrections. Eliminates mandatory sentences of natural life imprisonment for persons convicted of offenses committed before they attain 18 years of age. Provides that a person who was under 18 years of age at the time of an offense, may, after serving 15 years of his or her sentence of either life imprisonment or a term of 40 years or longer of imprisonment, submit a motion in the circuit court of the county in which he or she was originally sentenced for resentencing. Provides that the petitioner shall be eligible to file a second motion for resentencing not sooner than 10 years or longer than 20 years as determined by the court at the first resentencing hearing. Provides that the petitioner may file a motion seeking leave for resentencing upon reaching the age of 60. Establishes procedures and factors that the court shall use in considering the motion. Provides that on or after the effective date of the amendatory Act, when a person was under 18 years of age at the time of the commission of an offense, the court, at the sentencing hearing, shall consider specified factors in determining the appropriate sentence. Provides that no retroactive resentencing hearing shall be conducted until one year after the effective date of the amendatory Act. Provides that within one year of the effective date of the amendatory Act, the Illinois Juvenile Justice Commission shall present the General Assembly with evidence-based findings regarding the effects of sentencing minors as adults. 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 Criminal Code of 2012 is amended by changing
5 Sections 10-2, 11-1.20, 11-1.30, 11-1.40, 12-33, 29D-14.9, and
6 29D-35 as follows:

7 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

8 Sec. 10-2. Aggravated kidnaping.

9 (a) A person commits the offense of aggravated kidnaping
10 when he or she commits kidnaping and:

11 (1) kidnaps with the intent to obtain ransom from the
12 person kidnaped or from any other person;

13 (2) takes as his or her victim a child under the age of
14 13 years, or a severely or profoundly intellectually
15 disabled person;

16 (3) inflicts great bodily harm, other than by the
17 discharge of a firearm, or commits another felony upon his
18 or her victim;

19 (4) wears a hood, robe, or mask or conceals his or her
20 identity;

21 (5) commits the offense of kidnaping while armed with a
22 dangerous weapon, other than a firearm, as defined in
23 Section 33A-1 of this Code;

1 (6) commits the offense of kidnaping while armed with a
2 firearm;

3 (7) during the commission of the offense of kidnaping,
4 personally discharges a firearm; or

5 (8) during the commission of the offense of kidnaping,
6 personally discharges a firearm that proximately causes
7 great bodily harm, permanent disability, permanent
8 disfigurement, or death to another person.

9 As used in this Section, "ransom" includes money, benefit,
10 or other valuable thing or concession.

11 (b) Sentence. Aggravated kidnaping in violation of
12 paragraph (1), (2), (3), (4), or (5) of subsection (a) is a
13 Class X felony. A violation of subsection (a)(6) is a Class X
14 felony for which 15 years shall be added to the term of
15 imprisonment imposed by the court. A violation of subsection
16 (a)(7) is a Class X felony for which 20 years shall be added to
17 the term of imprisonment imposed by the court. A violation of
18 subsection (a)(8) is a Class X felony for which 25 years or up
19 to a term of natural life shall be added to the term of
20 imprisonment imposed by the court. An offender under the age of
21 18 years at the time of the commission of aggravated kidnaping
22 in violation of paragraphs (1) through (8) of subsection (a)
23 commits a Class X felony and shall be sentenced under Section
24 5-4.5-105 of the Unified Code of Corrections.

25 A person who has attained the age of 18 years at the time
26 of the commission of the offense and who is convicted of a

1 second or subsequent offense of aggravated kidnaping shall be
2 sentenced to a term of natural life imprisonment; except that a
3 sentence of natural life imprisonment shall not be imposed
4 under this Section unless the second or subsequent offense was
5 committed after conviction on the first offense. An offender
6 under the age of 18 years at the time of the commission of the
7 second or subsequent offense shall be sentenced under Section
8 5-4.5-105 of the Unified Code of Corrections.

9 (Source: P.A. 96-710, eff. 1-1-10; 97-227, eff. 1-1-12.)

10 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

11 Sec. 11-1.20. Criminal Sexual Assault.

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

14 (1) uses force or threat of force;

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

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

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

23 (b) Sentence.

24 (1) Criminal sexual assault is a Class 1 felony, except
25 that:

1 (A) A person who is convicted of the offense of
2 criminal sexual assault as defined in paragraph (a) (1)
3 or (a) (2) after having previously been convicted of the
4 offense of criminal sexual assault or the offense of
5 exploitation of a child, or who is convicted of the
6 offense of criminal sexual assault as defined in
7 paragraph (a) (1) or (a) (2) after having previously
8 been convicted under the laws of this State or any
9 other state of an offense that is substantially
10 equivalent to the offense of criminal sexual assault or
11 to the offense of exploitation of a child, commits a
12 Class X felony for which the person shall be sentenced
13 to a term of imprisonment of not less than 30 years and
14 not more than 60 years, except that where the person is
15 under the age of 18 years at the time of the offense,
16 he or she shall be sentenced under Section 5-4.5-105 of
17 the Unified Code of Corrections. The commission of the
18 second or subsequent offense is required to have been
19 after the initial conviction for this paragraph (A) to
20 apply.

21 (B) A person who has attained the age of 18 years
22 at the time of the commission of the offense and who is
23 convicted of the offense of criminal sexual assault as
24 defined in paragraph (a) (1) or (a) (2) after having
25 previously been convicted of the offense of aggravated
26 criminal sexual assault or the offense of predatory

1 criminal sexual assault of a child, or who is convicted
2 of the offense of criminal sexual assault as defined in
3 paragraph (a)(1) or (a)(2) after having previously
4 been convicted under the laws of this State or any
5 other state of an offense that is substantially
6 equivalent to the offense of aggravated criminal
7 sexual assault or the offense of predatory criminal
8 sexual assault of a child shall be sentenced to a term
9 of natural life imprisonment. The commission of the
10 second or subsequent offense is required to have been
11 after the initial conviction for this paragraph (B) to
12 apply. An offender under the age of 18 years at the
13 time of the commission of the offense covered by this
14 subparagraph (B) shall be sentenced under Section
15 5-4.5-105 of the Unified Code of Corrections.

16 (C) A second or subsequent conviction for a
17 violation of paragraph (a)(3) or (a)(4) or under any
18 similar statute of this State or any other state for
19 any offense involving criminal sexual assault that is
20 substantially equivalent to or more serious than the
21 sexual assault prohibited under paragraph (a)(3) or
22 (a)(4) is a Class X felony.

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

24 (720 ILCS 5/11-1.30) (was 720 ILCS 5/12-14)

25 Sec. 11-1.30. Aggravated Criminal Sexual Assault.

1 (a) A person commits aggravated criminal sexual assault if
2 that person commits criminal sexual assault and any of the
3 following aggravating circumstances exist during the
4 commission of the offense or, for purposes of paragraph (7),
5 occur as part of the same course of conduct as the commission
6 of the offense:

7 (1) the person displays, threatens to use, or uses a
8 dangerous weapon, other than a firearm, or any other object
9 fashioned or used in a manner that leads the victim, under
10 the circumstances, reasonably to believe that the object is
11 a dangerous weapon;

12 (2) the person causes bodily harm to the victim, except
13 as provided in paragraph (10);

14 (3) the person acts in a manner that threatens or
15 endangers the life of the victim or any other person;

16 (4) the person commits the criminal sexual assault
17 during the course of committing or attempting to commit any
18 other felony;

19 (5) the victim is 60 years of age or older;

20 (6) the victim is a physically handicapped person;

21 (7) the person delivers (by injection, inhalation,
22 ingestion, transfer of possession, or any other means) any
23 controlled substance to the victim without the victim's
24 consent or by threat or deception for other than medical
25 purposes;

26 (8) the person is armed with a firearm;

1 (9) the person personally discharges a firearm during
2 the commission of the offense; or

3 (10) the person personally discharges a firearm during
4 the commission of the offense, and that discharge
5 proximately causes great bodily harm, permanent
6 disability, permanent disfigurement, or death to another
7 person.

8 (b) A person commits aggravated criminal sexual assault if
9 that person is under 17 years of age and: (i) commits an act of
10 sexual penetration with a victim who is under 9 years of age;
11 or (ii) commits an act of sexual penetration with a victim who
12 is at least 9 years of age but under 13 years of age and the
13 person uses force or threat of force to commit the act.

14 (c) A person commits aggravated criminal sexual assault if
15 that person commits an act of sexual penetration with a victim
16 who is a severely or profoundly intellectually disabled person.

17 (d) Sentence.

18 (1) Aggravated criminal sexual assault in violation of
19 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)
20 or in violation of subsection (b) or (c) is a Class X
21 felony. A violation of subsection (a)(1) is a Class X
22 felony for which 10 years shall be added to the term of
23 imprisonment imposed by the court. A violation of
24 subsection (a)(8) is a Class X felony for which 15 years
25 shall be added to the term of imprisonment imposed by the
26 court. A violation of subsection (a)(9) is a Class X felony

1 for which 20 years shall be added to the term of
2 imprisonment imposed by the court. A violation of
3 subsection (a)(10) is a Class X felony for which 25 years
4 or up to a term of natural life imprisonment shall be added
5 to the term of imprisonment imposed by the court. An
6 offender under the age of 18 years at the time of the
7 commission of aggravated criminal sexual assault in
8 violation of paragraphs (1) through (10) of subsection (a)
9 commits a Class X felony and shall be sentenced under
10 Section 5-4.5-105 of the Unified Code of Corrections.

11 (2) A person who has attained the age of 18 years at
12 the time of the commission of the offense and who is
13 convicted of a second or subsequent offense of aggravated
14 criminal sexual assault, or who is convicted of the offense
15 of aggravated criminal sexual assault after having
16 previously been convicted of the offense of criminal sexual
17 assault or the offense of predatory criminal sexual assault
18 of a child, or who is convicted of the offense of
19 aggravated criminal sexual assault after having previously
20 been convicted under the laws of this or any other state of
21 an offense that is substantially equivalent to the offense
22 of criminal sexual assault, the offense of aggravated
23 criminal sexual assault or the offense of predatory
24 criminal sexual assault of a child, shall be sentenced to a
25 term of natural life imprisonment. The commission of the
26 second or subsequent offense is required to have been after

1 the initial conviction for this paragraph (2) to apply. An
2 offender under the age of 18 years at the time of the
3 commission of the offense covered by this subparagraph (2)
4 shall be sentenced under Section 5-4.5-105 of the Unified
5 Code of Corrections.

6 (Source: P.A. 96-1551, eff. 7-1-11; incorporates 97-227, eff.
7 1-1-12; 97-1109, eff. 1-1-13.)

8 (720 ILCS 5/11-1.40) (was 720 ILCS 5/12-14.1)

9 Sec. 11-1.40. Predatory criminal sexual assault of a child.

10 (a) A person commits predatory criminal sexual assault of a
11 child if that person commits an act of sexual penetration, is
12 17 years of age or older, and:

13 (1) the victim is under 13 years of age; or

14 (2) the victim is under 13 years of age and that
15 person:

16 (A) is armed with a firearm;

17 (B) personally discharges a firearm during the
18 commission of the offense;

19 (C) causes great bodily harm to the victim that:

20 (i) results in permanent disability; or

21 (ii) is life threatening; or

22 (D) delivers (by injection, inhalation, ingestion,
23 transfer of possession, or any other means) any
24 controlled substance to the victim without the
25 victim's consent or by threat or deception, for other

1 than medical purposes.

2 (b) Sentence.

3 (1) A person convicted of a violation of subsection
4 (a) (1) commits a Class X felony, for which the person shall
5 be sentenced to a term of imprisonment of not less than 6
6 years and not more than 60 years. A person convicted of a
7 violation of subsection (a) (2) (A) commits a Class X felony
8 for which 15 years shall be added to the term of
9 imprisonment imposed by the court. A person convicted of a
10 violation of subsection (a) (2) (B) commits a Class X felony
11 for which 20 years shall be added to the term of
12 imprisonment imposed by the court. A person who has
13 attained the age of 18 years at the time of the commission
14 of the offense and who is convicted of a violation of
15 subsection (a) (2) (C) commits a Class X felony for which the
16 person shall be sentenced to a term of imprisonment of not
17 less than 50 years or up to a term of natural life
18 imprisonment. An offender under the age of 18 years at the
19 time of the commission of predatory criminal sexual assault
20 of a child in violation of subsections (a) (1), (a) (2)
21 (A), (a) (2) (B), and (a) (2) (C) commits a Class X felony
22 and shall be sentenced under Section 5-4.5-105 of the
23 Unified Code of Corrections.

24 (1.1) A person convicted of a violation of subsection
25 (a) (2) (D) commits a Class X felony for which the person
26 shall be sentenced to a term of imprisonment of not less

1 than 50 years and not more than 60 years. An offender under
2 the age of 18 years at the time of the commission of
3 predatory criminal sexual assault of a child in violation
4 of subsection (a) (2) (D) commits a Class X felony and
5 shall be sentenced under Section 5-4.5-105 of the Unified
6 Code of Corrections.

7 (1.2) A person who has attained the age of 18 years at
8 the time of the commission of the offense and who is
9 convicted of predatory criminal sexual assault of a child
10 committed against 2 or more persons regardless of whether
11 the offenses occurred as the result of the same act or of
12 several related or unrelated acts shall be sentenced to a
13 term of natural life imprisonment and an offender under the
14 age of 18 years at the time of the commission of the
15 offense shall be sentenced under Section 5-4.5-105 of the
16 Unified Code of Corrections.

17 (2) A person who has attained the age of 18 years at
18 the time of the commission of the offense and who is
19 convicted of a second or subsequent offense of predatory
20 criminal sexual assault of a child, or who is convicted of
21 the offense of predatory criminal sexual assault of a child
22 after having previously been convicted of the offense of
23 criminal sexual assault or the offense of aggravated
24 criminal sexual assault, or who is convicted of the offense
25 of predatory criminal sexual assault of a child after
26 having previously been convicted under the laws of this

1 State or any other state of an offense that is
2 substantially equivalent to the offense of predatory
3 criminal sexual assault of a child, the offense of
4 aggravated criminal sexual assault or the offense of
5 criminal sexual assault, shall be sentenced to a term of
6 natural life imprisonment. The commission of the second or
7 subsequent offense is required to have been after the
8 initial conviction for this paragraph (2) to apply. An
9 offender under the age of 18 years at the time of the
10 commission of the offense covered by this subparagraph (2)
11 shall be sentenced under Section 5-4.5-105 of the Unified
12 Code of Corrections.

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

14 (720 ILCS 5/12-33) (from Ch. 38, par. 12-33)

15 Sec. 12-33. Ritualized abuse of a child.

16 (a) A person commits ritualized abuse of a child when he or
17 she knowingly commits any of the following acts with, upon, or
18 in the presence of a child as part of a ceremony, rite or any
19 similar observance:

20 (1) actually or in simulation, tortures, mutilates, or
21 sacrifices any warm-blooded animal or human being;

22 (2) forces ingestion, injection or other application
23 of any narcotic, drug, hallucinogen or anaesthetic for the
24 purpose of dulling sensitivity, cognition, recollection
25 of, or resistance to any criminal activity;

1 (3) forces ingestion, or external application, of
2 human or animal urine, feces, flesh, blood, bones, body
3 secretions, nonprescribed drugs or chemical compounds;

4 (4) involves the child in a mock, unauthorized or
5 unlawful marriage ceremony with another person or
6 representation of any force or deity, followed by sexual
7 contact with the child;

8 (5) places a living child into a coffin or open grave
9 containing a human corpse or remains;

10 (6) threatens death or serious harm to a child, his or
11 her parents, family, pets, or friends that instills a
12 well-founded fear in the child that the threat will be
13 carried out; or

14 (7) unlawfully dissects, mutilates, or incinerates a
15 human corpse.

16 (b) The provisions of this Section shall not be construed
17 to apply to:

18 (1) lawful agricultural, animal husbandry, food
19 preparation, or wild game hunting and fishing practices and
20 specifically the branding or identification of livestock;

21 (2) the lawful medical practice of male circumcision or
22 any ceremony related to male circumcision;

23 (3) any state or federally approved, licensed, or
24 funded research project; or

25 (4) the ingestion of animal flesh or blood in the
26 performance of a religious service or ceremony.

1 (b-5) For the purposes of this Section, "child" means any
2 person under 18 years of age.

3 (c) Ritualized abuse of a child is a Class 1 felony for a
4 first offense. A second or subsequent conviction for ritualized
5 abuse of a child is a Class X felony for which an ~~the~~ offender
6 who has attained the age of 18 years at the time of the
7 commission of the offense may be sentenced to a term of natural
8 life imprisonment and an offender under the age of 18 years at
9 the time of the commission of the offense shall be sentenced
10 under Section 5-4.5-105 of the Unified Code of Corrections.

11 (d) (Blank).

12 (Source: P.A. 96-1551, eff. 7-1-11.)

13 (720 ILCS 5/29D-14.9) (was 720 ILCS 5/29D-30)

14 Sec. 29D-14.9. Terrorism.

15 (a) A person commits the offense of terrorism when, with
16 the intent to intimidate or coerce a significant portion of a
17 civilian population:

18 (1) he or she knowingly commits a terrorist act as
19 defined in Section 29D-10(1) of this Code within this
20 State; or

21 (2) he or she, while outside this State, knowingly
22 commits a terrorist act as defined in Section 29D-10(1) of
23 this Code that takes effect within this State or produces
24 substantial detrimental effects within this State.

25 (b) Sentence. Terrorism is a Class X felony. If no deaths

1 are caused by the terrorist act, the sentence shall be a term
2 of 20 years to natural life imprisonment; if the terrorist act
3 caused the death of one or more persons, however, a mandatory
4 term of natural life imprisonment shall be the sentence if the
5 death penalty is not imposed and the person has attained the
6 age of 18 years at the time of the commission of the offense.
7 An offender under the age of 18 years at the time of the
8 commission of the offense shall be sentenced under Section
9 5-4.5-105 of the Unified Code of Corrections.

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

11 (720 ILCS 5/29D-35)

12 Sec. 29D-35. Hindering prosecution of terrorism.

13 (a) A person commits the offense of hindering prosecution
14 of terrorism when he or she renders criminal assistance to a
15 person who has committed terrorism as defined in Section
16 29D-14.9 or caused a catastrophe as defined in Section 29D-15.1
17 of this Code when he or she knows that the person to whom he or
18 she rendered criminal assistance engaged in an act of terrorism
19 or caused a catastrophe.

20 (b) Hindering prosecution of terrorism is a Class X felony,
21 the sentence for which shall be a term of 20 years to natural
22 life imprisonment if no death was caused by the act of
23 terrorism committed by the person to whom the defendant
24 rendered criminal assistance and a mandatory term of natural
25 life imprisonment if death was caused by the act of terrorism

1 committed by the person to whom the defendant rendered criminal
2 assistance. An offender under the age of 18 years at the time
3 of the commission of the offense shall be sentenced under
4 Section 5-4.5-105 of the Unified Code of Corrections.

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

6 Section 10. The Unified Code of Corrections is amended by
7 changing Sections 5-4.5-95 and 5-8-1 and by adding Section
8 5-4.5-105 as follows:

9 (730 ILCS 5/5-4.5-95)

10 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

11 (a) HABITUAL CRIMINALS.

12 (1) Every person who has been twice convicted in any
13 state or federal court of an offense that contains the same
14 elements as an offense now (the date of the offense
15 committed after the 2 prior convictions) classified in
16 Illinois as a Class X felony, criminal sexual assault,
17 aggravated kidnapping, or first degree murder, and who is
18 thereafter convicted of a Class X felony, criminal sexual
19 assault, or first degree murder, committed after the 2
20 prior convictions, shall be adjudged an habitual criminal.

21 (2) The 2 prior convictions need not have been for the
22 same offense.

23 (3) Any convictions that result from or are connected
24 with the same transaction, or result from offenses

1 committed at the same time, shall be counted for the
2 purposes of this Section as one conviction.

3 (4) This Section does not apply unless each of the
4 following requirements are satisfied:

5 (A) The third offense was committed after July 3,
6 1980.

7 (B) The third offense was committed within 20 years
8 of the date that judgment was entered on the first
9 conviction; provided, however, that time spent in
10 custody shall not be counted.

11 (C) The third offense was committed after
12 conviction on the second offense.

13 (D) The second offense was committed after
14 conviction on the first offense.

15 (5) Anyone who, having attained the age of 18 at the
16 time of the third offense, is ~~Except when the death penalty~~
17 ~~is imposed, anyone~~ adjudged an habitual criminal shall be
18 sentenced to a term of natural life imprisonment.

19 (6) A prior conviction shall not be alleged in the
20 indictment, and no evidence or other disclosure of that
21 conviction shall be presented to the court or the jury
22 during the trial of an offense set forth in this Section
23 unless otherwise permitted by the issues properly raised in
24 that trial. After a plea or verdict or finding of guilty
25 and before sentence is imposed, the prosecutor may file
26 with the court a verified written statement signed by the

1 State's Attorney concerning any former conviction of an
2 offense set forth in this Section rendered against the
3 defendant. The court shall then cause the defendant to be
4 brought before it; shall inform the defendant of the
5 allegations of the statement so filed, and of his or her
6 right to a hearing before the court on the issue of that
7 former conviction and of his or her right to counsel at
8 that hearing; and unless the defendant admits such
9 conviction, shall hear and determine the issue, and shall
10 make a written finding thereon. If a sentence has
11 previously been imposed, the court may vacate that sentence
12 and impose a new sentence in accordance with this Section.

13 (7) A duly authenticated copy of the record of any
14 alleged former conviction of an offense set forth in this
15 Section shall be prima facie evidence of that former
16 conviction; and a duly authenticated copy of the record of
17 the defendant's final release or discharge from probation
18 granted, or from sentence and parole supervision (if any)
19 imposed pursuant to that former conviction, shall be prima
20 facie evidence of that release or discharge.

21 (8) Any claim that a previous conviction offered by the
22 prosecution is not a former conviction of an offense set
23 forth in this Section because of the existence of any
24 exceptions described in this Section, is waived unless duly
25 raised at the hearing on that conviction, or unless the
26 prosecution's proof shows the existence of the exceptions

1 described in this Section.

2 (9) If the person so convicted shows to the
3 satisfaction of the court before whom that conviction was
4 had that he or she was released from imprisonment, upon
5 either of the sentences upon a pardon granted for the
6 reason that he or she was innocent, that conviction and
7 sentence shall not be considered under this Section.

8 (b) When a defendant, over the age of 21 years, is
9 convicted of a Class 1 or Class 2 felony, after having twice
10 been convicted in any state or federal court of an offense that
11 contains the same elements as an offense now (the date the
12 Class 1 or Class 2 felony was committed) classified in Illinois
13 as a Class 2 or greater Class felony and those charges are
14 separately brought and tried and arise out of different series
15 of acts, that defendant shall be sentenced as a Class X
16 offender. This subsection does not apply unless:

17 (1) the first felony was committed after February 1,
18 1978 (the effective date of Public Act 80-1099);

19 (2) the second felony was committed after conviction on
20 the first; and

21 (3) the third felony was committed after conviction on
22 the second.

23 A person sentenced as a Class X offender under this
24 subsection (b) is not eligible to apply for treatment as a
25 condition of probation as provided by Section 40-10 of the
26 Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS

1 301/40-10).

2 (Source: P.A. 95-1052, eff. 7-1-09.)

3 (730 ILCS 5/5-4.5-105 new)

4 Sec. 5-4.5-105. SENTENCING AND RESENTENCING OF INDIVIDUALS
5 UNDER THE AGE OF 18 AT THE TIME OF THE COMMISSION OF AN
6 OFFENSE.

7 (a) On or after the effective date of this amendatory Act
8 of the 98th General Assembly, when a person commits an offense
9 and the person is under 18 years of age at the time of the
10 commission of the offense, the court, at the sentencing hearing
11 conducted under Section 5-4-1, shall consider the following
12 additional factors in determining the appropriate sentence:

13 (1) the petitioner's age, impetuosity, and level of
14 maturity at the time of the offense, including the ability
15 to consider risks and consequences of behavior;

16 (2) the petitioner's susceptibility to outside
17 pressure, including peer pressure, familial pressure, or
18 negative influences, at the time of the offense;

19 (3) the petitioner's family, home environment, and
20 social background, including any history of parental
21 neglect, physical abuse, or other childhood trauma;

22 (4) the petitioner's potential for rehabilitation or
23 evidence of rehabilitation, or both;

24 (5) the circumstances of the offense;

25 (6) the petitioner's degree of participation and

1 specific role in the offense;

2 (7) whether the petitioner was able to meaningfully
3 participate in his or her defense;

4 (8) the petitioner's overall record of behavior while
5 incarcerated, including disciplinary history,
6 participation in educational and vocational programs
7 whenever available to the petitioner, including but not
8 limited to restorative justice programs, and extent of
9 cooperation with staff;

10 (9) the petitioner's likelihood of committing future
11 offenses, including the petitioner's likely
12 post-incarceration support system;

13 (10) the petitioner's prior juvenile or criminal
14 history; and

15 (11) any other information the court finds relevant and
16 reliable.

17 The court may sentence the defendant to any appropriate
18 sentence as provided by law, subject to subsection (b).

19 (b) Any person who was under 18 years of age at the time of
20 the commission of an offense may, after serving 15 years of his
21 or her sentence of either life imprisonment or a term of 40
22 years or longer of imprisonment, submit a motion for
23 resentencing in the circuit court of the county in which he or
24 she was originally sentenced. The procedure for resentencing
25 shall occur in the following manner:

26 (1) The chief judge of the criminal division of the

1 circuit located in a county of 2,000,000 or more
2 inhabitants, or in counties under 2,000,000 inhabitants,
3 the chief judge of the circuit or a judge assigned by the
4 chief judge, in which the motion is filed, shall assign the
5 matter to any judge.

6 (2) Upon receipt of the motion and assignment to a
7 judge, the judge shall docket the petition. If the
8 petitioner is without counsel and alleges in the motion for
9 resentencing that he or she is without means to procure
10 counsel, he or she shall state whether or not he or she
11 wishes counsel to be appointed to represent him or her. If
12 appointment of counsel is requested, the court shall
13 appoint counsel if satisfied that the petitioner has no
14 means to procure counsel. The clerk of the circuit court
15 shall serve a copy of the motion to the State's Attorney of
16 that county or his or her representative.

17 (3) Upon receipt of the motion for resentencing, the
18 State's Attorney's Office shall provide the victim or his
19 or her family, or both, with a copy of the motion.

20 (4) The petitioner, if pro se, or his or her attorney
21 may amend the motion for resentencing.

22 (5) The State's Attorney must be afforded an
23 opportunity to respond to the motion and the court shall
24 provide the petitioner with the opportunity to reply.

25 (6) Within 90 days after the filing of the motion for
26 resentencing, the court shall set the matter for a

1 resentencing hearing. This date may be extended by motion
2 of either party and at the court's discretion for good
3 cause shown.

4 (7) At the resentencing hearing, the court shall:

5 (A) consider the factors listed in paragraphs (1)
6 through (11) of subsection (a);

7 (B) consider the evidence, if any, received upon
8 the trial;

9 (C) consider any presentence reports;

10 (D) consider the financial impact of incarceration
11 based on the financial impact statement filed with the
12 clerk of the court by the Department of Corrections;

13 (E) consider any additional evidence and
14 information offered by the parties in aggravation and
15 mitigation, including, but not limited to, scientific
16 evidence of recidivism;

17 (F) consider the petitioner's acceptance of
18 responsibility for the crime or expressions of
19 remorse, or both. However, nothing in this subsection
20 shall be construed against a petitioner who avers a
21 good faith claim of innocence;

22 (G) hear arguments as to sentencing alternatives;

23 (H) afford the petitioner the opportunity to make a
24 statement in his or her own behalf;

25 (I) afford the victim or families of victims of the
26 crime, or both, for which the petitioner was originally

1 sentenced an opportunity to provide a victim impact
2 statement to the court. The court may consider those
3 statements and the live testimony of a victim or a
4 victim representative at its discretion.

5 (8) Following the resentencing hearing, the court may
6 re-sentence the petitioner to any appropriate sentence,
7 subject to paragraph (9). In resentencing the petitioner,
8 the court must make a finding detailing its consideration
9 of the factors listed in paragraph (7).

10 (9) The petitioner shall be eligible to file a second
11 motion for resentencing not sooner than 10 years or longer
12 than 20 years as determined by the court at the first
13 resentencing hearing. In considering the motion, the court
14 shall follow the procedure stated in this Section.

15 (10) The petitioner may file a motion seeking leave for
16 resentencing upon reaching the age of 60. The motion must
17 clearly set forth the need for resentencing, including the
18 efforts the petitioner has made towards rehabilitation and
19 his or her demonstrated maturity.

20 (A) Within 90 days after the filing of this motion,
21 the court shall examine the motion and enter an order
22 thereon. If the court determines the motion is
23 frivolous or is patently without merit, it shall deny
24 the motion in a written order, specifying the
25 underlying basis for its decision that continued
26 incarceration is appropriate and necessary. The order

1 is a final judgment and shall be served upon the
2 petitioner by certified mail within 10 days of its
3 entry.

4 (B) If the petition is not dismissed under
5 subparagraph (A), the court shall order the motion for
6 resentencing to be docketed for further consideration
7 in accordance with the procedure stated in this
8 Section.

9 (C) In considering a motion under this paragraph
10 (14), the court may examine the court file of the
11 proceeding in which the petitioner was convicted, any
12 action taken by an appellate court in that proceeding,
13 any transcripts of that proceeding, and any transcript
14 or court documents from previous proceedings under
15 this Section.

16 (11) This Section shall operate retroactively to
17 provide any person incarcerated for a crime committed when
18 he or she was under the age of 18 years and serving life
19 imprisonment or a term of 40 years or more of imprisonment
20 and committed before the effective date of this amendatory
21 Act of the 98th General Assembly with the opportunity to
22 file a motion for resentencing under this Section under the
23 terms provided in this Section. No retroactive
24 resentencing hearing shall be conducted under this Section
25 until one year after the effective date of this amendatory
26 Act of the 98th General Assembly.

1 (12) Notwithstanding anything else to the contrary in
2 this Section, nothing in this Section shall be construed to
3 delay parole or mandatory supervised release consideration
4 for petitioners who, prior to the effective date of this
5 amendatory Act of the 98th General Assembly, are or will be
6 eligible for release earlier than this Section provides.

7 (13) Within one year of the effective date of this
8 amendatory Act of the 98th General Assembly, the Illinois
9 Juvenile Justice Commission shall present the General
10 Assembly with evidence-based findings regarding the
11 effects of sentencing minors as adults.

12 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

15 (a) Except as otherwise provided in the statute defining
16 the offense or in Article 4.5 of Chapter V, a sentence of
17 imprisonment for a felony shall be a determinate sentence set
18 by the court under this Section, according to the following
19 limitations:

20 (1) for first degree murder,

21 (a) (blank),

22 (b) if a trier of fact finds beyond a reasonable
23 doubt that the murder was accompanied by exceptionally
24 brutal or heinous behavior indicative of wanton
25 cruelty or, except as set forth in subsection (a) (1) (c)

1 of this Section, that any of the aggravating factors
2 listed in subsection (b) or (b-5) of Section 9-1 of the
3 Criminal Code of 1961 or the Criminal Code of 2012 are
4 present, the court may sentence the defendant, subject
5 to the limitations found in Section 5-4.5-105, to a
6 term of natural life imprisonment, or

7 (c) the court shall sentence the defendant to a
8 term of natural life imprisonment ~~when the death~~
9 ~~penalty is not~~ imposed if the defendant, at the time of
10 the commission of the murder, had attained the age of
11 18, and

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

14 (ii) is a person who, at the time of the
15 commission of the murder, had attained the age ~~of~~
16 ~~17 or more and~~ is found guilty of murdering an
17 individual under 12 years of age, ~~or, irrespective~~
18 ~~of the defendant's age at the time of the~~
19 ~~commission of the offense,~~ is found guilty of
20 murdering more than one victim, or

21 (iii) is found guilty of murdering a peace
22 officer, fireman, or emergency management worker
23 when the peace officer, fireman, or emergency
24 management worker was killed in the course of
25 performing his official duties, or to prevent the
26 peace officer or fireman from performing his

1 official duties, or in retaliation for the peace
2 officer, fireman, or emergency management worker
3 from performing his official duties, and the
4 defendant knew or should have known that the
5 murdered individual was a peace officer, fireman,
6 or emergency management worker, or

7 (iv) is found guilty of murdering an employee
8 of an institution or facility of the Department of
9 Corrections, or any similar local correctional
10 agency, when the employee was killed in the course
11 of performing his official duties, or to prevent
12 the employee from performing his official duties,
13 or in retaliation for the employee performing his
14 official duties, or

15 (v) is found guilty of murdering an emergency
16 medical technician - ambulance, emergency medical
17 technician - intermediate, emergency medical
18 technician - paramedic, ambulance driver or other
19 medical assistance or first aid person while
20 employed by a municipality or other governmental
21 unit when the person was killed in the course of
22 performing official duties or to prevent the
23 person from performing official duties or in
24 retaliation for performing official duties and the
25 defendant knew or should have known that the
26 murdered individual was an emergency medical

1 technician - ambulance, emergency medical
2 technician - intermediate, emergency medical
3 technician - paramedic, ambulance driver, or other
4 medical assistant or first aid personnel, or

5 (vi) (blank), or ~~is a person who, at the time~~
6 ~~of the commission of the murder, had not attained~~
7 ~~the age of 17, and is found guilty of murdering a~~
8 ~~person under 12 years of age and the murder is~~
9 ~~committed during the course of aggravated criminal~~
10 ~~sexual assault, criminal sexual assault, or~~
11 ~~aggravated kidnaping, or~~

12 (vii) is found guilty of first degree murder
13 and the murder was committed by reason of any
14 person's activity as a community policing
15 volunteer or to prevent any person from engaging in
16 activity as a community policing volunteer. For
17 the purpose of this Section, "community policing
18 volunteer" has the meaning ascribed to it in
19 Section 2-3.5 of the Criminal Code of 2012.

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

25 (d) (i) if the person committed the offense while
26 armed with a firearm, 15 years shall be added to

1 the term of imprisonment imposed by the court;

2 (ii) if, during the commission of the offense,
3 the person personally discharged a firearm, 20
4 years shall be added to the term of imprisonment
5 imposed by the court;

6 (iii) if, during the commission of the
7 offense, the person personally discharged a
8 firearm that proximately caused great bodily harm,
9 permanent disability, permanent disfigurement, or
10 death to another person, 25 years or up to a term
11 of natural life shall be added to the term of
12 imprisonment imposed by the court.

13 (2) (blank);

14 (2.5) for a person convicted under the circumstances
15 described in subdivision (b)(1)(B) of Section 11-1.20 or
16 paragraph (3) of subsection (b) of Section 12-13,
17 subdivision (d)(2) of Section 11-1.30 or paragraph (2) of
18 subsection (d) of Section 12-14, subdivision (b)(1.2) of
19 Section 11-1.40 or paragraph (1.2) of subsection (b) of
20 Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or
21 paragraph (2) of subsection (b) of Section 12-14.1 of the
22 Criminal Code of 1961 or the Criminal Code of 2012, the
23 sentence shall be a term of natural life imprisonment.

24 (b) (Blank).

25 (c) (Blank).

26 (d) Subject to earlier termination under Section 3-3-8, the

1 parole or mandatory supervised release term shall be written as
2 part of the sentencing order and shall be as follows:

3 (1) for first degree murder or a Class X felony except
4 for the offenses of predatory criminal sexual assault of a
5 child, aggravated criminal sexual assault, and criminal
6 sexual assault if committed on or after the effective date
7 of this amendatory Act of the 94th General Assembly and
8 except for the offense of aggravated child pornography
9 under Section 11-20.1B, 11-20.3, or 11-20.1 with
10 sentencing under subsection (c-5) of Section 11-20.1 of the
11 Criminal Code of 1961 or the Criminal Code of 2012, if
12 committed on or after January 1, 2009, 3 years;

13 (2) for a Class 1 felony or a Class 2 felony except for
14 the offense of criminal sexual assault if committed on or
15 after the effective date of this amendatory Act of the 94th
16 General Assembly and except for the offenses of manufacture
17 and dissemination of child pornography under clauses
18 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
19 of 1961 or the Criminal Code of 2012, if committed on or
20 after January 1, 2009, 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, or who commit the offense of aggravated child

1 pornography under Section 11-20.1B, 11-20.3, or 11-20.1
2 with sentencing under subsection (c-5) of Section 11-20.1
3 of the Criminal Code of 1961 or the Criminal Code of 2012,
4 manufacture of child pornography, or dissemination of
5 child pornography after January 1, 2009, the term of
6 mandatory supervised release shall range from a minimum of
7 3 years to a maximum of 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 (6) for a felony domestic battery, aggravated domestic
15 battery, stalking, aggravated stalking, and a felony
16 violation of an order of protection, 4 years.

17 (e) (Blank).

18 (f) (Blank).

19 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;
20 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.
21 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; 97-1109,
22 eff. 1-1-13; 97-1150, eff. 1-25-13.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	720 ILCS 5/10-2	from Ch. 38, par. 10-2
4	720 ILCS 5/11-1.20	was 720 ILCS 5/12-13
5	720 ILCS 5/11-1.30	was 720 ILCS 5/12-14
6	720 ILCS 5/11-1.40	was 720 ILCS 5/12-14.1
7	720 ILCS 5/12-33	from Ch. 38, par. 12-33
8	720 ILCS 5/29D-14.9	was 720 ILCS 5/29D-30
9	720 ILCS 5/29D-35	
10	730 ILCS 5/5-4.5-95	
11	730 ILCS 5/5-4.5-105 new	
12	730 ILCS 5/5-8-1	from Ch. 38, par. 1005-8-1