



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4650

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.

LRB098 17768 RLC 52889 b

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 or an
12 act of contact, however slight, between the sex organ or anus
13 of one person and the part of the body of another, and the
14 accused is 17 years of age or older, and:

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

16 (2) the victim is under 13 years of age and that
17 person:

18 (A) is armed with a firearm;

19 (B) personally discharges a firearm during the
20 commission of the offense;

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

22 (i) results in permanent disability; or

23 (ii) is life threatening; or

24 (D) delivers (by injection, inhalation, ingestion,
25 transfer of possession, or any other means) any

1 controlled substance to the victim without the
2 victim's consent or by threat or deception, for other
3 than medical purposes.

4 (b) Sentence.

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

26 (1.1) A person convicted of a violation of subsection

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

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

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

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

15 (Source: P.A. 98-370, eff. 1-1-14; revised 11-12-13.)

16 (720 ILCS 5/12-33) (from Ch. 38, par. 12-33)

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

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

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

24 (2) forces ingestion, injection or other application
25 of any narcotic, drug, hallucinogen or anaesthetic for the

1 purpose of dulling sensitivity, cognition, recollection
2 of, or resistance to any criminal activity;

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

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

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

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

16 (7) unlawfully dissects, mutilates, or incinerates a
17 human corpse.

18 (b) The provisions of this Section shall not be construed
19 to apply to:

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

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

25 (3) any state or federally approved, licensed, or
26 funded research project; or

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

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

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

13 (d) (Blank).

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

15 (720 ILCS 5/29D-14.9) (was 720 ILCS 5/29D-30)

16 Sec. 29D-14.9. Terrorism.

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

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

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

1 substantial detrimental effects within this State.

2 (b) Sentence. Terrorism is a Class X felony. If no deaths
3 are caused by the terrorist act, the sentence shall be a term
4 of 20 years to natural life imprisonment; if the terrorist act
5 caused the death of one or more persons, however, a mandatory
6 term of natural life imprisonment shall be the sentence if the
7 death penalty is not imposed and the person has attained the
8 age of 18 years at the time of the commission of the offense.
9 An offender under the age of 18 years at the time of the
10 commission of the offense shall be sentenced under Section
11 5-4.5-105 of the Unified Code of Corrections.

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

13 (720 ILCS 5/29D-35)

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

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

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

1 rendered criminal assistance and a mandatory term of natural
2 life imprisonment if death was caused by the act of terrorism
3 committed by the person to whom the defendant rendered criminal
4 assistance. An offender under the age of 18 years at the time
5 of the commission of the offense shall be sentenced under
6 Section 5-4.5-105 of the Unified Code of Corrections.

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

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

11 (730 ILCS 5/5-4.5-95)

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

13 (a) HABITUAL CRIMINALS.

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

23 (2) The 2 prior convictions need not have been for the
24 same offense.

1 (3) Any convictions that result from or are connected
2 with the same transaction, or result from offenses
3 committed at the same time, shall be counted for the
4 purposes of this Section as one conviction.

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

7 (A) The third offense was committed after July 3,
8 1980.

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

13 (C) The third offense was committed after
14 conviction on the second offense.

15 (D) The second offense was committed after
16 conviction on the first offense.

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

21 (6) A prior conviction shall not be alleged in the
22 indictment, and no evidence or other disclosure of that
23 conviction shall be presented to the court or the jury
24 during the trial of an offense set forth in this Section
25 unless otherwise permitted by the issues properly raised in
26 that trial. After a plea or verdict or finding of guilty

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

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

23 (8) Any claim that a previous conviction offered by the
24 prosecution is not a former conviction of an offense set
25 forth in this Section because of the existence of any
26 exceptions described in this Section, is waived unless duly

1 raised at the hearing on that conviction, or unless the
2 prosecution's proof shows the existence of the exceptions
3 described in this Section.

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

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

19 (1) the first felony was committed after February 1,
20 1978 (the effective date of Public Act 80-1099);

21 (2) the second felony was committed after conviction on
22 the first; and

23 (3) the third felony was committed after conviction on
24 the second.

25 A person sentenced as a Class X offender under this
26 subsection (b) is not eligible to apply for treatment as a

1 condition of probation as provided by Section 40-10 of the
2 Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS
3 301/40-10).

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

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

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

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

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

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

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

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

1 (5) the circumstances of the offense;

2 (6) the petitioner's degree of participation and
3 specific role in the offense;

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

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

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

15 (10) the petitioner's prior juvenile or criminal
16 history; and

17 (11) any other information the court finds relevant and
18 reliable, including an expression of remorse, if
19 appropriate.

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

22 (b) Any person who was under 18 years of age at the time of
23 the commission of an offense may, after serving 15 years of his
24 or her sentence of either life imprisonment or a term of 40
25 years or longer of imprisonment, submit a motion for
26 resentencing in the circuit court of the county in which he or

1 she was originally sentenced. The procedure for resentencing
2 shall occur in the following manner:

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

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

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

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

25 (5) The State's Attorney must be afforded an
26 opportunity to respond to the motion and the court shall

1 provide the petitioner with the opportunity to reply.

2 (6) Within 90 days after the filing of the motion for
3 resentencing, the court shall set the matter for a
4 resentencing hearing. This date may be extended by motion
5 of either party and at the court's discretion for good
6 cause shown.

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

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

10 (B) consider the evidence, if any, received upon
11 the trial;

12 (C) consider any presentence reports;

13 (D) consider the financial impact of incarceration
14 based on the financial impact statement filed with the
15 clerk of the court by the Department of Corrections;

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

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

25 (G) hear arguments as to sentencing alternatives;

26 (H) afford the petitioner the opportunity to make a

1 statement in his or her own behalf;

2 (I) afford the victim or families of victims of the
3 crime, or both, for which the petitioner was originally
4 sentenced an opportunity to provide a victim impact
5 statement to the court. The court shall permit those
6 statements and may consider the live testimony of a
7 victim or a victim representative at its discretion.

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

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

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

23 (A) Within 90 days after the filing of this motion,
24 the court shall examine the motion and enter an order
25 thereon. If the court determines the motion is
26 frivolous or is patently without merit, it shall deny

1 the motion in a written order, specifying the
2 underlying basis for its decision that continued
3 incarceration is appropriate and necessary. The order
4 is a final judgment and shall be served upon the
5 petitioner by certified mail within 10 days of its
6 entry.

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

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

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

1 resentencing hearing shall be conducted under this Section
2 until one year after the effective date of this amendatory
3 Act of the 98th General Assembly.

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

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

15 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

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

23 (1) for first degree murder,

24 (a) (blank),

25 (b) if a trier of fact finds beyond a reasonable

1 doubt that the murder was accompanied by exceptionally
2 brutal or heinous behavior indicative of wanton
3 cruelty or, except as set forth in subsection (a) (1) (c)
4 of this Section, that any of the aggravating factors
5 listed in subsection (b) or (b-5) of Section 9-1 of the
6 Criminal Code of 1961 or the Criminal Code of 2012 are
7 present, the court may sentence the defendant, subject
8 to the limitations found in Section 5-4.5-105, to a
9 term of natural life imprisonment, or

10 (c) the court shall sentence the defendant to a
11 term of natural life imprisonment ~~when the death~~
12 ~~penalty is not~~ imposed if the defendant, at the time of
13 the commission of the murder, had attained the age of
14 18, and

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

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

24 (iii) is found guilty of murdering a peace
25 officer, fireman, or emergency management worker
26 when the peace officer, fireman, or emergency

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

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

18 (v) is found guilty of murdering an emergency
19 medical technician - ambulance, emergency medical
20 technician - intermediate, emergency medical
21 technician - paramedic, ambulance driver or other
22 medical assistance or first aid person while
23 employed by a municipality or other governmental
24 unit when the person was killed in the course of
25 performing official duties or to prevent the
26 person from performing official duties or in

1 retaliation for performing official duties and the
2 defendant knew or should have known that the
3 murdered individual was an emergency medical
4 technician - ambulance, emergency medical
5 technician - intermediate, emergency medical
6 technician - paramedic, ambulance driver, or other
7 medical assistant or first aid personnel, or

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

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

23 For purposes of clause (v), "emergency medical
24 technician - ambulance", "emergency medical technician
25 - intermediate", "emergency medical technician -
26 paramedic", have the meanings ascribed to them in the

1 Emergency Medical Services (EMS) Systems Act.

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

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

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

16 (2) (blank);

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

1 (b) (Blank).

2 (c) (Blank).

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

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

16 (2) for a Class 1 felony or a Class 2 felony except for
17 the offense of criminal sexual assault if committed on or
18 after the effective date of this amendatory Act of the 94th
19 General Assembly and except for the offenses of manufacture
20 and dissemination of child pornography under clauses
21 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
22 of 1961 or the Criminal Code of 2012, if committed on or
23 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 under Section 11-20.1B, 11-20.3, or 11-20.1
5 with sentencing under subsection (c-5) of Section 11-20.1
6 of the Criminal Code of 1961 or the Criminal Code of 2012,
7 manufacture of child pornography, or dissemination of
8 child pornography after January 1, 2009, the term of
9 mandatory supervised release shall range from a minimum of
10 3 years to a maximum of the natural life of the defendant;

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

17 (6) for a felony domestic battery, aggravated domestic
18 battery, stalking, aggravated stalking, and a felony
19 violation of an order of protection, 4 years.

20 (e) (Blank).

21 (f) (Blank).

22 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;
23 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.
24 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; 97-1109,
25 eff. 1-1-13; 97-1150, eff. 1-25-13.)

26 Section 99. Effective date. This Act takes effect upon

1 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