



Rep. Thomas M. Bennett

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LRB100 04004 RLC 25095 a

1 AMENDMENT TO HOUSE BILL 2319

2 AMENDMENT NO. _____. Amend House Bill 2319 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-8-4 as follows:

6 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

7 Sec. 5-8-4. Concurrent and consecutive terms of
8 imprisonment.

9 (a) Concurrent terms; multiple or additional sentences.
10 When an Illinois court (i) imposes multiple sentences of
11 imprisonment on a defendant at the same time or (ii) imposes a
12 sentence of imprisonment on a defendant who is already subject
13 to a sentence of imprisonment imposed by an Illinois court, a
14 court of another state, or a federal court, then the sentences
15 shall run concurrently unless otherwise determined by the
16 Illinois court under this Section.

1 (b) Concurrent terms; misdemeanor and felony. A defendant
2 serving a sentence for a misdemeanor who is convicted of a
3 felony and sentenced to imprisonment shall be transferred to
4 the Department of Corrections, and the misdemeanor sentence
5 shall be merged in and run concurrently with the felony
6 sentence.

7 (c) Consecutive terms; permissive. The court may impose
8 consecutive sentences in any of the following circumstances:

9 (1) If, having regard to the nature and circumstances
10 of the offense and the history and character of the
11 defendant, it is the opinion of the court that consecutive
12 sentences are required to protect the public from further
13 criminal conduct by the defendant, the basis for which the
14 court shall set forth in the record.

15 (2) If one of the offenses for which a defendant was
16 convicted was a violation of Section 32-5.2 (aggravated
17 false personation of a peace officer) of the Criminal Code
18 of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision
19 (b) (5) or (b) (6) of Section 17-2 of the Criminal Code of
20 1961 or the Criminal Code of 2012 (720 ILCS 5/17-2) and the
21 offense was committed in attempting or committing a
22 forcible felony.

23 (d) Consecutive terms; mandatory. The court shall impose
24 consecutive sentences in each of the following circumstances:

25 (1) One of the offenses for which the defendant was
26 convicted was first degree murder or a Class X or Class 1

1 felony and the defendant inflicted severe bodily injury.

2 (2) The defendant was convicted of a violation of
3 Section 11-1.20 or 12-13 (criminal sexual assault),
4 11-1.30 or 12-14 (aggravated criminal sexual assault), or
5 11-1.40 or 12-14.1 (predatory criminal sexual assault of a
6 child) of the Criminal Code of 1961 or the Criminal Code of
7 2012 (720 ILCS 5/11-20.1, 5/11-20.1B, 5/11-20.3,
8 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or
9 5/12-14.1).

10 (2.5) The defendant was convicted of a violation of
11 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a)
12 of Section 11-20.1 (child pornography) or of paragraph (1),
13 (2), (3), (4), (5), or (7) of subsection (a) of Section
14 11-20.1B or 11-20.3 (aggravated child pornography) of the
15 Criminal Code of 1961 or the Criminal Code of 2012; or the
16 defendant was convicted of a violation of paragraph (6) of
17 subsection (a) of Section 11-20.1 (child pornography) or of
18 paragraph (6) of subsection (a) of Section 11-20.1B or
19 11-20.3 (aggravated child pornography) of the Criminal
20 Code of 1961 or the Criminal Code of 2012, when the child
21 depicted is under the age of 13.

22 (3) The defendant was convicted of armed violence based
23 upon the predicate offense of any of the following:
24 solicitation of murder, solicitation of murder for hire,
25 heinous battery as described in Section 12-4.1 or
26 subdivision (a)(2) of Section 12-3.05, aggravated battery

1 of a senior citizen as described in Section 12-4.6 or
2 subdivision (a)(4) of Section 12-3.05, criminal sexual
3 assault, a violation of subsection (g) of Section 5 of the
4 Cannabis Control Act (720 ILCS 550/5), cannabis
5 trafficking, a violation of subsection (a) of Section 401
6 of the Illinois Controlled Substances Act (720 ILCS
7 570/401), controlled substance trafficking involving a
8 Class X felony amount of controlled substance under Section
9 401 of the Illinois Controlled Substances Act (720 ILCS
10 570/401), a violation of the Methamphetamine Control and
11 Community Protection Act (720 ILCS 646/), calculated
12 criminal drug conspiracy, or streetgang criminal drug
13 conspiracy.

14 (4) The defendant was convicted of the offense of
15 leaving the scene of a motor vehicle accident involving
16 death or personal injuries under Section 11-401 of the
17 Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)
18 aggravated driving under the influence of alcohol, other
19 drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof under Section 11-501 of the
21 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
22 homicide under Section 9-3 of the Criminal Code of 1961 or
23 the Criminal Code of 2012 (720 ILCS 5/9-3), or (C) both an
24 offense described in item (A) and an offense described in
25 item (B).

26 (5) The defendant was convicted of a violation of

1 Section 9-3.1 or Section 9-3.4 (concealment of homicidal
2 death) or Section 12-20.5 (dismembering a human body) of
3 the Criminal Code of 1961 or the Criminal Code of 2012 (720
4 ILCS 5/9-3.1 or 5/12-20.5).

5 (5.5) The defendant was convicted of a violation of
6 Section 24-3.7 (use of a stolen firearm in the commission
7 of an offense) of the Criminal Code of 1961 or the Criminal
8 Code of 2012.

9 (6) If the defendant was in the custody of the
10 Department of Corrections at the time of the commission of
11 the offense, each ~~the~~ sentence for an offense committed
12 while the defendant was in custody of the Department of
13 Corrections shall be served consecutive to the sentence
14 under which the defendant is held for an offense committed
15 before the defendant was held in custody of ~~by~~ the
16 Department of Corrections. If, however, the defendant is
17 sentenced to punishment by death, the sentence shall be
18 executed at such time as the court may fix without regard
19 to the sentence under which the defendant may be held by
20 the Department.

21 (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)
22 for escape or attempted escape shall be served consecutive
23 to the terms under which the offender is held by the
24 Department of Corrections.

25 (8) If a person charged with a felony commits a
26 separate felony while on pretrial release or in pretrial

1 detention in a county jail facility or county detention
2 facility, then each sentence ~~the sentences~~ imposed upon
3 conviction of these felonies shall be served consecutively
4 regardless of the order in which the judgments of
5 conviction are entered.

6 (8.5) If a person commits a battery against a county
7 correctional officer or sheriff's employee while serving a
8 sentence or in pretrial detention in a county jail
9 facility, then the sentence imposed upon conviction of the
10 battery shall be served consecutively with the sentence
11 imposed upon conviction of the earlier misdemeanor or
12 felony, regardless of the order in which the judgments of
13 conviction are entered.

14 (9) If a person admitted to bail following conviction
15 of a felony commits a separate felony while free on bond or
16 if a person detained in a county jail facility or county
17 detention facility following conviction of a felony
18 commits a separate felony while in detention, then any
19 sentence following conviction of the separate felony shall
20 be consecutive to that of the original sentence for which
21 the defendant was on bond or detained.

22 (10) If a person is found to be in possession of an
23 item of contraband, as defined in Section 31A-0.1 of the
24 Criminal Code of 2012, while serving a sentence in a county
25 jail or while in pre-trial detention in a county jail, the
26 sentence imposed upon conviction for the offense of

1 possessing contraband in a penal institution shall be
2 served consecutively to the sentence imposed for the
3 offense in which the person is serving sentence in the
4 county jail or serving pretrial detention, regardless of
5 the order in which the judgments of conviction are entered.

6 (11) If a person is sentenced for a violation of bail
7 bond under Section 32-10 of the Criminal Code of 1961 or
8 the Criminal Code of 2012, any sentence imposed for that
9 violation shall be served consecutive to the sentence
10 imposed for the charge for which bail had been granted and
11 with respect to which the defendant has been convicted.

12 (e) Consecutive terms; subsequent non-Illinois term. If an
13 Illinois court has imposed a sentence of imprisonment on a
14 defendant and the defendant is subsequently sentenced to a term
15 of imprisonment by a court of another state or a federal court,
16 then the Illinois sentence shall run consecutively to the
17 sentence imposed by the court of the other state or the federal
18 court. That same Illinois court, however, may order that the
19 Illinois sentence run concurrently with the sentence imposed by
20 the court of the other state or the federal court, but only if
21 the defendant applies to that same Illinois court within 30
22 days after the sentence imposed by the court of the other state
23 or the federal court is finalized.

24 (f) Consecutive terms; aggregate maximums and minimums.
25 The aggregate maximum and aggregate minimum of consecutive
26 sentences shall be determined as follows:

1 (1) For sentences imposed under law in effect prior to
2 February 1, 1978, the aggregate maximum of consecutive
3 sentences shall not exceed the maximum term authorized
4 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
5 Chapter V for the 2 most serious felonies involved. The
6 aggregate minimum period of consecutive sentences shall
7 not exceed the highest minimum term authorized under
8 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
9 V for the 2 most serious felonies involved. When sentenced
10 only for misdemeanors, a defendant shall not be
11 consecutively sentenced to more than the maximum for one
12 Class A misdemeanor.

13 (2) For sentences imposed under the law in effect on or
14 after February 1, 1978, the aggregate of consecutive
15 sentences for offenses that were committed as part of a
16 single course of conduct during which there was no
17 substantial change in the nature of the criminal objective
18 shall not exceed the sum of the maximum terms authorized
19 under Article 4.5 of Chapter V for the 2 most serious
20 felonies involved, but no such limitation shall apply for
21 offenses that were not committed as part of a single course
22 of conduct during which there was no substantial change in
23 the nature of the criminal objective. When sentenced only
24 for misdemeanors, a defendant shall not be consecutively
25 sentenced to more than the maximum for one Class A
26 misdemeanor.

1 (g) Consecutive terms; manner served. In determining the
2 manner in which consecutive sentences of imprisonment, one or
3 more of which is for a felony, will be served, the Department
4 of Corrections shall treat the defendant as though he or she
5 had been committed for a single term subject to each of the
6 following:

7 (1) The maximum period of a term of imprisonment shall
8 consist of the aggregate of the maximums of the imposed
9 indeterminate terms, if any, plus the aggregate of the
10 imposed determinate sentences for felonies, plus the
11 aggregate of the imposed determinate sentences for
12 misdemeanors, subject to subsection (f) of this Section.

13 (2) The parole or mandatory supervised release term
14 shall be as provided in paragraph (e) of Section 5-4.5-50
15 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
16 involved.

17 (3) The minimum period of imprisonment shall be the
18 aggregate of the minimum and determinate periods of
19 imprisonment imposed by the court, subject to subsection
20 (f) of this Section.

21 (4) The defendant shall be awarded credit against the
22 aggregate maximum term and the aggregate minimum term of
23 imprisonment for all time served in an institution since
24 the commission of the offense or offenses and as a
25 consequence thereof at the rate specified in Section 3-6-3
26 (730 ILCS 5/3-6-3).

1 (Source: P.A. 97-475, eff. 8-22-11; 97-1108, eff. 1-1-13;
2 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-437, eff.
3 1-1-14.)".