



Sen. Michael E. Hastings

Filed: 3/21/2017

10000SB1441sam001

LRB100 08779 RLC 23751 a

1 AMENDMENT TO SENATE BILL 1441

2 AMENDMENT NO. _____. Amend Senate Bill 1441 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, the sentence shall be served consecutive to
12 the sentence under which the defendant is held by the
13 Department of Corrections. If, however, the defendant is
14 sentenced to punishment by death, the sentence shall be
15 executed at such time as the court may fix without regard
16 to the sentence under which the defendant may be held by
17 the Department.

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

22 (8) If a person charged with a felony commits a
23 separate felony while on pretrial release or in pretrial
24 detention in a county jail facility or county detention
25 facility, then the sentences imposed upon conviction of
26 these felonies shall be served consecutively regardless of

1 the order in which the judgments of conviction are entered.
2 Mandatory consecutive sentencing under this paragraph (8)
3 does not apply to a violation of a condition of electronic
4 home monitoring under Section 5-8A-4.1 of this Code, except
5 upon the third or subsequent conviction, in which mandatory
6 consecutive sentencing shall be imposed.

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

15 (9) If a person admitted to bail following conviction
16 of a felony commits a separate felony while free on bond or
17 if a person detained in a county jail facility or county
18 detention facility following conviction of a felony
19 commits a separate felony while in detention, then any
20 sentence following conviction of the separate felony shall
21 be consecutive to that of the original sentence for which
22 the defendant was on bond or detained. Mandatory
23 consecutive sentencing under this paragraph (9) does not
24 apply to a violation of a condition of electronic home
25 monitoring under Section 5-8A-4.1 of this Code, except upon
26 the third or subsequent conviction, in which mandatory

1 consecutive sentencing shall be imposed.

2 (10) If a person is found to be in possession of an
3 item of contraband, as defined in Section 31A-0.1 of the
4 Criminal Code of 2012, while serving a sentence in a county
5 jail or while in pre-trial detention in a county jail, the
6 sentence imposed upon conviction for the offense of
7 possessing contraband in a penal institution shall be
8 served consecutively to the sentence imposed for the
9 offense in which the person is serving sentence in the
10 county jail or serving pretrial detention, regardless of
11 the order in which the judgments of conviction are entered.

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

18 (e) Consecutive terms; subsequent non-Illinois term. If an
19 Illinois court has imposed a sentence of imprisonment on a
20 defendant and the defendant is subsequently sentenced to a term
21 of imprisonment by a court of another state or a federal court,
22 then the Illinois sentence shall run consecutively to the
23 sentence imposed by the court of the other state or the federal
24 court. That same Illinois court, however, may order that the
25 Illinois sentence run concurrently with the sentence imposed by
26 the court of the other state or the federal court, but only if

1 the defendant applies to that same Illinois court within 30
2 days after the sentence imposed by the court of the other state
3 or the federal court is finalized.

4 (f) Consecutive terms; aggregate maximums and minimums.
5 The aggregate maximum and aggregate minimum of consecutive
6 sentences shall be determined as follows:

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

19 (2) For sentences imposed under the law in effect on or
20 after February 1, 1978, the aggregate of consecutive
21 sentences for offenses that were committed as part of a
22 single course of conduct during which there was no
23 substantial change in the nature of the criminal objective
24 shall not exceed the sum of the maximum terms authorized
25 under Article 4.5 of Chapter V for the 2 most serious
26 felonies involved, but no such limitation shall apply for

1 offenses that were not committed as part of a single course
2 of conduct during which there was no substantial change in
3 the nature of the criminal objective. When sentenced only
4 for misdemeanors, a defendant shall not be consecutively
5 sentenced to more than the maximum for one Class A
6 misdemeanor.

7 (g) Consecutive terms; manner served. In determining the
8 manner in which consecutive sentences of imprisonment, one or
9 more of which is for a felony, will be served, the Department
10 of Corrections shall treat the defendant as though he or she
11 had been committed for a single term subject to each of the
12 following:

13 (1) The maximum period of a term of imprisonment shall
14 consist of the aggregate of the maximums of the imposed
15 indeterminate terms, if any, plus the aggregate of the
16 imposed determinate sentences for felonies, plus the
17 aggregate of the imposed determinate sentences for
18 misdemeanors, subject to subsection (f) of this Section.

19 (2) The parole or mandatory supervised release term
20 shall be as provided in paragraph (e) of Section 5-4.5-50
21 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
22 involved.

23 (3) The minimum period of imprisonment shall be the
24 aggregate of the minimum and determinate periods of
25 imprisonment imposed by the court, subject to subsection
26 (f) of this Section.

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

7 (Source: P.A. 97-475, eff. 8-22-11; 97-1108, eff. 1-1-13;
8 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-437, eff.
9 1-1-14.)".