



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2292

Introduced 10/28/2019, by Sen. Robert Peters

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/9-1

from Ch. 38, par. 9-1

Amends the Criminal Code of 2012 concerning first degree murder. Provides that, in addition to other elements of the offense, a person commits first degree murder if he or she: (1) acting alone, commits or attempts to commit a forcible felony other than second degree murder and, in the course of and in furtherance of the crime, he or she personally causes the death of an individual or (2) when acting with one or more participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of and in furtherance of the offense, another participant in the offense causes the death of an individual, and he or she knew that the other participant would engage in conduct that would result in death or great bodily harm (rather than killing an individual when attempting or committing a forcible felony other than second degree murder).

LRB101 14862 RLC 63841 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 Section 9-1 as follows:

6 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

7 (Text of Section before amendment by P.A. 101-223)

8 Sec. 9-1. First degree murder; death penalties;  
9 exceptions; separate hearings; proof; findings; appellate  
10 procedures; reversals.

11 (a) A person who kills an individual without lawful  
12 justification commits first degree murder if, in performing the  
13 acts which cause the death:

14 (1) he either intends to kill or do great bodily harm  
15 to that individual or another, or knows that such acts will  
16 cause death to that individual or another; or

17 (2) he knows that such acts create a strong probability  
18 of death or great bodily harm to that individual or  
19 another; or

20 (3) he is attempting or committing a forcible felony  
21 other than second degree murder.

22 (b) Aggravating Factors. A defendant who at the time of the  
23 commission of the offense has attained the age of 18 or more

1 and who has been found guilty of first degree murder may be  
2 sentenced to death if:

3 (1) the murdered individual was a peace officer or  
4 fireman killed in the course of performing his official  
5 duties, to prevent the performance of his official duties,  
6 or in retaliation for performing his official duties, and  
7 the defendant knew or should have known that the murdered  
8 individual was a peace officer or fireman; or

9 (2) the murdered individual was an employee of an  
10 institution or facility of the Department of Corrections,  
11 or any similar local correctional agency, killed in the  
12 course of performing his official duties, to prevent the  
13 performance of his official duties, or in retaliation for  
14 performing his official duties, or the murdered individual  
15 was an inmate at such institution or facility and was  
16 killed on the grounds thereof, or the murdered individual  
17 was otherwise present in such institution or facility with  
18 the knowledge and approval of the chief administrative  
19 officer thereof; or

20 (3) the defendant has been convicted of murdering two  
21 or more individuals under subsection (a) of this Section or  
22 under any law of the United States or of any state which is  
23 substantially similar to subsection (a) of this Section  
24 regardless of whether the deaths occurred as the result of  
25 the same act or of several related or unrelated acts so  
26 long as the deaths were the result of either an intent to

1 kill more than one person or of separate acts which the  
2 defendant knew would cause death or create a strong  
3 probability of death or great bodily harm to the murdered  
4 individual or another; or

5 (4) the murdered individual was killed as a result of  
6 the hijacking of an airplane, train, ship, bus or other  
7 public conveyance; or

8 (5) the defendant committed the murder pursuant to a  
9 contract, agreement or understanding by which he was to  
10 receive money or anything of value in return for committing  
11 the murder or procured another to commit the murder for  
12 money or anything of value; or

13 (6) the murdered individual was killed in the course of  
14 another felony if:

15 (a) the murdered individual:

16 (i) was actually killed by the defendant, or

17 (ii) received physical injuries personally  
18 inflicted by the defendant substantially  
19 contemporaneously with physical injuries caused by  
20 one or more persons for whose conduct the defendant  
21 is legally accountable under Section 5-2 of this  
22 Code, and the physical injuries inflicted by  
23 either the defendant or the other person or persons  
24 for whose conduct he is legally accountable caused  
25 the death of the murdered individual; and

26 (b) in performing the acts which caused the death

1 of the murdered individual or which resulted in  
2 physical injuries personally inflicted by the  
3 defendant on the murdered individual under the  
4 circumstances of subdivision (ii) of subparagraph (a)  
5 of paragraph (6) of subsection (b) of this Section, the  
6 defendant acted with the intent to kill the murdered  
7 individual or with the knowledge that his acts created  
8 a strong probability of death or great bodily harm to  
9 the murdered individual or another; and

10 (c) the other felony was an inherently violent  
11 crime or the attempt to commit an inherently violent  
12 crime. In this subparagraph (c), "inherently violent  
13 crime" includes, but is not limited to, armed robbery,  
14 robbery, predatory criminal sexual assault of a child,  
15 aggravated criminal sexual assault, aggravated  
16 kidnapping, aggravated vehicular hijacking, aggravated  
17 arson, aggravated stalking, residential burglary, and  
18 home invasion; or

19 (7) the murdered individual was under 12 years of age  
20 and the death resulted from exceptionally brutal or heinous  
21 behavior indicative of wanton cruelty; or

22 (8) the defendant committed the murder with intent to  
23 prevent the murdered individual from testifying or  
24 participating in any criminal investigation or prosecution  
25 or giving material assistance to the State in any  
26 investigation or prosecution, either against the defendant

1 or another; or the defendant committed the murder because  
2 the murdered individual was a witness in any prosecution or  
3 gave material assistance to the State in any investigation  
4 or prosecution, either against the defendant or another;  
5 for purposes of this paragraph (8), "participating in any  
6 criminal investigation or prosecution" is intended to  
7 include those appearing in the proceedings in any capacity  
8 such as trial judges, prosecutors, defense attorneys,  
9 investigators, witnesses, or jurors; or

10 (9) the defendant, while committing an offense  
11 punishable under Sections 401, 401.1, 401.2, 405, 405.2,  
12 407 or 407.1 or subsection (b) of Section 404 of the  
13 Illinois Controlled Substances Act, or while engaged in a  
14 conspiracy or solicitation to commit such offense,  
15 intentionally killed an individual or counseled,  
16 commanded, induced, procured or caused the intentional  
17 killing of the murdered individual; or

18 (10) the defendant was incarcerated in an institution  
19 or facility of the Department of Corrections at the time of  
20 the murder, and while committing an offense punishable as a  
21 felony under Illinois law, or while engaged in a conspiracy  
22 or solicitation to commit such offense, intentionally  
23 killed an individual or counseled, commanded, induced,  
24 procured or caused the intentional killing of the murdered  
25 individual; or

26 (11) the murder was committed in a cold, calculated and

1 premeditated manner pursuant to a preconceived plan,  
2 scheme or design to take a human life by unlawful means,  
3 and the conduct of the defendant created a reasonable  
4 expectation that the death of a human being would result  
5 therefrom; or

6 (12) the murdered individual was an emergency medical  
7 technician - ambulance, emergency medical technician -  
8 intermediate, emergency medical technician - paramedic,  
9 ambulance driver, or other medical assistance or first aid  
10 personnel, employed by a municipality or other  
11 governmental unit, killed in the course of performing his  
12 official duties, to prevent the performance of his official  
13 duties, or in retaliation for performing his official  
14 duties, and the defendant knew or should have known that  
15 the murdered individual was an emergency medical  
16 technician - ambulance, emergency medical technician -  
17 intermediate, emergency medical technician - paramedic,  
18 ambulance driver, or other medical assistance or first aid  
19 personnel; or

20 (13) the defendant was a principal administrator,  
21 organizer, or leader of a calculated criminal drug  
22 conspiracy consisting of a hierarchical position of  
23 authority superior to that of all other members of the  
24 conspiracy, and the defendant counseled, commanded,  
25 induced, procured, or caused the intentional killing of the  
26 murdered person; or

1           (14) the murder was intentional and involved the  
2           infliction of torture. For the purpose of this Section  
3           torture means the infliction of or subjection to extreme  
4           physical pain, motivated by an intent to increase or  
5           prolong the pain, suffering or agony of the victim; or

6           (15) the murder was committed as a result of the  
7           intentional discharge of a firearm by the defendant from a  
8           motor vehicle and the victim was not present within the  
9           motor vehicle; or

10          (16) the murdered individual was 60 years of age or  
11          older and the death resulted from exceptionally brutal or  
12          heinous behavior indicative of wanton cruelty; or

13          (17) the murdered individual was a person with a  
14          disability and the defendant knew or should have known that  
15          the murdered individual was a person with a disability. For  
16          purposes of this paragraph (17), "person with a disability"  
17          means a person who suffers from a permanent physical or  
18          mental impairment resulting from disease, an injury, a  
19          functional disorder, or a congenital condition that  
20          renders the person incapable of adequately providing for  
21          his or her own health or personal care; or

22          (18) the murder was committed by reason of any person's  
23          activity as a community policing volunteer or to prevent  
24          any person from engaging in activity as a community  
25          policing volunteer; or

26          (19) the murdered individual was subject to an order of



1 protection and the murder was committed by a person against  
2 whom the same order of protection was issued under the  
3 Illinois Domestic Violence Act of 1986; or

4 (20) the murdered individual was known by the defendant  
5 to be a teacher or other person employed in any school and  
6 the teacher or other employee is upon the grounds of a  
7 school or grounds adjacent to a school, or is in any part  
8 of a building used for school purposes; or

9 (21) the murder was committed by the defendant in  
10 connection with or as a result of the offense of terrorism  
11 as defined in Section 29D-14.9 of this Code.

12 (b-5) Aggravating Factor; Natural Life Imprisonment. A  
13 defendant who has been found guilty of first degree murder and  
14 who at the time of the commission of the offense had attained  
15 the age of 18 years or more may be sentenced to natural life  
16 imprisonment if (i) the murdered individual was a physician,  
17 physician assistant, psychologist, nurse, or advanced practice  
18 registered nurse, (ii) the defendant knew or should have known  
19 that the murdered individual was a physician, physician  
20 assistant, psychologist, nurse, or advanced practice  
21 registered nurse, and (iii) the murdered individual was killed  
22 in the course of acting in his or her capacity as a physician,  
23 physician assistant, psychologist, nurse, or advanced practice  
24 registered nurse, or to prevent him or her from acting in that  
25 capacity, or in retaliation for his or her acting in that  
26 capacity.

1           (c) Consideration of factors in Aggravation and  
2 Mitigation.

3           The court shall consider, or shall instruct the jury to  
4 consider any aggravating and any mitigating factors which are  
5 relevant to the imposition of the death penalty. Aggravating  
6 factors may include but need not be limited to those factors  
7 set forth in subsection (b). Mitigating factors may include but  
8 need not be limited to the following:

9           (1) the defendant has no significant history of prior  
10 criminal activity;

11           (2) the murder was committed while the defendant was  
12 under the influence of extreme mental or emotional  
13 disturbance, although not such as to constitute a defense  
14 to prosecution;

15           (3) the murdered individual was a participant in the  
16 defendant's homicidal conduct or consented to the  
17 homicidal act;

18           (4) the defendant acted under the compulsion of threat  
19 or menace of the imminent infliction of death or great  
20 bodily harm;

21           (5) the defendant was not personally present during  
22 commission of the act or acts causing death;

23           (6) the defendant's background includes a history of  
24 extreme emotional or physical abuse;

25           (7) the defendant suffers from a reduced mental  
26 capacity.

1           Provided, however, that an action that does not otherwise  
2 mitigate first degree murder cannot qualify as a mitigating  
3 factor for first degree murder because of the discovery,  
4 knowledge, or disclosure of the victim's sexual orientation as  
5 defined in Section 1-103 of the Illinois Human Rights Act.

6           (d) Separate sentencing hearing.

7           Where requested by the State, the court shall conduct a  
8 separate sentencing proceeding to determine the existence of  
9 factors set forth in subsection (b) and to consider any  
10 aggravating or mitigating factors as indicated in subsection  
11 (c). The proceeding shall be conducted:

12           (1) before the jury that determined the defendant's  
13 guilt; or

14           (2) before a jury impanelled for the purpose of the  
15 proceeding if:

16           A. the defendant was convicted upon a plea of  
17 guilty; or

18           B. the defendant was convicted after a trial before  
19 the court sitting without a jury; or

20           C. the court for good cause shown discharges the  
21 jury that determined the defendant's guilt; or

22           (3) before the court alone if the defendant waives a  
23 jury for the separate proceeding.

24           (e) Evidence and Argument.

25           During the proceeding any information relevant to any of  
26 the factors set forth in subsection (b) may be presented by

1 either the State or the defendant under the rules governing the  
2 admission of evidence at criminal trials. Any information  
3 relevant to any additional aggravating factors or any  
4 mitigating factors indicated in subsection (c) may be presented  
5 by the State or defendant regardless of its admissibility under  
6 the rules governing the admission of evidence at criminal  
7 trials. The State and the defendant shall be given fair  
8 opportunity to rebut any information received at the hearing.

9 (f) Proof.

10 The burden of proof of establishing the existence of any of  
11 the factors set forth in subsection (b) is on the State and  
12 shall not be satisfied unless established beyond a reasonable  
13 doubt.

14 (g) Procedure - Jury.

15 If at the separate sentencing proceeding the jury finds  
16 that none of the factors set forth in subsection (b) exists,  
17 the court shall sentence the defendant to a term of  
18 imprisonment under Chapter V of the Unified Code of  
19 Corrections. If there is a unanimous finding by the jury that  
20 one or more of the factors set forth in subsection (b) exist,  
21 the jury shall consider aggravating and mitigating factors as  
22 instructed by the court and shall determine whether the  
23 sentence of death shall be imposed. If the jury determines  
24 unanimously, after weighing the factors in aggravation and  
25 mitigation, that death is the appropriate sentence, the court  
26 shall sentence the defendant to death. If the court does not

1 concur with the jury determination that death is the  
2 appropriate sentence, the court shall set forth reasons in  
3 writing including what facts or circumstances the court relied  
4 upon, along with any relevant documents, that compelled the  
5 court to non-concur with the sentence. This document and any  
6 attachments shall be part of the record for appellate review.  
7 The court shall be bound by the jury's sentencing  
8 determination.

9 If after weighing the factors in aggravation and  
10 mitigation, one or more jurors determines that death is not the  
11 appropriate sentence, the court shall sentence the defendant to  
12 a term of imprisonment under Chapter V of the Unified Code of  
13 Corrections.

14 (h) Procedure - No Jury.

15 In a proceeding before the court alone, if the court finds  
16 that none of the factors found in subsection (b) exists, the  
17 court shall sentence the defendant to a term of imprisonment  
18 under Chapter V of the Unified Code of Corrections.

19 If the Court determines that one or more of the factors set  
20 forth in subsection (b) exists, the Court shall consider any  
21 aggravating and mitigating factors as indicated in subsection  
22 (c). If the Court determines, after weighing the factors in  
23 aggravation and mitigation, that death is the appropriate  
24 sentence, the Court shall sentence the defendant to death.

25 If the court finds that death is not the appropriate  
26 sentence, the court shall sentence the defendant to a term of

1 imprisonment under Chapter V of the Unified Code of  
2 Corrections.

3 (h-5) Decertification as a capital case.

4 In a case in which the defendant has been found guilty of  
5 first degree murder by a judge or jury, or a case on remand for  
6 resentencing, and the State seeks the death penalty as an  
7 appropriate sentence, on the court's own motion or the written  
8 motion of the defendant, the court may decertify the case as a  
9 death penalty case if the court finds that the only evidence  
10 supporting the defendant's conviction is the uncorroborated  
11 testimony of an informant witness, as defined in Section 115-21  
12 of the Code of Criminal Procedure of 1963, concerning the  
13 confession or admission of the defendant or that the sole  
14 evidence against the defendant is a single eyewitness or single  
15 accomplice without any other corroborating evidence. If the  
16 court decertifies the case as a capital case under either of  
17 the grounds set forth above, the court shall issue a written  
18 finding. The State may pursue its right to appeal the  
19 decertification pursuant to Supreme Court Rule 604(a)(1). If  
20 the court does not decertify the case as a capital case, the  
21 matter shall proceed to the eligibility phase of the sentencing  
22 hearing.

23 (i) Appellate Procedure.

24 The conviction and sentence of death shall be subject to  
25 automatic review by the Supreme Court. Such review shall be in  
26 accordance with rules promulgated by the Supreme Court. The

1 Illinois Supreme Court may overturn the death sentence, and  
2 order the imposition of imprisonment under Chapter V of the  
3 Unified Code of Corrections if the court finds that the death  
4 sentence is fundamentally unjust as applied to the particular  
5 case. If the Illinois Supreme Court finds that the death  
6 sentence is fundamentally unjust as applied to the particular  
7 case, independent of any procedural grounds for relief, the  
8 Illinois Supreme Court shall issue a written opinion explaining  
9 this finding.

10 (j) Disposition of reversed death sentence.

11 In the event that the death penalty in this Act is held to  
12 be unconstitutional by the Supreme Court of the United States  
13 or of the State of Illinois, any person convicted of first  
14 degree murder shall be sentenced by the court to a term of  
15 imprisonment under Chapter V of the Unified Code of  
16 Corrections.

17 In the event that any death sentence pursuant to the  
18 sentencing provisions of this Section is declared  
19 unconstitutional by the Supreme Court of the United States or  
20 of the State of Illinois, the court having jurisdiction over a  
21 person previously sentenced to death shall cause the defendant  
22 to be brought before the court, and the court shall sentence  
23 the defendant to a term of imprisonment under Chapter V of the  
24 Unified Code of Corrections.

25 (k) Guidelines for seeking the death penalty.

26 The Attorney General and State's Attorneys Association

1 shall consult on voluntary guidelines for procedures governing  
2 whether or not to seek the death penalty. The guidelines do not  
3 have the force of law and are only advisory in nature.

4 (Source: P.A. 99-143, eff. 7-27-15; 100-460, eff. 1-1-18;  
5 100-513, eff. 1-1-18; 100-863, eff. 8-14-18.)

6 (Text of Section after amendment by P.A. 101-223)

7 Sec. 9-1. First degree murder; death penalties;  
8 exceptions; separate hearings; proof; findings; appellate  
9 procedures; reversals.

10 (a) A person who kills an individual without lawful  
11 justification commits first degree murder if, ~~in performing the~~  
12 ~~acts which cause the death:~~

13 (1) in performing the acts which cause the death, he or  
14 she either intends to kill or do great bodily harm to that  
15 individual or another, or knows that such acts will cause  
16 death to that individual or another; ~~or~~

17 (2) in performing the acts which cause the death, he or  
18 she knows that such acts create a strong probability of  
19 death or great bodily harm to that individual or another;  
20 ~~or~~

21 (3) he or she, acting alone, commits or attempts to  
22 commit ~~is attempting or committing~~ a forcible felony other  
23 than second degree murder and, in the course of and in  
24 furtherance of the crime, he or she personally causes the  
25 death of an individual; or-



1           (4) he or she, when acting with one or more  
2           participants, commits or attempts to commit a forcible  
3           felony other than second degree murder, and in the course  
4           of and in furtherance of the offense, another participant  
5           in the offense causes the death of an individual, and he or  
6           she knew that the other participant would engage in conduct  
7           that would result in death or great bodily harm.

8           (b) Aggravating Factors. A defendant who at the time of the  
9           commission of the offense has attained the age of 18 or more  
10          and who has been found guilty of first degree murder may be  
11          sentenced to death if:

12           (1) the murdered individual was a peace officer or  
13           fireman killed in the course of performing his official  
14           duties, to prevent the performance of his or her official  
15           duties, or in retaliation for performing his or her  
16           official duties, and the defendant knew or should have  
17           known that the murdered individual was a peace officer or  
18           fireman; or

19           (2) the murdered individual was an employee of an  
20           institution or facility of the Department of Corrections,  
21           or any similar local correctional agency, killed in the  
22           course of performing his or her official duties, to prevent  
23           the performance of his or her official duties, or in  
24           retaliation for performing his or her official duties, or  
25           the murdered individual was an inmate at such institution  
26           or facility and was killed on the grounds thereof, or the

1 murdered individual was otherwise present in such  
2 institution or facility with the knowledge and approval of  
3 the chief administrative officer thereof; or

4 (3) the defendant has been convicted of murdering two  
5 or more individuals under subsection (a) of this Section or  
6 under any law of the United States or of any state which is  
7 substantially similar to subsection (a) of this Section  
8 regardless of whether the deaths occurred as the result of  
9 the same act or of several related or unrelated acts so  
10 long as the deaths were the result of either an intent to  
11 kill more than one person or of separate acts which the  
12 defendant knew would cause death or create a strong  
13 probability of death or great bodily harm to the murdered  
14 individual or another; or

15 (4) the murdered individual was killed as a result of  
16 the hijacking of an airplane, train, ship, bus, or other  
17 public conveyance; or

18 (5) the defendant committed the murder pursuant to a  
19 contract, agreement, or understanding by which he or she  
20 was to receive money or anything of value in return for  
21 committing the murder or procured another to commit the  
22 murder for money or anything of value; or

23 (6) the murdered individual was killed in the course of  
24 another felony if:

25 (a) the murdered individual:

26 (i) was actually killed by the defendant, or

1           (ii) received physical injuries personally  
2           inflicted by the defendant substantially  
3           contemporaneously with physical injuries caused by  
4           one or more persons for whose conduct the defendant  
5           is legally accountable under Section 5-2 of this  
6           Code, and the physical injuries inflicted by  
7           either the defendant or the other person or persons  
8           for whose conduct he is legally accountable caused  
9           the death of the murdered individual; and

10          (b) in performing the acts which caused the death  
11          of the murdered individual or which resulted in  
12          physical injuries personally inflicted by the  
13          defendant on the murdered individual under the  
14          circumstances of subdivision (ii) of subparagraph (a)  
15          of paragraph (6) of subsection (b) of this Section, the  
16          defendant acted with the intent to kill the murdered  
17          individual or with the knowledge that his acts created  
18          a strong probability of death or great bodily harm to  
19          the murdered individual or another; and

20          (c) the other felony was an inherently violent  
21          crime or the attempt to commit an inherently violent  
22          crime. In this subparagraph (c), "inherently violent  
23          crime" includes, but is not limited to, armed robbery,  
24          robbery, predatory criminal sexual assault of a child,  
25          aggravated criminal sexual assault, aggravated  
26          kidnapping, aggravated vehicular hijacking, aggravated

1 arson, aggravated stalking, residential burglary, and  
2 home invasion; or

3 (7) the murdered individual was under 12 years of age  
4 and the death resulted from exceptionally brutal or heinous  
5 behavior indicative of wanton cruelty; or

6 (8) the defendant committed the murder with intent to  
7 prevent the murdered individual from testifying or  
8 participating in any criminal investigation or prosecution  
9 or giving material assistance to the State in any  
10 investigation or prosecution, either against the defendant  
11 or another; or the defendant committed the murder because  
12 the murdered individual was a witness in any prosecution or  
13 gave material assistance to the State in any investigation  
14 or prosecution, either against the defendant or another;  
15 for purposes of this paragraph (8), "participating in any  
16 criminal investigation or prosecution" is intended to  
17 include those appearing in the proceedings in any capacity  
18 such as trial judges, prosecutors, defense attorneys,  
19 investigators, witnesses, or jurors; or

20 (9) the defendant, while committing an offense  
21 punishable under Sections 401, 401.1, 401.2, 405, 405.2,  
22 407 or 407.1 or subsection (b) of Section 404 of the  
23 Illinois Controlled Substances Act, or while engaged in a  
24 conspiracy or solicitation to commit such offense,  
25 intentionally killed an individual or counseled,  
26 commanded, induced, procured or caused the intentional

1 killing of the murdered individual; or

2 (10) the defendant was incarcerated in an institution  
3 or facility of the Department of Corrections at the time of  
4 the murder, and while committing an offense punishable as a  
5 felony under Illinois law, or while engaged in a conspiracy  
6 or solicitation to commit such offense, intentionally  
7 killed an individual or counseled, commanded, induced,  
8 procured or caused the intentional killing of the murdered  
9 individual; or

10 (11) the murder was committed in a cold, calculated and  
11 premeditated manner pursuant to a preconceived plan,  
12 scheme or design to take a human life by unlawful means,  
13 and the conduct of the defendant created a reasonable  
14 expectation that the death of a human being would result  
15 therefrom; or

16 (12) the murdered individual was an emergency medical  
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18 intermediate, emergency medical technician - paramedic,  
19 ambulance driver, or other medical assistance or first aid  
20 personnel, employed by a municipality or other  
21 governmental unit, killed in the course of performing his  
22 official duties, to prevent the performance of his official  
23 duties, or in retaliation for performing his official  
24 duties, and the defendant knew or should have known that  
25 the murdered individual was an emergency medical  
26 technician - ambulance, emergency medical technician -

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

4 (13) the defendant was a principal administrator,  
5 organizer, or leader of a calculated criminal drug  
6 conspiracy consisting of a hierarchical position of  
7 authority superior to that of all other members of the  
8 conspiracy, and the defendant counseled, commanded,  
9 induced, procured, or caused the intentional killing of the  
10 murdered person; or

11 (14) the murder was intentional and involved the  
12 infliction of torture. For the purpose of this Section  
13 torture means the infliction of or subjection to extreme  
14 physical pain, motivated by an intent to increase or  
15 prolong the pain, suffering or agony of the victim; or

16 (15) the murder was committed as a result of the  
17 intentional discharge of a firearm by the defendant from a  
18 motor vehicle and the victim was not present within the  
19 motor vehicle; or

20 (16) the murdered individual was 60 years of age or  
21 older and the death resulted from exceptionally brutal or  
22 heinous behavior indicative of wanton cruelty; or

23 (17) the murdered individual was a person with a  
24 disability and the defendant knew or should have known that  
25 the murdered individual was a person with a disability. For  
26 purposes of this paragraph (17), "person with a disability"

1 means a person who suffers from a permanent physical or  
2 mental impairment resulting from disease, an injury, a  
3 functional disorder, or a congenital condition that  
4 renders the person incapable of adequately providing for  
5 his or her own health or personal care; or

6 (18) the murder was committed by reason of any person's  
7 activity as a community policing volunteer or to prevent  
8 any person from engaging in activity as a community  
9 policing volunteer; or

10 (19) the murdered individual was subject to an order of  
11 protection and the murder was committed by a person against  
12 whom the same order of protection was issued under the  
13 Illinois Domestic Violence Act of 1986; or

14 (20) the murdered individual was known by the defendant  
15 to be a teacher or other person employed in any school and  
16 the teacher or other employee is upon the grounds of a  
17 school or grounds adjacent to a school, or is in any part  
18 of a building used for school purposes; or

19 (21) the murder was committed by the defendant in  
20 connection with or as a result of the offense of terrorism  
21 as defined in Section 29D-14.9 of this Code; or

22 (22) the murdered individual was a member of a  
23 congregation engaged in prayer or other religious  
24 activities at a church, synagogue, mosque, or other  
25 building, structure, or place used for religious worship.

26 (b-5) Aggravating Factor; Natural Life Imprisonment. A

1 defendant who has been found guilty of first degree murder and  
2 who at the time of the commission of the offense had attained  
3 the age of 18 years or more may be sentenced to natural life  
4 imprisonment if (i) the murdered individual was a physician,  
5 physician assistant, psychologist, nurse, or advanced practice  
6 registered nurse, (ii) the defendant knew or should have known  
7 that the murdered individual was a physician, physician  
8 assistant, psychologist, nurse, or advanced practice  
9 registered nurse, and (iii) the murdered individual was killed  
10 in the course of acting in his or her capacity as a physician,  
11 physician assistant, psychologist, nurse, or advanced practice  
12 registered nurse, or to prevent him or her from acting in that  
13 capacity, or in retaliation for his or her acting in that  
14 capacity.

15 (c) Consideration of factors in Aggravation and  
16 Mitigation.

17 The court shall consider, or shall instruct the jury to  
18 consider any aggravating and any mitigating factors which are  
19 relevant to the imposition of the death penalty. Aggravating  
20 factors may include but need not be limited to those factors  
21 set forth in subsection (b). Mitigating factors may include but  
22 need not be limited to the following:

23 (1) the defendant has no significant history of prior  
24 criminal activity;

25 (2) the murder was committed while the defendant was  
26 under the influence of extreme mental or emotional



1 disturbance, although not such as to constitute a defense  
2 to prosecution;

3 (3) the murdered individual was a participant in the  
4 defendant's homicidal conduct or consented to the  
5 homicidal act;

6 (4) the defendant acted under the compulsion of threat  
7 or menace of the imminent infliction of death or great  
8 bodily harm;

9 (5) the defendant was not personally present during  
10 commission of the act or acts causing death;

11 (6) the defendant's background includes a history of  
12 extreme emotional or physical abuse;

13 (7) the defendant suffers from a reduced mental  
14 capacity.

15 Provided, however, that an action that does not otherwise  
16 mitigate first degree murder cannot qualify as a mitigating  
17 factor for first degree murder because of the discovery,  
18 knowledge, or disclosure of the victim's sexual orientation as  
19 defined in Section 1-103 of the Illinois Human Rights Act.

20 (d) Separate sentencing hearing.

21 Where requested by the State, the court shall conduct a  
22 separate sentencing proceeding to determine the existence of  
23 factors set forth in subsection (b) and to consider any  
24 aggravating or mitigating factors as indicated in subsection  
25 (c). The proceeding shall be conducted:

26 (1) before the jury that determined the defendant's

1           guilt; or

2                   (2) before a jury impanelled for the purpose of the  
3           proceeding if:

4                   A. the defendant was convicted upon a plea of  
5           guilty; or

6                   B. the defendant was convicted after a trial before  
7           the court sitting without a jury; or

8                   C. the court for good cause shown discharges the  
9           jury that determined the defendant's guilt; or

10                  (3) before the court alone if the defendant waives a  
11           jury for the separate proceeding.

12           (e) Evidence and Argument.

13           During the proceeding any information relevant to any of  
14           the factors set forth in subsection (b) may be presented by  
15           either the State or the defendant under the rules governing the  
16           admission of evidence at criminal trials. Any information  
17           relevant to any additional aggravating factors or any  
18           mitigating factors indicated in subsection (c) may be presented  
19           by the State or defendant regardless of its admissibility under  
20           the rules governing the admission of evidence at criminal  
21           trials. The State and the defendant shall be given fair  
22           opportunity to rebut any information received at the hearing.

23           (f) Proof.

24           The burden of proof of establishing the existence of any of  
25           the factors set forth in subsection (b) is on the State and  
26           shall not be satisfied unless established beyond a reasonable

1 doubt.

2 (g) Procedure - Jury.

3 If at the separate sentencing proceeding the jury finds  
4 that none of the factors set forth in subsection (b) exists,  
5 the court shall sentence the defendant to a term of  
6 imprisonment under Chapter V of the Unified Code of  
7 Corrections. If there is a unanimous finding by the jury that  
8 one or more of the factors set forth in subsection (b) exist,  
9 the jury shall consider aggravating and mitigating factors as  
10 instructed by the court and shall determine whether the  
11 sentence of death shall be imposed. If the jury determines  
12 unanimously, after weighing the factors in aggravation and  
13 mitigation, that death is the appropriate sentence, the court  
14 shall sentence the defendant to death. If the court does not  
15 concur with the jury determination that death is the  
16 appropriate sentence, the court shall set forth reasons in  
17 writing including what facts or circumstances the court relied  
18 upon, along with any relevant documents, that compelled the  
19 court to non-concur with the sentence. This document and any  
20 attachments shall be part of the record for appellate review.  
21 The court shall be bound by the jury's sentencing  
22 determination.

23 If after weighing the factors in aggravation and  
24 mitigation, one or more jurors determines that death is not the  
25 appropriate sentence, the court shall sentence the defendant to  
26 a term of imprisonment under Chapter V of the Unified Code of

1 Corrections.

2 (h) Procedure - No Jury.

3 In a proceeding before the court alone, if the court finds  
4 that none of the factors found in subsection (b) exists, the  
5 court shall sentence the defendant to a term of imprisonment  
6 under Chapter V of the Unified Code of Corrections.

7 If the Court determines that one or more of the factors set  
8 forth in subsection (b) exists, the Court shall consider any  
9 aggravating and mitigating factors as indicated in subsection  
10 (c). If the Court determines, after weighing the factors in  
11 aggravation and mitigation, that death is the appropriate  
12 sentence, the Court shall sentence the defendant to death.

13 If the court finds that death is not the appropriate  
14 sentence, the court shall sentence the defendant to a term of  
15 imprisonment under Chapter V of the Unified Code of  
16 Corrections.

17 (h-5) Decertification as a capital case.

18 In a case in which the defendant has been found guilty of  
19 first degree murder by a judge or jury, or a case on remand for  
20 resentencing, and the State seeks the death penalty as an  
21 appropriate sentence, on the court's own motion or the written  
22 motion of the defendant, the court may decertify the case as a  
23 death penalty case if the court finds that the only evidence  
24 supporting the defendant's conviction is the uncorroborated  
25 testimony of an informant witness, as defined in Section 115-21  
26 of the Code of Criminal Procedure of 1963, concerning the

1 confession or admission of the defendant or that the sole  
2 evidence against the defendant is a single eyewitness or single  
3 accomplice without any other corroborating evidence. If the  
4 court decertifies the case as a capital case under either of  
5 the grounds set forth above, the court shall issue a written  
6 finding. The State may pursue its right to appeal the  
7 decertification pursuant to Supreme Court Rule 604(a)(1). If  
8 the court does not decertify the case as a capital case, the  
9 matter shall proceed to the eligibility phase of the sentencing  
10 hearing.

11 (i) Appellate Procedure.

12 The conviction and sentence of death shall be subject to  
13 automatic review by the Supreme Court. Such review shall be in  
14 accordance with rules promulgated by the Supreme Court. The  
15 Illinois Supreme Court may overturn the death sentence, and  
16 order the imposition of imprisonment under Chapter V of the  
17 Unified Code of Corrections if the court finds that the death  
18 sentence is fundamentally unjust as applied to the particular  
19 case. If the Illinois Supreme Court finds that the death  
20 sentence is fundamentally unjust as applied to the particular  
21 case, independent of any procedural grounds for relief, the  
22 Illinois Supreme Court shall issue a written opinion explaining  
23 this finding.

24 (j) Disposition of reversed death sentence.

25 In the event that the death penalty in this Act is held to  
26 be unconstitutional by the Supreme Court of the United States

1 or of the State of Illinois, any person convicted of first  
2 degree murder shall be sentenced by the court to a term of  
3 imprisonment under Chapter V of the Unified Code of  
4 Corrections.

5 In the event that any death sentence pursuant to the  
6 sentencing provisions of this Section is declared  
7 unconstitutional by the Supreme Court of the United States or  
8 of the State of Illinois, the court having jurisdiction over a  
9 person previously sentenced to death shall cause the defendant  
10 to be brought before the court, and the court shall sentence  
11 the defendant to a term of imprisonment under Chapter V of the  
12 Unified Code of Corrections.

13 (k) Guidelines for seeking the death penalty.

14 The Attorney General and State's Attorneys Association  
15 shall consult on voluntary guidelines for procedures governing  
16 whether or not to seek the death penalty. The guidelines do not  
17 have the force of law and are only advisory in nature.

18 (Source: P.A. 100-460, eff. 1-1-18; 100-513, eff. 1-1-18;  
19 100-863, eff. 8-14-18; 101-223, eff. 1-1-20.)

20 Section 95. No acceleration or delay. Where this Act makes  
21 changes in a statute that is represented in this Act by text  
22 that is not yet or no longer in effect (for example, a Section  
23 represented by multiple versions), the use of that text does  
24 not accelerate or delay the taking effect of (i) the changes  
25 made by this Act or (ii) provisions derived from any other

1 Public Act.