



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1146

Introduced 02/07/11, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

from Ch. 38, par. 1005-8-1

Amends the Unified Code of Corrections. Provides that the court shall (rather than may) sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant is found guilty of first degree murder and the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-8-1 as follows:

6 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

9 (a) Except as otherwise provided in the statute defining
10 the offense or in Article 4.5 of Chapter V, a sentence of
11 imprisonment for a felony shall be a determinate sentence set
12 by the court under this Section, according to the following
13 limitations:

14 (1) for first degree murder,

15 (a) (blank),

16 (b) if a trier of fact finds beyond a reasonable
17 doubt that ~~the murder was accompanied by exceptionally~~
18 ~~brutal or heinous behavior indicative of wanton~~
19 ~~cruelty or~~, except as set forth in subsection (a) (1) (c)
20 of this Section, ~~that~~ any of the aggravating factors
21 listed in subsection (b) or (b-5) of Section 9-1 of the
22 Criminal Code of 1961 are present, the court may
23 sentence the defendant to a term of natural life

1 imprisonment, or

2 (c) the court shall sentence the defendant to a
3 term of natural life imprisonment when the death
4 penalty is not imposed if the defendant,

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

7 (ii) is a person who, at the time of the
8 commission of the murder, had attained the age of
9 17 or more and is found guilty of murdering an
10 individual under 12 years of age; or, irrespective
11 of the defendant's age at the time of the
12 commission of the offense, is found guilty of
13 murdering more than one victim, or

14 (iii) is found guilty of murdering a peace
15 officer, fireman, or emergency management worker
16 when the peace officer, fireman, or emergency
17 management worker was killed in the course of
18 performing his official duties, or to prevent the
19 peace officer or fireman from performing his
20 official duties, or in retaliation for the peace
21 officer, fireman, or emergency management worker
22 from performing his official duties, and the
23 defendant knew or should have known that the
24 murdered individual was a peace officer, fireman,
25 or emergency management worker, or

26 (iv) is found guilty of murdering an employee

1 of an institution or facility of the Department of
2 Corrections, or any similar local correctional
3 agency, when the employee was killed in the course
4 of performing his official duties, or to prevent
5 the employee from performing his official duties,
6 or in retaliation for the employee performing his
7 official duties, or

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

24 (vi) is a person who, at the time of the
25 commission of the murder, had not attained the age
26 of 17, and is found guilty of murdering a person

1 under 12 years of age and the murder is committed
2 during the course of aggravated criminal sexual
3 assault, criminal sexual assault, or aggravated
4 kidnaping, or

5 (vii) is found guilty of first degree murder
6 and the murder was committed by reason of any
7 person's activity as a community policing
8 volunteer or to prevent any person from engaging in
9 activity as a community policing volunteer. For
10 the purpose of this Section, "community policing
11 volunteer" has the meaning ascribed to it in
12 Section 2-3.5 of the Criminal Code of 1961, ~~or-~~

13 (viii) is found guilty of first degree murder
14 and the murder was accompanied by exceptionally
15 brutal or heinous behavior indicative of wanton
16 cruelty.

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

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

25 (ii) if, during the commission of the offense,
26 the person personally discharged a firearm, 20

1 years shall be added to the term of imprisonment
2 imposed by the court;

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

10 (2) (blank);

11 (2.5) for a person convicted under the circumstances
12 described in paragraph (3) of subsection (b) of Section
13 12-13, paragraph (2) of subsection (d) of Section 12-14,
14 paragraph (1.2) of subsection (b) of Section 12-14.1, or
15 paragraph (2) of subsection (b) of Section 12-14.1 of the
16 Criminal Code of 1961, the sentence shall be a term of
17 natural life imprisonment.

18 (b) (Blank).

19 (c) (Blank).

20 (d) Subject to earlier termination under Section 3-3-8, the
21 parole or mandatory supervised release term shall be as
22 follows:

23 (1) for first degree murder or a Class X felony except
24 for the offenses of predatory criminal sexual assault of a
25 child, aggravated criminal sexual assault, and criminal
26 sexual assault if committed on or after the effective date

1 of this amendatory Act of the 94th General Assembly and
2 except for the offense of aggravated child pornography
3 under Section 11-20.3 of the Criminal Code of 1961, if
4 committed on or after January 1, 2009, 3 years;

5 (2) for a Class 1 felony or a Class 2 felony except for
6 the offense of criminal sexual assault if committed on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly and except for the offenses of manufacture
9 and dissemination of child pornography under clauses
10 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
11 of 1961, if committed on or after January 1, 2009, 2 years;

12 (3) for a Class 3 felony or a Class 4 felony, 1 year;

13 (4) for defendants who commit the offense of predatory
14 criminal sexual assault of a child, aggravated criminal
15 sexual assault, or criminal sexual assault, on or after the
16 effective date of this amendatory Act of the 94th General
17 Assembly, or who commit the offense of aggravated child
18 pornography, manufacture of child pornography, or
19 dissemination of child pornography after January 1, 2009,
20 the term of mandatory supervised release shall range from a
21 minimum of 3 years to a maximum of the natural life of the
22 defendant;

23 (5) if the victim is under 18 years of age, for a
24 second or subsequent offense of aggravated criminal sexual
25 abuse or felony criminal sexual abuse, 4 years, at least
26 the first 2 years of which the defendant shall serve in an

1 electronic home detention program under Article 8A of
2 Chapter V of this Code;

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

6 (e) (Blank).

7 (f) (Blank).

8 (Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09;
9 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1200, eff.
10 7-22-10; 96-1475, eff. 1-1-11; revised 9-16-10.)