

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 Code of Criminal Procedure of 1963 is  
5 amended by adding Section 116-2.2 as follows:

6 (725 ILCS 5/116-2.2 new)

7 Sec. 116-2.2. Petition to resentence; statutory penalty  
8 reduction.

9 (a) A person serving a sentence for any criminal offense  
10 under the Criminal Code of 1961 or the Criminal Code of 2012 or  
11 a similar local ordinance for which the statutory penalty has  
12 been subsequently reduced or altered may petition the trial  
13 court that entered the judgment of conviction to request  
14 resentencing or dismissal in accordance with the statutory  
15 penalty in effect at the time of the filing of the petition.

16 (b) Upon verified petition for resentencing by the  
17 defendant, the trial court that entered the judgment of  
18 conviction in a defendant's case may order resentencing at any  
19 time after 30 days have passed following the imposition of a  
20 sentence under a guilty verdict or a finding of guilt for any  
21 criminal offense under the Criminal Code of 1961 or the  
22 Criminal Code of 2012 or a similar local ordinance provided:

23 (1) the State's Attorney or other prosecuting attorney

1 is given at least 30-day notice of the filing of the  
2 petition seeking resentencing; and

3 (2) the statutory penalty for the offense for which the  
4 defendant was found guilty or convicted, since his or her  
5 plea of guilty or conviction, has been subsequently reduced  
6 or altered in a manner that includes, but is not limited  
7 to:

8 (A) reducing the minimum or maximum sentence for  
9 the offense;

10 (B) granting the court more discretion over the  
11 range of penalties available for the offense; or

12 (C) changing the penalties associated with the  
13 offense or conduct underlying the offense in any way.

14 (c) In determining whether to grant a petition under this  
15 Section, the court shall determine whether the petitioner  
16 satisfies the criteria in subsection (b). If the petitioner  
17 satisfies the criteria in subsection (b), the court shall  
18 resentence the defendant in a manner that is consistent with  
19 the penalty the defendant would have received if the statutory  
20 penalty in effect at the time of the filing of the petition was  
21 in effect on the date when the offense was committed or the  
22 original sentence was imposed, unless the court, in its  
23 discretion, determines that resentencing the petitioner would  
24 pose an unreasonable risk of danger to public safety. In  
25 exercising its discretion, the court may consider any of the  
26 following:

1           (1) the petitioner's criminal conviction history,  
2           including the type of offenses committed, the extent of  
3           injury to victims, the length of prior prison commitments,  
4           and the remoteness of the offenses;

5           (2) the petitioner's disciplinary record and record of  
6           rehabilitation while incarcerated; and

7           (3) any other evidence the court, within its  
8           discretion, determines to be relevant in deciding whether a  
9           new sentence would result in an unreasonable risk of danger  
10          to public safety.

11          In this subsection (c), "unreasonable risk of danger to  
12          public safety" means an unreasonable risk that the petitioner  
13          will commit a new violent felony under the Criminal Code of  
14          2012.

15          (d) A person who is resentenced under subsection (b) shall  
16          be given credit for time served and shall be subject to parole  
17          or mandatory supervised release for one year following  
18          completion of his or her sentence, unless the court, in its  
19          discretion, as part of its resentencing order, releases the  
20          person from parole or mandatory supervised release.

21          (e) Resentencing under this Section may not result in the  
22          imposition of a term of imprisonment longer than the original  
23          sentence.

24          (f) A person who has completed his or her sentence for a  
25          conviction of a felony who would have been guilty of a  
26          misdemeanor if the current law was in effect on the date when

1 the offense was committed or the original sentence was imposed,  
2 may petition the trial court that entered the judgment of  
3 conviction in his or her case to have the felony conviction  
4 designated as a misdemeanor.

5 (g) If the petition satisfies the criteria in subsection  
6 (f), the court shall designate the felony offense as a  
7 misdemeanor.

8 (h) A person who has completed his or her sentence for a  
9 conviction of a felony who would not have been guilty of an  
10 offense if the statutory penalty in effect at the time of the  
11 filing of the petition was in effect on the date when the  
12 offense was committed or the original sentence was imposed, may  
13 file an application before the trial court that entered the  
14 judgment of conviction in his or her case to have the  
15 conviction dismissed and sealed.