



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2129

Introduced 2/26/2021, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

725 ILCS 5/123 new

Amends the Code of Criminal Procedure of 1963. Provides that at any time upon the recommendation of the State's Attorney of the county in which the defendant was sentenced, the State's Attorney may petition the sentencing court or the sentencing court's successor to resentence the offender if the original sentence no longer advances the interests of justice. Provides that the sentencing court or the sentencing court's successor may resentence the offender if it finds that the original sentence no longer advances the interests of justice. Provides that, upon receipt of a petition for resentencing, the court may resentence the defendant in the same manner as if the offender had not previously been sentenced; however, the new sentence, if any, may not be greater than the initial sentence. Provides that the court may consider postconviction factors, including, but not limited to, the inmate's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice. Provides that credit shall be given for time served; that victims shall be afforded all rights as outlined in the Rights of Crime Victims and Witnesses Act; and that resentencing shall not reopen the defendant's conviction to challenges that would otherwise be barred. Provides that nothing in the new provisions shall be construed to limit the power of the Governor under the Constitution to grant a reprieve, commutation of sentence, or pardon.

LRB102 16629 KMF 22029 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 Code of Criminal Procedure of 1963 is
5 amended by adding Section 123 as follows:

6 (725 ILCS 5/123 new)

7 Sec. 123. Motion to resentence by the People.

8 (a) The purpose of sentencing is to advance public safety
9 through punishment, rehabilitation, and restorative justice.
10 By providing a means to reevaluate a sentence after some time
11 has passed, the General Assembly intends to provide the
12 State's Attorney and the court with another tool to ensure
13 that these purposes are achieved.

14 (b) At any time upon the recommendation of the State's
15 Attorney of the county in which the defendant was sentenced,
16 the State's Attorney may petition the sentencing court or the
17 sentencing court's successor to resentence the offender if the
18 original sentence no longer advances the interests of justice.
19 The sentencing court or the sentencing court's successor may
20 resentence the offender if it finds that the original sentence
21 no longer advances the interests of justice.

22 (c) Upon the receipt of a petition for resentencing, the
23 court may resentence the defendant in the same manner as if the

1 offender had not previously been sentenced; however, the new
2 sentence, if any, may not be greater than the initial
3 sentence.

4 (d) The court may consider postconviction factors,
5 including, but not limited to, the inmate's disciplinary
6 record and record of rehabilitation while incarcerated;
7 evidence that reflects whether age, time served, and
8 diminished physical condition, if any, have reduced the
9 inmate's risk for future violence; and evidence that reflects
10 changed circumstances since the inmate's original sentencing
11 such that the inmate's continued incarceration no longer
12 serves the interests of justice. Credit shall be given for
13 time served.

14 (e) Victims shall be afforded all rights as outlined in
15 the Rights of Crime Victims and Witnesses Act.

16 (f) A resentencing under this Section shall not reopen the
17 defendant's conviction to challenges that would otherwise be
18 barred.

19 (g) Nothing in this Section shall be construed to limit
20 the power of the Governor under the Constitution to grant a
21 reprieve, commutation of sentence, or pardon.