

SB2363



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2363

Introduced 2/26/2021, by Sen. John Connor

SYNOPSIS AS INTRODUCED:

720 ILCS 5/5-2

from Ch. 38, par. 5-2

Amends the Criminal Code of 2012. Creates the offense of accountability as a separate offense. Establishes penalties.

LRB102 15678 KMF 21042 b

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 Criminal Code of 2012 is amended by
5 changing Section 5-2 as follows:

6 (720 ILCS 5/5-2) (from Ch. 38, par. 5-2)

7 Sec. 5-2. Accountability ~~When accountability exists.~~

8 (a) Elements of the offense. A person commits the offense
9 of accountability when ~~A person is legally accountable for the~~
10 ~~conduct of another when:~~

11 (1) (a) having the ~~a~~ mental state described by the
12 accompanying ~~statute defining the~~ offense, he or she
13 causes another to perform the conduct, and the other
14 person in fact or by reason of legal incapacity lacks such
15 a mental state;

16 (2) (b) the statute defining the accompanying offense
17 makes him or her so accountable; or

18 (3) (c) either before or during the commission of the
19 accompanying ~~an~~ offense, and with the intent to promote or
20 facilitate that commission, he or she solicits, aids,
21 abets, agrees, or attempts to aid the ~~that~~ other person in
22 the planning or commission of the accompanying offense.

23 When 2 or more persons engage in a common criminal design

1 or agreement, any acts in ~~the~~ furtherance of that common
2 design committed by one party are considered to be the acts of
3 all the parties to the common design or agreement and all are
4 ~~equally~~ responsible for the consequences of those further
5 acts. Mere presence at the scene of a crime does not render a
6 person accountable for either the offense of accountability
7 under this Section or the accompanying ~~an~~ offense; a person's
8 presence at the scene of a crime, however, may be considered
9 with other circumstances by the trier of fact when determining
10 accountability.

11 A person is not so accountable under this Section,
12 however, unless the statute defining the accompanying offense
13 provides otherwise, if:

14 (A) ~~(1)~~ he or she is the ~~a~~ victim of the accompanying
15 offense committed;

16 (B) ~~(2)~~ the accompanying offense is so defined that
17 his or her conduct was inevitably incident to its
18 commission; or

19 (C) ~~(3)~~ before the commission of the offense, he or
20 she terminates his or her effort to promote or facilitate
21 that commission and does one of the following: (i) wholly
22 deprives his or her prior efforts of effectiveness in that
23 commission, (ii) gives timely warning to the proper law
24 enforcement authorities, or (iii) otherwise makes proper
25 efforts ~~effort~~ to prevent the commission of the
26 accompanying offense.

1 (b) Sentence. A person convicted for the offense of
2 accountability under this Section shall be sentenced in
3 accordance with this subsection. No sentence shall be imposed
4 for the accompanying offense.

5 (1) A person convicted of accountability for the
6 accompanying offense, first degree murder, shall be
7 sentenced to imprisonment for a determinate term, subject
8 to Section 5-4.5-115 of the Unified Code of Corrections of
9 no more than 30 years. The sentence of imprisonment for an
10 extended term for a conviction of accountability for the
11 accompanying offense, first degree murder, as provided in
12 Section 5-8-2 of the Unified Code of Corrections, subject
13 to Section 5-4.5-115 of that Code, shall be no more than 50
14 years. Except as provided in Section 3-3-8 of the Unified
15 Code of Corrections, the parole or mandatory supervised
16 release term shall be 2 years upon release from
17 imprisonment.

18 (2) A person convicted of accountability for an
19 accompanying Class X felony shall be sentenced to
20 imprisonment for a determinate term, subject to Section
21 5-4.5-115 of the Unified Code of Corrections, of no more
22 than 15 years. The sentence of imprisonment for an
23 extended term for a conviction of accountability for an
24 accompanying Class X felony, as provided in Section 5-8-2
25 of the Unified Code of Corrections, subject to Section
26 5-4.5-115 of that Code, shall be no more than 30 years.

1 Except as provided in Section 3-3-8 or 5-8-1 of the
2 Unified Code of Corrections, the parole or mandatory
3 supervised release term shall be 2 years upon release from
4 imprisonment.

5 (3) A person convicted of accountability for an
6 accompanying Class 1 felony, other than for second degree
7 murder, shall be sentenced for a determinate term, subject
8 to Section 5-4.5-115 of the Unified Code of Corrections,
9 of no more than 7 years. The sentence of imprisonment for a
10 person convicted of accountability for the accompanying
11 offense, second degree murder, shall be a determinate term
12 of no more than 10 years, subject to Section 5-4.5-115 of
13 the Unified Code of Corrections. The sentence of
14 imprisonment for an extended term for a conviction of
15 accountability for an accompanying Class 1 felony, as
16 provided in Section 5-8-2 of the Unified Code of
17 Corrections, subject to Section 5-4.5-115 of that Code,
18 shall be no more than 15 years. Except as provided in
19 Section 3-3-8 or 5-8-1 of the Unified Code of Corrections,
20 the parole or mandatory supervised release term shall be
21 one year upon release from imprisonment.

22 (4) A person convicted of accountability for an
23 accompanying Class 2 felony shall be sentenced to a
24 determinate term of no more than 3 years. The sentence of
25 imprisonment for an extended term for a conviction of
26 accountability for an accompanying Class 2 felony, as

1 provided in Section 5-8-2 of the Unified Code of
2 Corrections, shall be no more than 7 years. Except as
3 provided in Section 3-3-8 or 5-8-1 of the Unified Code of
4 Corrections, the parole or mandatory supervised release
5 term shall be one year upon release from imprisonment.

6 (5) A person convicted of accountability for an
7 accompanying Class 3 felony shall be sentenced to a
8 determinate term of no more than 2 years. The sentence of
9 imprisonment for an extended term for a conviction of
10 accountability for an accompanying Class 3 felony, as
11 provided in Section 5-8-2 of the Unified Code of
12 Corrections, shall be no more than 5 years. Except as
13 provided in Section 3-3-8 or 5-8-1 of the Unified Code of
14 Corrections, the parole or mandatory supervised release
15 term shall be 6 months upon release from imprisonment.

16 (6) The sentence for accountability for an
17 accompanying felony, other than those specified in
18 paragraphs (1), (2), (3), (4), and (5) of this subsection
19 (b), is the sentence for a Class A misdemeanor. A
20 misdemeanor may be fined or imprisoned or both.

21 (7) Except as otherwise provided in Section 5-5-3 or
22 5-7-1 of the Unified Code of Corrections, a term of
23 periodic imprisonment shall not be imposed for the
24 conviction of accountability for the accompanying offense
25 of first degree murder; a sentence of periodic
26 imprisonment shall be for a term of 3 to 4 years for a

1 conviction of accountability for an accompanying Class X
2 felony under this Section; a sentence of periodic
3 imprisonment shall be for a term of 18 to 30 months for a
4 conviction of accountability for an accompanying Class 1
5 felony under this Section; a sentence of periodic
6 imprisonment shall be for a term of up to 18 months for a
7 conviction of accountability for an accompanying Class 2
8 felony under this Section; a sentence of periodic
9 imprisonment shall be for a term of up to 12 months for a
10 conviction of accountability for an accompanying Class 3
11 felony under this Section; and a sentence of periodic
12 imprisonment shall be for a definite term of up to 12
13 months for a conviction of accountability for any other
14 accompanying felony not otherwise specified in this
15 Section.

16 (8) The impact incarceration program or the county
17 impact incarceration program is not an authorized
18 disposition for the conviction of accountability for the
19 accompanying offense of first degree murder under this
20 Section. Sections 5-8-1.1 and 5-8-1.2 of the Unified Code
21 of Corrections govern the eligibility for the impact
22 incarceration program or the county impact incarceration
23 program for the conviction of accountability for the
24 accompanying offense for all other felony classes under
25 this Section.

26 (9) A period of probation or conditional discharge

1 shall not be imposed for a conviction of accountability
2 for the accompanying offense of first degree murder under
3 this Section. Except as provided in Section 5-5-3 or 5-6-2
4 of the Unified Code of Corrections, the period of
5 probation or conditional discharge shall not exceed:

6 (A) 4 years for a conviction under this Section of
7 accountability for an accompanying Class X felony. In
8 no case shall an offender be eligible for a
9 disposition of probation or conditional discharge for
10 a Class X felony committed while he or she was serving
11 a term of probation or conditional discharge for a
12 felony;

13 (B) 4 years for a conviction of accountability for
14 an accompanying Class 1 felony under this Section;

15 (C) 30 months for a conviction of accountability
16 for an accompanying Class 2 felony under this Section;

17 (D) 30 months for a conviction of accountability
18 for an accompanying Class 3 felony under this Section;
19 and

20 (E) 18 months for a conviction of accountability
21 for an accompanying felony other than those specified
22 in paragraph (9).

23 (F) The court shall specify the conditions of
24 probation or conditional discharge as set forth in
25 Section 5-6-3 of the Unified Code of Corrections.

26 (10) Fines for accountability may be imposed as

1 provided in subsection (b) of Section 5-4.5-50 of the
2 Unified Code of Corrections.

3 (11) Restitution for accountability shall be governed
4 by Section 5-5-6 of the Unified Code of Corrections.

5 (12) The sentence for accountability shall be
6 concurrent or consecutive as provided in Section 5-8-4 and
7 Section 5-4.5-50 of the Unified Code of Corrections.

8 (13) Section 20 of the Drug Court Treatment Act shall
9 govern eligibility for a drug court program for
10 accountability.

11 (14) Section 5-4.5-100 of the Unified Code of
12 Corrections governs credit for time spent in home
13 detention prior to judgment for accountability.

14 (15) Section 3-6-3 of the Unified Code of Corrections
15 or the County Jail Good Behavior Allowance Act governs for
16 rules and regulations for sentence credit for
17 accountability.

18 (16) Section 5-8A-3 of the Unified Code of Corrections
19 governs eligibility for electronic monitoring and home
20 detention for accountability.

21 (Source: P.A. 96-710, eff. 1-1-10.)