

HB3324



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3324

Introduced 2/17/2023, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

720 ILCS 5/8-4

from Ch. 38, par. 8-4

730 ILCS 5/5-8-1

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

Amends the Criminal Code of 2012 and the Unified Code of Corrections.
Provides that specified firearm sentencing enhancements are discretionary.

LRB103 30248 RLC 56676 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 8-4 as follows:

6 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
7 Sec. 8-4. Attempt.

8 (a) Elements of the offense.

9 A person commits the offense of attempt when, with intent
10 to commit a specific offense, he or she does any act that
11 constitutes a substantial step toward the commission of that
12 offense.

13 (b) Impossibility.

14 It is not a defense to a charge of attempt that because of
15 a misapprehension of the circumstances it would have been
16 impossible for the accused to commit the offense attempted.

17 (c) Sentence.

18 A person convicted of attempt may be fined or imprisoned
19 or both not to exceed the maximum provided for the offense
20 attempted but, except for an attempt to commit the offense
21 defined in Section 33A-2 of this Code:

22 (1) the sentence for attempt to commit first degree
23 murder is the sentence for a Class X felony, except that

1 (A) an attempt to commit first degree murder when
2 at least one of the aggravating factors specified in
3 paragraphs (1), (2), and (12) of subsection (b) of
4 Section 9-1 is present is a Class X felony for which
5 the sentence shall be a term of imprisonment of not
6 less than 20 years and not more than 80 years;

7 (B) an attempt to commit first degree murder while
8 armed with a firearm is a Class X felony for which 15
9 years may ~~shall~~ be added to the term of imprisonment
10 imposed by the court;

11 (C) an attempt to commit first degree murder
12 during which the person personally discharged a
13 firearm is a Class X felony for which 20 years may
14 ~~shall~~ be added to the term of imprisonment imposed by
15 the court;

16 (D) an attempt to commit first degree murder
17 during which the person personally discharged a
18 firearm that proximately caused great bodily harm,
19 permanent disability, permanent disfigurement, or
20 death to another person is a Class X felony for which
21 25 years or up to a term of natural life may ~~shall~~ be
22 added to the term of imprisonment imposed by the
23 court; and

24 (E) if the defendant proves by a preponderance of
25 the evidence at sentencing that, at the time of the
26 attempted murder, he or she was acting under a sudden

1 and intense passion resulting from serious provocation
2 by the individual whom the defendant endeavored to
3 kill, or another, and, had the individual the
4 defendant endeavored to kill died, the defendant would
5 have negligently or accidentally caused that death,
6 then the sentence for the attempted murder is the
7 sentence for a Class 1 felony;

8 (2) the sentence for attempt to commit a Class X
9 felony is the sentence for a Class 1 felony;

10 (3) the sentence for attempt to commit a Class 1
11 felony is the sentence for a Class 2 felony;

12 (4) the sentence for attempt to commit a Class 2
13 felony is the sentence for a Class 3 felony; and

14 (5) the sentence for attempt to commit any felony
15 other than those specified in items (1), (2), (3), and (4)
16 of this subsection (c) is the sentence for a Class A
17 misdemeanor.

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

19 Section 10. The Unified Code of Corrections is amended by
20 changing Section 5-8-1 as follows:

21 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

24 (a) Except as otherwise provided in the statute defining

1 the offense or in Article 4.5 of Chapter V, a sentence of
2 imprisonment for a felony shall be a determinate sentence set
3 by the court under this Section, subject to Section 5-4.5-115
4 of this Code, according to the following limitations:

5 (1) for first degree murder,

6 (a) (blank),

7 (b) if a trier of fact finds beyond a reasonable
8 doubt that the murder was accompanied by exceptionally
9 brutal or heinous behavior indicative of wanton
10 cruelty or, except as set forth in subsection
11 (a) (1) (c) of this Section, that any of the aggravating
12 factors listed in subsection (b) or (b-5) of Section
13 9-1 of the Criminal Code of 1961 or the Criminal Code
14 of 2012 are present, the court may sentence the
15 defendant, subject to Section 5-4.5-105, to a term of
16 natural life imprisonment, or

17 (c) the court shall sentence the defendant to a
18 term of natural life imprisonment if the defendant, at
19 the time of the commission of the murder, had attained
20 the age of 18, and:

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

23 (ii) is found guilty of murdering more than
24 one victim, or

25 (iii) is found guilty of murdering a peace
26 officer, fireman, or emergency management worker

1 when the peace officer, fireman, or emergency
2 management worker was killed in the course of
3 performing his official duties, or to prevent the
4 peace officer or fireman from performing his
5 official duties, or in retaliation for the peace
6 officer, fireman, or emergency management worker
7 from performing his official duties, and the
8 defendant knew or should have known that the
9 murdered individual was a peace officer, fireman,
10 or emergency management worker, or

11 (iv) is found guilty of murdering an employee
12 of an institution or facility of the Department of
13 Corrections, or any similar local correctional
14 agency, when the employee was killed in the course
15 of performing his official duties, or to prevent
16 the employee from performing his official duties,
17 or in retaliation for the employee performing his
18 official duties, or

19 (v) is found guilty of murdering an emergency
20 medical technician - ambulance, emergency medical
21 technician - intermediate, emergency medical
22 technician - paramedic, ambulance driver or other
23 medical assistance or first aid person while
24 employed by a municipality or other governmental
25 unit when the person was killed in the course of
26 performing official duties or to prevent the

1 person from performing official duties or in
2 retaliation for performing official duties and the
3 defendant knew or should have known that the
4 murdered individual was an emergency medical
5 technician - ambulance, emergency medical
6 technician - intermediate, emergency medical
7 technician - paramedic, ambulance driver, or other
8 medical assistant or first aid personnel, or

9 (vi) (blank), or

10 (vii) is found guilty of first degree murder
11 and the murder was committed by reason of any
12 person's activity as a community policing
13 volunteer or to prevent any person from engaging
14 in activity as a community policing volunteer. For
15 the purpose of this Section, "community policing
16 volunteer" has the meaning ascribed to it in
17 Section 2-3.5 of the Criminal Code of 2012.

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

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

26 (ii) if, during the commission of the offense, the

1 person personally discharged a firearm, 20 years may
2 ~~shall~~ be added to the term of imprisonment imposed by
3 the court;

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

11 (2) (blank);

12 (2.5) for a person who has attained the age of 18 years
13 at the time of the commission of the offense and who is
14 convicted under the circumstances described in subdivision
15 (b)(1)(B) of Section 11-1.20 or paragraph (3) of
16 subsection (b) of Section 12-13, subdivision (d)(2) of
17 Section 11-1.30 or paragraph (2) of subsection (d) of
18 Section 12-14, subdivision (b)(1.2) of Section 11-1.40 or
19 paragraph (1.2) of subsection (b) of Section 12-14.1,
20 subdivision (b)(2) of Section 11-1.40 or paragraph (2) of
21 subsection (b) of Section 12-14.1 of the Criminal Code of
22 1961 or the Criminal Code of 2012, the sentence shall be a
23 term of natural life imprisonment.

24 (b) (Blank).

25 (c) (Blank).

26 (d) Subject to earlier termination under Section 3-3-8,

1 the parole or mandatory supervised release term shall be
2 written as part of the sentencing order and shall be as
3 follows:

4 (1) for first degree murder or for the offenses of
5 predatory criminal sexual assault of a child, aggravated
6 criminal sexual assault, and criminal sexual assault if
7 committed on or before December 12, 2005, 3 years;

8 (1.5) except as provided in paragraph (7) of this
9 subsection (d), for a Class X felony except for the
10 offenses of predatory criminal sexual assault of a child,
11 aggravated criminal sexual assault, and criminal sexual
12 assault if committed on or after December 13, 2005 (the
13 effective date of Public Act 94-715) and except for the
14 offense of aggravated child pornography under Section
15 11-20.1B, 11-20.3, or 11-20.1 with sentencing under
16 subsection (c-5) of Section 11-20.1 of the Criminal Code
17 of 1961 or the Criminal Code of 2012, if committed on or
18 after January 1, 2009, 18 months;

19 (2) except as provided in paragraph (7) of this
20 subsection (d), for a Class 1 felony or a Class 2 felony
21 except for the offense of criminal sexual assault if
22 committed on or after December 13, 2005 (the effective
23 date of Public Act 94-715) and except for the offenses of
24 manufacture and dissemination of child pornography under
25 clauses (a)(1) and (a)(2) of Section 11-20.1 of the
26 Criminal Code of 1961 or the Criminal Code of 2012, if

1 committed on or after January 1, 2009, 12 months;

2 (3) except as provided in paragraph (4), (6), or (7)
3 of this subsection (d), for a Class 3 felony or a Class 4
4 felony, 6 months; no later than 45 days after the onset of
5 the term of mandatory supervised release, the Prisoner
6 Review Board shall conduct a discretionary discharge
7 review pursuant to the provisions of Section 3-3-8, which
8 shall include the results of a standardized risk and needs
9 assessment tool administered by the Department of
10 Corrections; the changes to this paragraph (3) made by
11 this amendatory Act of the 102nd General Assembly apply to
12 all individuals released on mandatory supervised release
13 on or after the effective date of this amendatory Act of
14 the 102nd General Assembly, including those individuals
15 whose sentences were imposed prior to the effective date
16 of this amendatory Act of the 102nd General Assembly;

17 (4) for defendants who commit the offense of predatory
18 criminal sexual assault of a child, aggravated criminal
19 sexual assault, or criminal sexual assault, on or after
20 December 13, 2005 (the effective date of Public Act
21 94-715), or who commit the offense of aggravated child
22 pornography under Section 11-20.1B, 11-20.3, or 11-20.1
23 with sentencing under subsection (c-5) of Section 11-20.1
24 of the Criminal Code of 1961 or the Criminal Code of 2012,
25 manufacture of child pornography, or dissemination of
26 child pornography after January 1, 2009, the term of

1 mandatory supervised release shall range from a minimum of
2 3 years to a maximum of the natural life of the defendant;

3 (5) if the victim is under 18 years of age, for a
4 second or subsequent offense of aggravated criminal sexual
5 abuse or felony criminal sexual abuse, 4 years, at least
6 the first 2 years of which the defendant shall serve in an
7 electronic monitoring or home detention program under
8 Article 8A of Chapter V of this Code;

9 (6) for a felony domestic battery, aggravated domestic
10 battery, stalking, aggravated stalking, and a felony
11 violation of an order of protection, 4 years;

12 (7) for any felony described in paragraph (a)(2)(ii),
13 (a)(2)(iii), (a)(2)(iv), (a)(2)(vi), (a)(2.1), (a)(2.3),
14 (a)(2.4), (a)(2.5), or (a)(2.6) of Article 5, Section
15 3-6-3 of the Unified Code of Corrections requiring an
16 inmate to serve a minimum of 85% of their court-imposed
17 sentence, except for the offenses of predatory criminal
18 sexual assault of a child, aggravated criminal sexual
19 assault, and criminal sexual assault if committed on or
20 after December 13, 2005 (the effective date of Public Act
21 94-715) and except for the offense of aggravated child
22 pornography under Section 11-20.1B, 11-20.3, or 11-20.1
23 with sentencing under subsection (c-5) of Section 11-20.1
24 of the Criminal Code of 1961 or the Criminal Code of 2012,
25 if committed on or after January 1, 2009 and except as
26 provided in paragraph (4) or paragraph (6) of this

1 subsection (d), the term of mandatory supervised release
2 shall be as follows:

3 (A) Class X felony, 3 years;

4 (B) Class 1 or Class 2 felonies, 2 years;

5 (C) Class 3 or Class 4 felonies, 1 year.

6 (e) (Blank).

7 (f) (Blank).

8 (g) Notwithstanding any other provisions of this Act and
9 of Public Act 101-652: (i) the provisions of paragraph (3) of
10 subsection (d) are effective on July 1, 2022 and shall apply to
11 all individuals convicted on or after the effective date of
12 paragraph (3) of subsection (d); and (ii) the provisions of
13 paragraphs (1.5) and (2) of subsection (d) are effective on
14 July 1, 2021 and shall apply to all individuals convicted on or
15 after the effective date of paragraphs (1.5) and (2) of
16 subsection (d).

17 (Source: P.A. 101-288, eff. 1-1-20; 101-652, eff. 7-1-21;
18 102-28, eff. 6-25-21; 102-687, eff. 12-17-21; 102-694, eff.
19 1-7-22; 102-1104, eff. 12-6-22.)