



Rep. Justin Slaughter

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10300HB3380ham001

LRB103 25690 RLC 59415 a

1 AMENDMENT TO HOUSE BILL 3380

2 AMENDMENT NO. _____. Amend House Bill 3380 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-4.5-95 as follows:

6 (730 ILCS 5/5-4.5-95)

7 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

8 (a) HABITUAL CRIMINALS.

9 (1) Every person who has been twice convicted in any
10 state or federal court of an offense that contains the
11 same elements as an offense now (the date of the offense
12 committed after the 2 prior convictions) classified in
13 Illinois as aggravated criminal sexual assault or
14 predatory criminal sexual assault of a child and is then
15 convicted for a third such offense ~~a Class X felony,~~
16 ~~criminal sexual assault, aggravated kidnapping, or first~~

1 ~~degree murder, and who is thereafter convicted of a Class~~
2 ~~X felony, criminal sexual assault, or first degree murder,~~
3 ~~committed after the 2 prior convictions,~~ shall be adjudged
4 an habitual criminal.

5 (2) The 2 prior convictions need not have been for the
6 same offense.

7 (3) Any convictions that result from or are connected
8 with the same transaction, or result from offenses
9 committed at the same time, shall be counted for the
10 purposes of this Section as one conviction.

11 (4) This Section does not apply unless each of the
12 following requirements are satisfied:

13 (A) The third offense was committed after July 3,
14 1980.

15 (B) The third offense was committed within 20
16 years of the date that judgment was entered on the
17 first conviction; provided, however, that time spent
18 in custody shall not be counted.

19 (C) The third offense was committed after
20 conviction on the second offense.

21 (D) The second offense was committed after
22 conviction on the first offense.

23 (E) The first offense was committed when the
24 person was 21 years of age or older.

25 (5) Anyone who is adjudged an habitual criminal may
26 ~~shall~~ be sentenced to a term of natural life imprisonment.

1 (6) A prior conviction shall not be alleged in the
2 indictment, and no evidence or other disclosure of that
3 conviction shall be presented to the court or the jury
4 during the trial of an offense set forth in this Section
5 unless otherwise permitted by the issues properly raised
6 in that trial. After a plea or verdict or finding of guilty
7 and before sentence is imposed, the prosecutor may file
8 with the court a verified written statement signed by the
9 State's Attorney concerning any former conviction of an
10 offense set forth in this Section rendered against the
11 defendant. The court shall then cause the defendant to be
12 brought before it; shall inform the defendant of the
13 allegations of the statement so filed, and of his or her
14 right to a hearing before the court on the issue of that
15 former conviction and of his or her right to counsel at
16 that hearing; and unless the defendant admits such
17 conviction, shall hear and determine the issue, and shall
18 make a written finding thereon. If a sentence has
19 previously been imposed, the court may vacate that
20 sentence and impose a new sentence in accordance with this
21 Section.

22 (7) A duly authenticated copy of the record of any
23 alleged former conviction of an offense set forth in this
24 Section shall be prima facie evidence of that former
25 conviction; and a duly authenticated copy of the record of
26 the defendant's final release or discharge from probation

1 granted, or from sentence and parole supervision (if any)
2 imposed pursuant to that former conviction, shall be prima
3 facie evidence of that release or discharge.

4 (8) Any claim that a previous conviction offered by
5 the prosecution is not a former conviction of an offense
6 set forth in this Section because of the existence of any
7 exceptions described in this Section, is waived unless
8 duly raised at the hearing on that conviction, or unless
9 the prosecution's proof shows the existence of the
10 exceptions described in this Section.

11 (9) If the person so convicted shows to the
12 satisfaction of the court before whom that conviction was
13 had that he or she was released from imprisonment, upon
14 either of the sentences upon a pardon granted for the
15 reason that he or she was innocent, that conviction and
16 sentence shall not be considered under this Section.

17 (b) When a defendant, over the age of 21 years, is
18 convicted of a Class 1 or Class 2 forcible felony after having
19 twice been convicted in any state or federal court of an
20 offense that contains the same elements as an offense now (the
21 date the Class 1 or Class 2 forcible felony was committed)
22 classified in Illinois as a Class 2 or greater Class forcible
23 felony and those charges are separately brought and tried and
24 arise out of different series of acts, that defendant shall be
25 sentenced as a Class X offender. This subsection does not
26 apply unless:

1 (1) the first forcible felony was committed after
2 February 1, 1978 (the effective date of Public Act
3 80-1099);

4 (2) the second forcible felony was committed after
5 conviction on the first;

6 (3) the third forcible felony was committed after
7 conviction on the second; and

8 (4) the first offense was committed when the person
9 was 21 years of age or older.

10 (c) (Blank).

11 A person sentenced as a Class X offender under this
12 subsection (b) is not eligible to apply for treatment as a
13 condition of probation as provided by Section 40-10 of the
14 Substance Use Disorder Act (20 ILCS 301/40-10).

15 (Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19;
16 101-652, eff. 7-1-21.)

17 Section 10. The Code of Civil Procedure is amended by
18 changing Section 2-1401 as follows:

19 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

20 Sec. 2-1401. Relief from judgments.

21 (a) Relief from final orders and judgments, after 30 days
22 from the entry thereof, may be had upon petition as provided in
23 this Section. Writs of error coram nobis and coram vobis,
24 bills of review, and bills in the nature of bills of review are

1 abolished. All relief heretofore obtainable and the grounds
2 for such relief heretofore available, whether by any of the
3 foregoing remedies or otherwise, shall be available in every
4 case, by proceedings hereunder, regardless of the nature of
5 the order or judgment from which relief is sought or of the
6 proceedings in which it was entered. Except as provided in the
7 Illinois Parentage Act of 2015, there shall be no distinction
8 between actions and other proceedings, statutory or otherwise,
9 as to availability of relief, grounds for relief, or the
10 relief obtainable.

11 (b) The petition must be filed in the same proceeding in
12 which the order or judgment was entered but is not a
13 continuation thereof. The petition must be supported by an
14 affidavit or other appropriate showing as to matters not of
15 record. A petition to reopen a foreclosure proceeding must
16 include as parties to the petition, but is not limited to, all
17 parties in the original action in addition to the current
18 record title holders of the property, current occupants, and
19 any individual or entity that had a recorded interest in the
20 property before the filing of the petition. All parties to the
21 petition shall be notified as provided by rule.

22 (b-5) A movant may present a meritorious claim under this
23 Section if the allegations in the petition establish each of
24 the following by a preponderance of the evidence:

25 (1) the movant was convicted of a forcible felony;

26 (2) the movant's participation in the offense was

1 related to him or her previously having been a victim of
2 domestic violence as perpetrated by an intimate partner;

3 (3) no evidence of domestic violence against the
4 movant was presented at the movant's sentencing hearing;

5 (4) the movant was unaware of the mitigating nature of
6 the evidence of the domestic violence at the time of
7 sentencing and could not have learned of its significance
8 sooner through diligence; and

9 (5) the new evidence of domestic violence against the
10 movant is material and noncumulative to other evidence
11 offered at the sentencing hearing, and is of such a
12 conclusive character that it would likely change the
13 sentence imposed by the original trial court.

14 Nothing in this subsection (b-5) shall prevent a movant
15 from applying for any other relief under this Section or any
16 other law otherwise available to him or her.

17 As used in this subsection (b-5):

18 "Domestic violence" means abuse as defined in Section
19 103 of the Illinois Domestic Violence Act of 1986.

20 "Forcible felony" has the meaning ascribed to the term
21 in Section 2-8 of the Criminal Code of 2012.

22 "Intimate partner" means a spouse or former spouse,
23 persons who have or allegedly have had a child in common,
24 or persons who have or have had a dating or engagement
25 relationship.

26 (b-10) A movant may present a meritorious claim under this

1 Section if the allegations in the petition establish each of
2 the following by a preponderance of the evidence:

3 (A) she was convicted of a forcible felony;

4 (B) her participation in the offense was a direct
5 result of her suffering from post-partum depression or
6 post-partum psychosis;

7 (C) no evidence of post-partum depression or
8 post-partum psychosis was presented by a qualified medical
9 person at trial or sentencing, or both;

10 (D) she was unaware of the mitigating nature of the
11 evidence or, if aware, was at the time unable to present
12 this defense due to suffering from post-partum depression
13 or post-partum psychosis, or, at the time of trial or
14 sentencing, neither was a recognized mental illness and as
15 such, she was unable to receive proper treatment; and

16 (E) evidence of post-partum depression or post-partum
17 psychosis as suffered by the person is material and
18 noncumulative to other evidence offered at the time of
19 trial or sentencing, and it is of such a conclusive
20 character that it would likely change the sentence imposed
21 by the original court.

22 Nothing in this subsection (b-10) prevents a person from
23 applying for any other relief under this Article or any other
24 law otherwise available to her.

25 As used in this subsection (b-10):

26 "Post-partum depression" means a mood disorder which

1 strikes many women during and after pregnancy and usually
2 occurs during pregnancy and up to 12 months after
3 delivery. This depression can include anxiety disorders.

4 "Post-partum psychosis" means an extreme form of
5 post-partum depression which can occur during pregnancy
6 and up to 12 months after delivery. This can include
7 losing touch with reality, distorted thinking, delusions,
8 auditory and visual hallucinations, paranoia,
9 hyperactivity and rapid speech, or mania.

10 (b-15) A movant may present a meritorious claim under this
11 Section if the allegations in the petition establish the
12 following by a preponderance of the evidence that, prior to
13 the effective date of this amendatory Act of the 103rd General
14 Assembly, the movant was sentenced to natural life
15 imprisonment under Section 5-4.5-95 of the Unified Code of
16 Corrections. Nothing in this subsection (b-15) prevents a
17 movant from applying for any other relief under this Section
18 or any other law otherwise available to him or her.

19 (c) Except as provided in Section 20b of the Adoption Act
20 and Section 2-32 of the Juvenile Court Act of 1987, in a
21 petition based upon Section 116-3 of the Code of Criminal
22 Procedure of 1963 or subsection (b-10) or (b-15) of this
23 Section, or in a motion to vacate and expunge convictions
24 under the Cannabis Control Act as provided by subsection (i)
25 of Section 5.2 of the Criminal Identification Act, the
26 petition must be filed not later than 2 years after the entry

1 of the order or judgment. Time during which the person seeking
2 relief is under legal disability or duress or the ground for
3 relief is fraudulently concealed shall be excluded in
4 computing the period of 2 years.

5 (c-5) Any individual may at any time file a petition and
6 institute proceedings under this Section if his or her final
7 order or judgment, which was entered based on a plea of guilty
8 or nolo contendere, has potential consequences under federal
9 immigration law.

10 (d) The filing of a petition under this Section does not
11 affect the order or judgment, or suspend its operation.

12 (e) Unless lack of jurisdiction affirmatively appears from
13 the record proper, the vacation or modification of an order or
14 judgment pursuant to the provisions of this Section does not
15 affect the right, title, or interest in or to any real or
16 personal property of any person, not a party to the original
17 action, acquired for value after the entry of the order or
18 judgment but before the filing of the petition, nor affect any
19 right of any person not a party to the original action under
20 any certificate of sale issued before the filing of the
21 petition, pursuant to a sale based on the order or judgment.
22 When a petition is filed pursuant to this Section to reopen a
23 foreclosure proceeding, notwithstanding the provisions of
24 Section 15-1701 of this Code, the purchaser or successor
25 purchaser of real property subject to a foreclosure sale who
26 was not a party to the mortgage foreclosure proceedings is

1 entitled to remain in possession of the property until the
2 foreclosure action is defeated or the previously foreclosed
3 defendant redeems from the foreclosure sale if the purchaser
4 has been in possession of the property for more than 6 months.

5 (f) Nothing contained in this Section affects any existing
6 right to relief from a void order or judgment, or to employ any
7 existing method to procure that relief.

8 (Source: P.A. 101-27, eff. 6-25-19; 101-411, eff. 8-16-19;
9 102-639, eff. 8-27-21; 102-813, eff. 5-13-22.)".