

HB3807



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3807

Introduced 2/17/2023, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-105

Amends the Unified Code of Corrections. Provides that, except for certain types of first degree murder, the court may, in its discretion, sentence a defendant who was under 21 years of age at the time of the commission of the offense to a sentence that is less than the applicable minimum determinate sentence of imprisonment for the offense authorized by the Code. Provides that the court, at the sentencing hearing, shall consider certain mitigating factors when a person commits an offense and the person is under 21 (rather than 18) years of age at the time of the commission of the offense. Effective immediately.

LRB103 29581 RLC 55976 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 Unified Code of Corrections is amended by
5 changing Section 5-4.5-105 as follows:

6 (730 ILCS 5/5-4.5-105)

7 Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF
8 21 ~~18~~ AT THE TIME OF THE COMMISSION OF AN OFFENSE.

9 (a) On or after the effective date of this amendatory Act
10 of the 99th General Assembly, when a person commits an offense
11 and the person is under 21 ~~18~~ years of age at the time of the
12 commission of the offense, the court, at the sentencing
13 hearing conducted under Section 5-4-1, shall consider the
14 following additional factors in mitigation in determining the
15 appropriate sentence:

16 (1) the person's age, impetuosity, and level of
17 maturity at the time of the offense, including the ability
18 to consider risks and consequences of behavior, and the
19 presence of cognitive or developmental disability, or
20 both, if any;

21 (2) whether the person was subjected to outside
22 pressure, including peer pressure, familial pressure, or
23 negative influences;

1 (3) the person's family, home environment, educational
2 and social background, including any history of parental
3 neglect, physical abuse, or other childhood trauma;

4 (4) the person's potential for rehabilitation or
5 evidence of rehabilitation, or both;

6 (5) the circumstances of the offense;

7 (6) the person's degree of participation and specific
8 role in the offense, including the level of planning by
9 the defendant before the offense;

10 (7) whether the person was able to meaningfully
11 participate in his or her defense;

12 (8) the person's prior juvenile or criminal history;
13 and

14 (9) any other information the court finds relevant and
15 reliable, including an expression of remorse, if
16 appropriate. However, if the person, on advice of counsel
17 chooses not to make a statement, the court shall not
18 consider a lack of an expression of remorse as an
19 aggravating factor.

20 (b) Except as provided in subsection (c), the court may
21 sentence the defendant to any disposition authorized for the
22 class of the offense of which he or she was found guilty as
23 described in Article 4.5 of this Code, and may, in its
24 discretion, decline to impose any otherwise applicable
25 sentencing enhancement based upon firearm possession,
26 possession with personal discharge, or possession with

1 personal discharge that proximately causes great bodily harm,
2 permanent disability, permanent disfigurement, or death to
3 another person.

4 (b-5) Except as provided in subsection (c), the court may,
5 in its discretion, sentence a defendant who was under 21 years
6 of age at the time of the commission of the offense to a
7 sentence that is less than the applicable minimum determinate
8 sentence of imprisonment for the offense authorized by this
9 Code.

10 (c) Notwithstanding any other provision of law, if the
11 defendant is convicted of first degree murder and would
12 otherwise be subject to sentencing under clause (iii), (iv),
13 (v), or (vii) of subparagraph (c) of paragraph (1) of
14 subsection (a) of Section 5-8-1 of this Code based on the
15 category of persons identified therein, the court shall impose
16 a sentence of not less than 40 years of imprisonment. In
17 addition, the court may, in its discretion, decline to impose
18 the sentencing enhancements based upon the possession or use
19 of a firearm during the commission of the offense included in
20 subsection (d) of Section 5-8-1.

21 (Source: P.A. 99-69, eff. 1-1-16; 99-258, eff. 1-1-16; 99-875,
22 eff. 1-1-17.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.