

# SB2067



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2067

Introduced 2/9/2023, by Sen. Celina Villanueva

### 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. Establishes penalties for accountability. Provides that no sentence shall be imposed for the accompanying offense. Effective immediately.

LRB103 28178 RLC 54557 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  
9 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 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 accompanying  
20 offense, he or she terminates his or her effort to promote  
21 or facilitate that commission and does one of the  
22 following: (i) wholly deprives his or her prior efforts of  
23 effectiveness in that commission, (ii) gives timely  
24 warning to the proper law enforcement authorities, or  
25 (iii) otherwise makes proper efforts ~~effort~~ to prevent the  
26 commission of the accompanying offense.

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

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

18 Except as provided in Section 3-3-8 or 5-8-1 of the  
19 Unified Code of Corrections, the parole or mandatory  
20 supervised release term shall be one year upon release  
21 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 person  
20 convicted of accountability for a misdemeanor may be fined  
21 or imprisoned or both.

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

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

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

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

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

14                   (B) 3 years for a conviction of accountability for  
15                   an accompanying Class 1 felony under this Section;

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

18                   (D) 24 months for a conviction of accountability  
19                   for an accompanying Class 3 felony under this Section;

20                   and

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

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



1           (10) Fines for accountability may be imposed as  
2           provided in subsection (b) of Section 5-4.5-50 of the  
3           Unified Code of Corrections.

4           (11) Restitution for accountability may be imposed as  
5           provided in Section 5-5-6 of the Unified Code of  
6           Corrections.

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

10           (13) Section 20 of the Drug Court Treatment Act  
11           applies to eligibility for a drug court program by a  
12           person convicted of accountability.

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

16           (15) Section 3-6-3 of the Unified Code of Corrections  
17           or the County Jail Good Behavior Allowance Act applies to  
18           rules and regulations for sentence credit of a person  
19           convicted of accountability.

20           (16) Section 5-8A-3 of the Unified Code of Corrections  
21           applies to the eligibility of a person convicted of  
22           accountability for electronic monitoring and home  
23           detention.

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

25           Section 99. Effective date. This Act takes effect upon  
26           becoming law.