

1 AN ACT in relation to 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 adding Section 5-2-7 as follows:

6 (730 ILCS 5/5-2-7 new)

7 Sec. 5-2-7. Fitness to be executed.

8 (a) A person is unfit to be executed if the person is  
9 mentally retarded. For the purposes of this Section,  
10 "mentally retarded" means:

11 (1) having significantly sub-average general  
12 intellectual functioning as evidenced by a functional  
13 intelligence quotient (I.Q.) of 70 or below; and

14 (2) having deficits in adaptive behavior.

15 The mental retardation must have been manifested during  
16 the developmental period, or by 18 years of age.

17 (b) The question of fitness to be executed may be raised  
18 after pronouncement of the death sentence. The procedure for  
19 raising and deciding the question shall be the same as that  
20 provided for raising and deciding the question of fitness to  
21 stand trial subject to the following specific provisions:

22 (1) the question shall be raised by motion filed in  
23 the sentencing court;

24 (2) the question shall be decided by the court;

25 (3) the burden of proving that the offender is  
26 unfit to be executed is on the offender;

27 (4) if the offender is found to be mentally  
28 retarded, the court must resentence the offender to  
29 natural life imprisonment under Chapter V of the Unified  
30 Code of Corrections.