



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4032

Introduced 1/14/2004, by Robert Rita

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-4

from Ch. 38, par. 1005-8-4

Amends the Unified Code of Corrections. Provides that the court shall sentence the defendant to a consecutive sentence when one of the offenses that the defendant was convicted of was concealment of homicidal death or dismembering a human body. Effective immediately.

LRB093 14225 RLC 40084 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 changing Section 5-8-4 as follows:

6 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

7 Sec. 5-8-4. Concurrent and Consecutive Terms of
8 Imprisonment.

9 (a) When multiple sentences of imprisonment are imposed on
10 a defendant at the same time, or when a term of imprisonment is
11 imposed on a defendant who is already subject to sentence in
12 this State or in another state, or for a sentence imposed by
13 any district court of the United States, the sentences shall
14 run concurrently or consecutively as determined by the court.
15 When a term of imprisonment is imposed on a defendant by an
16 Illinois circuit court and the defendant is subsequently
17 sentenced to a term of imprisonment by another state or by a
18 district court of the United States, the Illinois circuit court
19 which imposed the sentence may order that the Illinois sentence
20 be made concurrent with the sentence imposed by the other state
21 or district court of the United States. The defendant must
22 apply to the circuit court within 30 days after the defendant's
23 sentence imposed by the other state or district of the United
24 States is finalized. The court shall impose consecutive
25 sentences if:

26 (i) one of the offenses for which defendant was
27 convicted was first degree murder or a Class X or Class 1
28 felony and the defendant inflicted severe bodily injury, or

29 (ii) the defendant was convicted of a violation of
30 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
31 1961, or

32 (iii) the defendant was convicted of armed violence

1 based upon the predicate offense of solicitation of murder,
2 solicitation of murder for hire, heinous battery,
3 aggravated battery of a senior citizen, criminal sexual
4 assault, a violation of subsection (g) of Section 5 of the
5 Cannabis Control Act, cannabis trafficking, a violation of
6 subsection (a) of Section 401 of the Illinois Controlled
7 Substances Act, controlled substance trafficking involving
8 a Class X felony amount of controlled substance under
9 Section 401 of the Illinois Controlled Substances Act,
10 calculated criminal drug conspiracy, or streetgang
11 criminal drug conspiracy, or

12 (iv) the defendant was convicted of the offense of
13 leaving the scene of a motor vehicle accident involving
14 death or personal injuries under Section 11-401 and either:
15 (A) aggravated driving under the influence of alcohol,
16 other drug or drugs, or intoxicating compound or compounds,
17 or any combination thereof under Section 11-501 of the
18 Illinois Vehicle Code, or (B) reckless homicide under
19 Section 9-3 of the Criminal Code of 1961, or both an
20 offense described in subdivision (A) and an offense
21 described in subdivision (B), or

22 (v) the defendant was convicted of a violation of
23 Section 9-3.1 (concealment of homicidal death) or Section
24 12-20.5 (dismembering a human body) of the Criminal Code of
25 1961,

26 in which event the court shall enter sentences to run
27 consecutively. Sentences shall run concurrently unless
28 otherwise specified by the court.

29 (b) Except in cases where consecutive sentences are
30 mandated, the court shall impose concurrent sentences unless,
31 having regard to the nature and circumstances of the offense
32 and the history and character of the defendant, it is of the
33 opinion that consecutive sentences are required to protect the
34 public from further criminal conduct by the defendant, the
35 basis for which the court shall set forth in the record.

36 (c) (1) For sentences imposed under law in effect prior to

1 February 1, 1978 the aggregate maximum of consecutive
2 sentences shall not exceed the maximum term authorized
3 under Section 5-8-1 for the 2 most serious felonies
4 involved. The aggregate minimum period of consecutive
5 sentences shall not exceed the highest minimum term
6 authorized under Section 5-8-1 for the 2 most serious
7 felonies involved. When sentenced only for misdemeanors, a
8 defendant shall not be consecutively sentenced to more than
9 the maximum for one Class A misdemeanor.

10 (2) For sentences imposed under the law in effect on or
11 after February 1, 1978, the aggregate of consecutive
12 sentences for offenses that were committed as part of a
13 single course of conduct during which there was no
14 substantial change in the nature of the criminal objective
15 shall not exceed the sum of the maximum terms authorized
16 under Section 5-8-2 for the 2 most serious felonies
17 involved, but no such limitation shall apply for offenses
18 that were not committed as part of a single course of
19 conduct during which there was no substantial change in the
20 nature of the criminal objective. When sentenced only for
21 misdemeanors, a defendant shall not be consecutively
22 sentenced to more than the maximum for one Class A
23 misdemeanor.

24 (d) An offender serving a sentence for a misdemeanor who is
25 convicted of a felony and sentenced to imprisonment shall be
26 transferred to the Department of Corrections, and the
27 misdemeanor sentence shall be merged in and run concurrently
28 with the felony sentence.

29 (e) In determining the manner in which consecutive
30 sentences of imprisonment, one or more of which is for a
31 felony, will be served, the Department of Corrections shall
32 treat the offender as though he had been committed for a single
33 term with the following incidents:

34 (1) the maximum period of a term of imprisonment shall
35 consist of the aggregate of the maximums of the imposed
36 indeterminate terms, if any, plus the aggregate of the

1 imposed determinate sentences for felonies plus the
2 aggregate of the imposed determinate sentences for
3 misdemeanors subject to paragraph (c) of this Section;

4 (2) the parole or mandatory supervised release term
5 shall be as provided in paragraph (e) of Section 5-8-1 of
6 this Code for the most serious of the offenses involved;

7 (3) the minimum period of imprisonment shall be the
8 aggregate of the minimum and determinate periods of
9 imprisonment imposed by the court, subject to paragraph (c)
10 of this Section; and

11 (4) the offender shall be awarded credit against the
12 aggregate maximum term and the aggregate minimum term of
13 imprisonment for all time served in an institution since
14 the commission of the offense or offenses and as a
15 consequence thereof at the rate specified in Section 3-6-3
16 of this Code.

17 (f) A sentence of an offender committed to the Department
18 of Corrections at the time of the commission of the offense
19 shall be served consecutive to the sentence under which he is
20 held by the Department of Corrections. However, in case such
21 offender shall be sentenced to punishment by death, the
22 sentence shall be executed at such time as the court may fix
23 without regard to the sentence under which such offender may be
24 held by the Department.

25 (g) A sentence under Section 3-6-4 for escape or attempted
26 escape shall be served consecutive to the terms under which the
27 offender is held by the Department of Corrections.

28 (h) If a person charged with a felony commits a separate
29 felony while on pre-trial release or in pretrial detention in a
30 county jail facility or county detention facility, the
31 sentences imposed upon conviction of these felonies shall be
32 served consecutively regardless of the order in which the
33 judgments of conviction are entered.

34 (i) If a person admitted to bail following conviction of a
35 felony commits a separate felony while free on bond or if a
36 person detained in a county jail facility or county detention

1 facility following conviction of a felony commits a separate
2 felony while in detention, any sentence following conviction of
3 the separate felony shall be consecutive to that of the
4 original sentence for which the defendant was on bond or
5 detained.

6 (Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03; 93-160,
7 eff. 7-10-03.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.