



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-4

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

Amends the Unified Code of Corrections. Provides that when a minor has been convicted of an offense as an adult, the court may not impose a sentence that is consecutive to any adjudication of delinquency as to that minor.

LRB093 18592 RLC 44314 b

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 5-8-4 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),

22 in which event the court shall enter sentences to run
23 consecutively. Sentences shall run concurrently unless
24 otherwise specified by the court.

25 When a minor has been convicted of an offense as an adult,
26 the court may not impose a sentence that is consecutive to any
27 adjudication of delinquency as to that minor.

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

35 (c) (1) For sentences imposed under law in effect prior to
36 February 1, 1978 the aggregate maximum of consecutive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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