



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/5/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-8	from Ch. 38, par. 1003-3-8
730 ILCS 5/5-8-1	from Ch. 38, par. 1005-8-1

Amends the Unified Code of Corrections. Provides that the term of parole or mandatory supervised release shall begin to run as of the date the Prisoner Review Board votes to release such person on parole or the date on which such person is no longer imprisoned, whichever is earlier.

LRB093 17160 RLC 42826 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 Sections 3-3-8 and 5-8-1 as follows:

6 (730 ILCS 5/3-3-8) (from Ch. 38, par. 1003-3-8)

7 Sec. 3-3-8. Length of parole and mandatory supervised
8 release; discharge.)

9 (a) The length of parole for a person sentenced under the
10 law in effect prior to the effective date of this amendatory
11 Act of 1977 and the length of mandatory supervised release for
12 those sentenced under the law in effect on and after such
13 effective date shall be as set out in Section 5-8-1 unless
14 sooner terminated under paragraph (b) of this Section. The term
15 of parole or mandatory supervised release shall begin to run as
16 of the date the Prisoner Review Board votes to release such
17 person on parole or the date on which such person is no longer
18 imprisoned, whichever is earlier. The parole period of a
19 juvenile committed to the Department under the Juvenile Court
20 Act or the Juvenile Court Act of 1987 shall extend until he is
21 21 years of age unless sooner terminated under paragraph (b) of
22 this Section.

23 (b) The Prisoner Review Board may enter an order releasing
24 and discharging one from parole or mandatory supervised
25 release, and his commitment to the Department, when it
26 determines that he is likely to remain at liberty without
27 committing another offense.

28 (c) The order of discharge shall become effective upon
29 entry of the order of the Board. The Board shall notify the
30 clerk of the committing court of the order. Upon receipt of
31 such copy, the clerk shall make an entry on the record judgment
32 that the sentence or commitment has been satisfied pursuant to

1 the order.

2 (d) Rights of the person discharged under this Section
3 shall be restored under Section 5-5-5. This Section is subject
4 to Section 5-750 of the Juvenile Court Act of 1987.

5 (Source: P.A. 90-590, eff. 1-1-99.)

6 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

7 Sec. 5-8-1. Sentence of Imprisonment for Felony.

8 (a) Except as otherwise provided in the statute defining
9 the offense, a sentence of imprisonment for a felony shall be a
10 determinate sentence set by the court under this Section,
11 according to the following limitations:

12 (1) for first degree murder,

13 (a) a term shall be not less than 20 years and not
14 more than 60 years, or

15 (b) if a trier of fact finds beyond a reasonable
16 doubt that the murder was accompanied by exceptionally
17 brutal or heinous behavior indicative of wanton
18 cruelty or, except as set forth in subsection (a) (1) (c)
19 of this Section, that any of the aggravating factors
20 listed in subsection (b) of Section 9-1 of the Criminal
21 Code of 1961 are present, the court may sentence the
22 defendant to a term of natural life imprisonment, or

23 (c) the court shall sentence the defendant to a
24 term of natural life imprisonment when the death
25 penalty is not imposed if the defendant,

26 (i) has previously been convicted of first
27 degree murder under any state or federal law, or

28 (ii) is a person who, at the time of the
29 commission of the murder, had attained the age of
30 17 or more and is found guilty of murdering an
31 individual under 12 years of age; or, irrespective
32 of the defendant's age at the time of the
33 commission of the offense, is found guilty of
34 murdering more than one victim, or

35 (iii) is found guilty of murdering a peace

1 officer or fireman when the peace officer or
2 fireman was killed in the course of performing his
3 official duties, or to prevent the peace officer or
4 fireman from performing his official duties, or in
5 retaliation for the peace officer or fireman
6 performing his official duties, and the defendant
7 knew or should have known that the murdered
8 individual was a peace officer or fireman, or

9 (iv) is found guilty of murdering an employee
10 of an institution or facility of the Department of
11 Corrections, or any similar local correctional
12 agency, when the employee was killed in the course
13 of performing his official duties, or to prevent
14 the employee from performing his official duties,
15 or in retaliation for the employee performing his
16 official duties, or

17 (v) is found guilty of murdering an emergency
18 medical technician - ambulance, emergency medical
19 technician - intermediate, emergency medical
20 technician - paramedic, ambulance driver or other
21 medical assistance or first aid person while
22 employed by a municipality or other governmental
23 unit when the person was killed in the course of
24 performing official duties or to prevent the
25 person from performing official duties or in
26 retaliation for performing official duties and the
27 defendant knew or should have known that the
28 murdered individual was an emergency medical
29 technician - ambulance, emergency medical
30 technician - intermediate, emergency medical
31 technician - paramedic, ambulance driver, or other
32 medical assistant or first aid personnel, or

33 (vi) is a person who, at the time of the
34 commission of the murder, had not attained the age
35 of 17, and is found guilty of murdering a person
36 under 12 years of age and the murder is committed

1 during the course of aggravated criminal sexual
2 assault, criminal sexual assault, or aggravated
3 kidnaping, or

4 (vii) is found guilty of first degree murder
5 and the murder was committed by reason of any
6 person's activity as a community policing
7 volunteer or to prevent any person from engaging in
8 activity as a community policing volunteer. For
9 the purpose of this Section, "community policing
10 volunteer" has the meaning ascribed to it in
11 Section 2-3.5 of the Criminal Code of 1961.

12 For purposes of clause (v), "emergency medical
13 technician - ambulance", "emergency medical technician
14 - intermediate", "emergency medical technician -
15 paramedic", have the meanings ascribed to them in the
16 Emergency Medical Services (EMS) Systems Act.

17 (d) (i) if the person committed the offense while
18 armed with a firearm, 15 years shall be added to
19 the term of imprisonment imposed by the court;

20 (ii) if, during the commission of the offense,
21 the person personally discharged a firearm, 20
22 years shall be added to the term of imprisonment
23 imposed by the court;

24 (iii) if, during the commission of the
25 offense, the person personally discharged a
26 firearm that proximately caused great bodily harm,
27 permanent disability, permanent disfigurement, or
28 death to another person, 25 years or up to a term
29 of natural life shall be added to the term of
30 imprisonment imposed by the court.

31 (1.5) for second degree murder, a term shall be not
32 less than 4 years and not more than 20 years;

33 (2) for a person adjudged a habitual criminal under
34 Article 33B of the Criminal Code of 1961, as amended, the
35 sentence shall be a term of natural life imprisonment;

36 (2.5) for a person convicted under the circumstances

1 described in paragraph (3) of subsection (b) of Section
2 12-13, paragraph (2) of subsection (d) of Section 12-14,
3 paragraph (1.2) of subsection (b) of Section 12-14.1, or
4 paragraph (2) of subsection (b) of Section 12-14.1 of the
5 Criminal Code of 1961, the sentence shall be a term of
6 natural life imprisonment;

7 (3) except as otherwise provided in the statute
8 defining the offense, for a Class X felony, the sentence
9 shall be not less than 6 years and not more than 30 years;

10 (4) for a Class 1 felony, other than second degree
11 murder, the sentence shall be not less than 4 years and not
12 more than 15 years;

13 (5) for a Class 2 felony, the sentence shall be not
14 less than 3 years and not more than 7 years;

15 (6) for a Class 3 felony, the sentence shall be not
16 less than 2 years and not more than 5 years;

17 (7) for a Class 4 felony, the sentence shall be not
18 less than 1 year and not more than 3 years.

19 (b) The sentencing judge in each felony conviction shall
20 set forth his reasons for imposing the particular sentence he
21 enters in the case, as provided in Section 5-4-1 of this Code.
22 Those reasons may include any mitigating or aggravating factors
23 specified in this Code, or the lack of any such circumstances,
24 as well as any other such factors as the judge shall set forth
25 on the record that are consistent with the purposes and
26 principles of sentencing set out in this Code.

27 (c) A motion to reduce a sentence may be made, or the court
28 may reduce a sentence without motion, within 30 days after the
29 sentence is imposed. A defendant's challenge to the correctness
30 of a sentence or to any aspect of the sentencing hearing shall
31 be made by a written motion filed within 30 days following the
32 imposition of sentence. However, the court may not increase a
33 sentence once it is imposed.

34 If a motion filed pursuant to this subsection is timely
35 filed within 30 days after the sentence is imposed, the
36 proponent of the motion shall exercise due diligence in seeking

1 a determination on the motion and the court shall thereafter
2 decide such motion within a reasonable time.

3 If a motion filed pursuant to this subsection is timely
4 filed within 30 days after the sentence is imposed, then for
5 purposes of perfecting an appeal, a final judgment shall not be
6 considered to have been entered until the motion to reduce a
7 sentence has been decided by order entered by the trial court.

8 A motion filed pursuant to this subsection shall not be
9 considered to have been timely filed unless it is filed with
10 the circuit court clerk within 30 days after the sentence is
11 imposed together with a notice of motion, which notice of
12 motion shall set the motion on the court's calendar on a date
13 certain within a reasonable time after the date of filing.

14 (d) Except where a term of natural life is imposed, every
15 sentence shall include as though written therein a term in
16 addition to the term of imprisonment. For those sentenced under
17 the law in effect prior to February 1, 1978, such term shall be
18 identified as a parole term. For those sentenced on or after
19 February 1, 1978, such term shall be identified as a mandatory
20 supervised release term. Subject to earlier termination under
21 Section 3-3-8, the parole or mandatory supervised release term
22 shall be as follows:

23 (1) for first degree murder or a Class X felony, 3
24 years;

25 (2) for a Class 1 felony or a Class 2 felony, 2 years;

26 (3) for a Class 3 felony or a Class 4 felony, 1 year;

27 (4) if the victim is under 18 years of age, for a
28 second or subsequent offense of criminal sexual assault or
29 aggravated criminal sexual assault, 5 years, at least the
30 first 2 years of which the defendant shall serve in an
31 electronic home detention program under Article 8A of
32 Chapter V of this Code;

33 (5) if the victim is under 18 years of age, for a
34 second or subsequent offense of aggravated criminal sexual
35 abuse or felony criminal sexual abuse, 4 years, at least
36 the first 2 years of which the defendant shall serve in an

1 electronic home detention program under Article 8A of
2 Chapter V of this Code.

3 The term of parole or mandatory supervised release shall
4 begin to run as of the date the Prisoner Review Board votes to
5 release such person on parole or the date on which such person
6 is no longer imprisoned, whichever is earlier.

7 (e) A defendant who has a previous and unexpired sentence
8 of imprisonment imposed by another state or by any district
9 court of the United States and who, after sentence for a crime
10 in Illinois, must return to serve the unexpired prior sentence
11 may have his sentence by the Illinois court ordered to be
12 concurrent with the prior sentence in the other state. The
13 court may order that any time served on the unexpired portion
14 of the sentence in the other state, prior to his return to
15 Illinois, shall be credited on his Illinois sentence. The other
16 state shall be furnished with a copy of the order imposing
17 sentence which shall provide that, when the offender is
18 released from confinement of the other state, whether by parole
19 or by termination of sentence, the offender shall be
20 transferred by the Sheriff of the committing county to the
21 Illinois Department of Corrections. The court shall cause the
22 Department of Corrections to be notified of such sentence at
23 the time of commitment and to be provided with copies of all
24 records regarding the sentence.

25 (f) A defendant who has a previous and unexpired sentence
26 of imprisonment imposed by an Illinois circuit court for a
27 crime in this State and who is subsequently sentenced to a term
28 of imprisonment by another state or by any district court of
29 the United States and who has served a term of imprisonment
30 imposed by the other state or district court of the United
31 States, and must return to serve the unexpired prior sentence
32 imposed by the Illinois Circuit Court may apply to the court
33 which imposed sentence to have his sentence reduced.

34 The circuit court may order that any time served on the
35 sentence imposed by the other state or district court of the
36 United States be credited on his Illinois sentence. Such

1 application for reduction of a sentence under this subsection
2 (f) shall be made within 30 days after the defendant has
3 completed the sentence imposed by the other state or district
4 court of the United States.

5 (Source: P.A. 91-279, eff. 1-1-00; 91-404, eff. 1-1-00; 91-953,
6 eff. 2-23-01; 92-16, eff. 6-28-01.)