



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by John J. Cullerton

**SYNOPSIS AS INTRODUCED:**

730 ILCS 5/5-8-1

from Ch. 38, par. 1005-8-1

Amends the Unified Code of Corrections. Makes technical changes in the Section concerning sentencing for felony violations.

LRB093 21183 RLC 47261 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 5-8-1 as follows:

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

7 Sec. 5-8-1. Sentence of imprisonment ~~Imprisonment~~ for a  
8 felony ~~Felony~~.

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

13 (1) for first degree murder,

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

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

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

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

29 (ii) is a person who, at the time of the  
30 commission of the murder, had attained the age of  
31 17 or more and is found guilty of murdering an  
32 individual under 12 years of age; or, irrespective

1 of the defendant's age at the time of the  
2 commission of the offense, is found guilty of  
3 murdering more than one victim, or

4 (iii) is found guilty of murdering a peace  
5 officer or fireman when the peace officer or  
6 fireman was killed in the course of performing his  
7 official duties, or to prevent the peace officer or  
8 fireman from performing his official duties, or in  
9 retaliation for the peace officer or fireman  
10 performing his official duties, and the defendant  
11 knew or should have known that the murdered  
12 individual was a peace officer or fireman, or

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

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

1 (vi) is a person who, at the time of the  
2 commission of the murder, had not attained the age  
3 of 17, and is found guilty of murdering a person  
4 under 12 years of age and the murder is committed  
5 during the course of aggravated criminal sexual  
6 assault, criminal sexual assault, or aggravated  
7 kidnaping, or

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

16 For purposes of clause (v), "emergency medical  
17 technician - ambulance", "emergency medical technician  
18 - intermediate", "emergency medical technician -  
19 paramedic", have the meanings ascribed to them in the  
20 Emergency Medical Services (EMS) Systems Act.

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

24 (ii) if, during the commission of the offense,  
25 the person personally discharged a firearm, 20  
26 years shall be added to the term of imprisonment  
27 imposed by the court;

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

35 (1.5) for second degree murder, a term shall be not  
36 less than 4 years and not more than 20 years;

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

4 (2.5) for a person convicted under the circumstances  
5 described in paragraph (3) of subsection (b) of Section  
6 12-13, paragraph (2) of subsection (d) of Section 12-14,  
7 paragraph (1.2) of subsection (b) of Section 12-14.1, or  
8 paragraph (2) of subsection (b) of Section 12-14.1 of the  
9 Criminal Code of 1961, the sentence shall be a term of  
10 natural life imprisonment;

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

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

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

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

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

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

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

1 sentence once it is imposed.

2 If a motion filed pursuant to this subsection is timely  
3 filed within 30 days after the sentence is imposed, the  
4 proponent of the motion shall exercise due diligence in seeking  
5 a determination on the motion and the court shall thereafter  
6 decide such motion within a reasonable time.

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

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

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

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

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

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

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

1           (5) if the victim is under 18 years of age, for a  
2           second or subsequent offense of aggravated criminal sexual  
3           abuse or felony criminal sexual abuse, 4 years, at least  
4           the first 2 years of which the defendant shall serve in an  
5           electronic home detention program under Article 8A of  
6           Chapter V of this Code.

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.)