



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1870

Introduced 2/23/2007, by Rep. Ron Stephens

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

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

Amends the Unified Code of Corrections. Reenacts the provision of P.A. 89-203 that requires the court to impose a sentence of natural life imprisonment, when the death penalty is not imposed, on a defendant who had attained the age of 17 or more and is found guilty of murdering an individual under 12 years of age; which was held unconstitutional by the Illinois Supreme Court in *People v. Wooters* as violating the single subject clause of the Illinois Constitution.

LRB095 09932 RLC 30144 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 1. Purpose.

5 (a) The General Assembly finds and declares that:

6 (1) Public Act 89-203, effective July 21, 1995,  
7 contained provisions amending the Criminal Code of 1961 and  
8 the Unified Code of Corrections. Public Act 89-203 also  
9 contained other provisions, including revisions to the  
10 Vehicle Code, the Counties Code, and the Code of Civil  
11 Procedure.

12 (2) On November 18, 1999, the Illinois Supreme Court,  
13 in *People v. Wooters*, 1999, 243 Ill. Dec. 33, 188 Ill.2d  
14 500, 722 N.E.2d 1102 ruled that Public Act 89-203 violates  
15 the single subject clause of the Illinois Constitution  
16 (Article IV, Section 8 (d)) and was unconstitutional in its  
17 entirety.

18 (3) The provisions of Public Act 89-203 amending  
19 Section 5-8-1 of the Unified Code of Corrections is of  
20 vital concern to the people of this State and legislative  
21 action concerning that provision of Public Act 89-203 is  
22 necessary.

23 (b) The purpose of this Act is to re-enact the provisions  
24 of Section 5-8-1 of the Unified Code of Corrections of Public

1 Act 89-203, including subsequent amendments. This re-enactment  
2 is intended to remove any question as to the validity or  
3 content of those provisions.

4 (c) This Act re-enacts the provisions of Section 5-8-1 of  
5 the Unified Code of Corrections added by Public Act 89-203,  
6 including subsequent amendments, to remove any question as to  
7 the validity or content of those provisions; it is not intended  
8 to supersede any other Public Act that amends the text of the  
9 Sections as set forth in this Act. The material is shown as  
10 existing text (i.e., without underscoring).

11 Section 5. The Unified Code of Corrections is amended by  
12 reenacting Section 5-8-1 as follows:

13 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

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

19 (1) for first degree murder,

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

22 (b) if a trier of fact finds beyond a reasonable  
23 doubt that the murder was accompanied by exceptionally  
24 brutal or heinous behavior indicative of wanton

1 cruelty or, except as set forth in subsection (a)(1)(c)  
2 of this Section, that any of the aggravating factors  
3 listed in subsection (b) of Section 9-1 of the Criminal  
4 Code of 1961 are present, the court may sentence the  
5 defendant to a term of natural life imprisonment, or

6 (c) the court shall sentence the defendant to a  
7 term of natural life imprisonment when the death  
8 penalty is not imposed if the defendant,

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

11 (ii) is a person who, at the time of the  
12 commission of the murder, had attained the age of  
13 17 or more and is found guilty of murdering an  
14 individual under 12 years of age; or, irrespective  
15 of the defendant's age at the time of the  
16 commission of the offense, is found guilty of  
17 murdering more than one victim, or

18 (iii) is found guilty of murdering a peace  
19 officer, fireman, or emergency management worker  
20 when the peace officer, fireman, or emergency  
21 management worker was killed in the course of  
22 performing his official duties, or to prevent the  
23 peace officer or fireman from performing his  
24 official duties, or in retaliation for the peace  
25 officer, fireman, or emergency management worker  
26 from performing his official duties, and the

1 defendant knew or should have known that the  
2 murdered individual was a peace officer, fireman,  
3 or emergency management worker, or

4 (iv) is found guilty of murdering an employee  
5 of an institution or facility of the Department of  
6 Corrections, or any similar local correctional  
7 agency, when the employee was killed in the course  
8 of performing his official duties, or to prevent  
9 the employee from performing his official duties,  
10 or in retaliation for the employee performing his  
11 official duties, or

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

1 medical assistant or first aid personnel, or

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

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

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

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

25 (ii) if, during the commission of the offense,  
26 the person personally discharged a firearm, 20

1           years shall be added to the term of imprisonment  
2           imposed by the court;

3           (iii) if, during the commission of the  
4           offense, the person personally discharged a  
5           firearm that proximately caused great bodily harm,  
6           permanent disability, permanent disfigurement, or  
7           death to another person, 25 years or up to a term  
8           of natural life shall be added to the term of  
9           imprisonment imposed by the court.

10          (1.5) for second degree murder, a term shall be not  
11          less than 4 years and not more than 20 years;

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

15          (2.5) for a person convicted under the circumstances  
16          described in paragraph (3) of subsection (b) of Section  
17          12-13, paragraph (2) of subsection (d) of Section 12-14,  
18          paragraph (1.2) of subsection (b) of Section 12-14.1, or  
19          paragraph (2) of subsection (b) of Section 12-14.1 of the  
20          Criminal Code of 1961, the sentence shall be a term of  
21          natural life imprisonment;

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

25          (4) for a Class 1 felony, other than second degree  
26          murder, the sentence shall be not less than 4 years and not

1 more than 15 years;

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

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

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

8 (b) The sentencing judge in each felony conviction shall  
9 set forth his reasons for imposing the particular sentence he  
10 enters in the case, as provided in Section 5-4-1 of this Code.  
11 Those reasons may include any mitigating or aggravating factors  
12 specified in this Code, or the lack of any such circumstances,  
13 as well as any other such factors as the judge shall set forth  
14 on the record that are consistent with the purposes and  
15 principles of sentencing set out in this Code.

16 (c) A motion to reduce a sentence may be made, or the court  
17 may reduce a sentence without motion, within 30 days after the  
18 sentence is imposed. A defendant's challenge to the correctness  
19 of a sentence or to any aspect of the sentencing hearing shall  
20 be made by a written motion filed within 30 days following the  
21 imposition of sentence. However, the court may not increase a  
22 sentence once it is imposed.

23 If a motion filed pursuant to this subsection is timely  
24 filed within 30 days after the sentence is imposed, the  
25 proponent of the motion shall exercise due diligence in seeking  
26 a determination on the motion and the court shall thereafter



1 decide such motion within a reasonable time.

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

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

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

22 (1) for first degree murder or a Class X felony except  
23 for the offenses of predatory criminal sexual assault of a  
24 child, aggravated criminal sexual assault, and criminal  
25 sexual assault if committed on or after the effective date  
26 of this amendatory Act of the 94th General Assembly, 3

1 years;

2 (2) for a Class 1 felony or a Class 2 felony except for  
3 the offense of criminal sexual assault if committed on or  
4 after the effective date of this amendatory Act of the 94th  
5 General Assembly, 2 years;

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

7 (4) for defendants who commit the offense of predatory  
8 criminal sexual assault of a child, aggravated criminal  
9 sexual assault, or criminal sexual assault, on or after the  
10 effective date of this amendatory Act of the 94th General  
11 Assembly, the term of mandatory supervised release shall  
12 range from a minimum of 3 years to a maximum of the natural  
13 life of the defendant;

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

20 (e) A defendant who has a previous and unexpired sentence  
21 of imprisonment imposed by another state or by any district  
22 court of the United States and who, after sentence for a crime  
23 in Illinois, must return to serve the unexpired prior sentence  
24 may have his sentence by the Illinois court ordered to be  
25 concurrent with the prior sentence in the other state. The  
26 court may order that any time served on the unexpired portion

1 of the sentence in the other state, prior to his return to  
2 Illinois, shall be credited on his Illinois sentence. The other  
3 state shall be furnished with a copy of the order imposing  
4 sentence which shall provide that, when the offender is  
5 released from confinement of the other state, whether by parole  
6 or by termination of sentence, the offender shall be  
7 transferred by the Sheriff of the committing county to the  
8 Illinois Department of Corrections. The court shall cause the  
9 Department of Corrections to be notified of such sentence at  
10 the time of commitment and to be provided with copies of all  
11 records regarding the sentence.

12 (f) A defendant who has a previous and unexpired sentence  
13 of imprisonment imposed by an Illinois circuit court for a  
14 crime in this State and who is subsequently sentenced to a term  
15 of imprisonment by another state or by any district court of  
16 the United States and who has served a term of imprisonment  
17 imposed by the other state or district court of the United  
18 States, and must return to serve the unexpired prior sentence  
19 imposed by the Illinois Circuit Court may apply to the court  
20 which imposed sentence to have his sentence reduced.

21 The circuit court may order that any time served on the  
22 sentence imposed by the other state or district court of the  
23 United States be credited on his Illinois sentence. Such  
24 application for reduction of a sentence under this subsection  
25 (f) shall be made within 30 days after the defendant has  
26 completed the sentence imposed by the other state or district

1 court of the United States.

2 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;

3 94-715, eff. 12-13-05.)