



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4154

by Rep. Eddie Washington

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

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

730 ILCS 5/5-8-1.4 new

Amends the Unified Code of Corrections. Provides that a committed person who is at least 50 years of age and who has served at least 25 consecutive years of imprisonment in a Department of Corrections institution or facility and is serving a sentence other than death may petition the circuit court for an elderly sentence adjustment. Provides the contents of such petition and establishes criteria that the court shall use to determine whether the committed person shall be granted an elderly sentence adjustment. Provides that the court shall consider the petition in its entirety and may not order the release of the committed person if the court finds that the committed person poses a threat to public safety. Provides that if the court determines that a committed person is eligible for an elderly sentence adjustment and determines that the committed person should receive a sentence adjustment, the court shall set the conditions for the committed person's release from prison before the expiration of the committed person's sentence imposed by the sentencing court. Provides for notification of the families of victims if a petition for elderly sentence adjustment is filed. Provides that the Department of Corrections shall develop a pilot program patterned after the Impact of Crime on Victims Class (ICVC), including the Restorative Justice segment, used by the Missouri Department of Corrections. Provides that the pilot program shall be implemented in one maximum security prison for women and one maximum security prison for men. Provides that the ICVC shall be made available to prisoners eligible for elderly sentence adjustment on a voluntary basis.

LRB095 13759 RLC 39742 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 and by adding Section 5-8-1.4 as
6 follows:

7 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

9 (a) Except as otherwise provided in the statute defining
10 the offense and except as otherwise provided in Section
11 5-8-1.4, a sentence of imprisonment for a felony shall be a
12 determinate sentence set by the court under this Section,
13 according to the following limitations:

14 (1) for first degree murder,

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

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

1 defendant to a term of natural life imprisonment, or

2 (c) the court shall sentence the defendant to a
3 term of natural life imprisonment when the death
4 penalty is not imposed if the defendant,

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

7 (ii) is a person who, at the time of the
8 commission of the murder, had attained the age of
9 17 or more and is found guilty of murdering an
10 individual under 12 years of age; or, irrespective
11 of the defendant's age at the time of the
12 commission of the offense, is found guilty of
13 murdering more than one victim, or

14 (iii) is found guilty of murdering a peace
15 officer, fireman, or emergency management worker
16 when the peace officer, fireman, or emergency
17 management worker was killed in the course of
18 performing his official duties, or to prevent the
19 peace officer or fireman from performing his
20 official duties, or in retaliation for the peace
21 officer, fireman, or emergency management worker
22 from performing his official duties, and the
23 defendant knew or should have known that the
24 murdered individual was a peace officer, fireman,
25 or emergency management worker, or

26 (iv) is found guilty of murdering an employee

1 of an institution or facility of the Department of
2 Corrections, or any similar local correctional
3 agency, when the employee was killed in the course
4 of performing his official duties, or to prevent
5 the employee from performing his official duties,
6 or in retaliation for the employee performing his
7 official duties, or

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

24 (vi) is a person who, at the time of the
25 commission of the murder, had not attained the age
26 of 17, and is found guilty of murdering a person

1 under 12 years of age and the murder is committed
2 during the course of aggravated criminal sexual
3 assault, criminal sexual assault, or aggravated
4 kidnaping, or

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

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

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

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

25 (iii) if, during the commission of the
26 offense, the person personally discharged a

1 firearm that proximately caused great bodily harm,
2 permanent disability, permanent disfigurement, or
3 death to another person, 25 years or up to a term
4 of natural life shall be added to the term of
5 imprisonment imposed by the court.

6 (1.5) for second degree murder, a term shall be not
7 less than 4 years and not more than 20 years;

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

11 (2.5) for a person convicted under the circumstances
12 described in paragraph (3) of subsection (b) of Section
13 12-13, paragraph (2) of subsection (d) of Section 12-14,
14 paragraph (1.2) of subsection (b) of Section 12-14.1, or
15 paragraph (2) of subsection (b) of Section 12-14.1 of the
16 Criminal Code of 1961, the sentence shall be a term of
17 natural life imprisonment;

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

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

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

26 (6) for a Class 3 felony, the sentence shall be not

1 less than 2 years and not more than 5 years;

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

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

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

19 If a motion filed pursuant to this subsection is timely
20 filed within 30 days after the sentence is imposed, the
21 proponent of the motion shall exercise due diligence in seeking
22 a determination on the motion and the court shall thereafter
23 decide such motion within a reasonable time.

24 If a motion filed pursuant to this subsection is timely
25 filed within 30 days after the sentence is imposed, then for
26 purposes of perfecting an appeal, a final judgment shall not be

1 considered to have been entered until the motion to reduce a
2 sentence has been decided by order entered by the trial court.

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

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

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

24 (2) for a Class 1 felony or a Class 2 felony except for
25 the offense of criminal sexual assault if committed on or
26 after the effective date of this amendatory Act of the 94th

1 General Assembly, 2 years;

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

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

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

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

1 released from confinement of the other state, whether by parole
2 or by termination of sentence, the offender shall be
3 transferred by the Sheriff of the committing county to the
4 Illinois Department of Corrections. The court shall cause the
5 Department of Corrections to be notified of such sentence at
6 the time of commitment and to be provided with copies of all
7 records regarding the sentence.

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

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

24 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
25 94-715, eff. 12-13-05.)

1 (730 ILCS 5/5-8-1.4 new)

2 Sec. 5-8-1.4. Elderly sentence adjustment; pilot program.

3 (a) A committed person as defined in subsection (c) of
4 Section 3-1-2 of this Code who is at least 50 years of age and
5 who has served at least 25 consecutive years of imprisonment in
6 a Department of Corrections institution or facility and is
7 serving a sentence other than death may petition the circuit
8 court for an elderly sentence adjustment as provided in this
9 Section. If the committed person files such a petition, the
10 families of the victims of the committed person's offenses
11 shall be notified in a timely manner after the filing of the
12 petition.

13 (b) The circuit court may grant the petitioner an elderly
14 sentence adjustment if the petitioner documents and
15 demonstrates to the court the following:

16 (1) successful participation by the committed person
17 in programs designed to restore the committed person as a
18 useful and productive person in the community upon release
19 and if such programs are not available that the committed
20 person has attempted to participate in such programs;

21 (2) genuine reform and changed behavior by the
22 committed person over a period of years;

23 (3) the committed person's remorse for actions that
24 have caused pain and suffering to victims of his or her
25 offenses;

26 (4) the committed person's ability to socialize with

1 others in an acceptable manner;

2 (5) the committed person's renunciation of criminal
3 activity and gang affiliation if the committed person was a
4 member of a gang.

5 (c) The petition shall contain:

6 (1) documentation of the committed person's relevant
7 medical history, including current medical prognosis;

8 (2) the committed person's prison and criminal
9 history. The criminal history shall include any claims of
10 innocence and the degree of the committed person's
11 responsibility for his or her convictions and if such
12 claims of responsibility have impacted the committed
13 person's feeling of remorse.

14 (d) The court shall consider the petition in its entirety
15 and may not order the release of the committed person if the
16 court finds that the committed person poses a threat to public
17 safety. If the court determines that a committed person is
18 eligible for a sentence adjustment under this Section and
19 determines that the committed person should receive a sentence
20 adjustment, the court shall set the conditions for the
21 committed person's release from prison before the expiration of
22 the committed person's sentence imposed by the sentencing
23 court.

24 (e) (1) The Department of Corrections shall develop a pilot
25 program patterned after the Impact of Crime on Victims Class
26 (ICVC), including the Restorative Justice segment, used by the

1 Missouri Department of Corrections. This pilot program shall be
2 implemented in one maximum security prison for women and one
3 maximum security prison for men. The ICVC shall be made
4 available to prisoners eligible for elderly sentence
5 adjustment on a voluntary basis.

6 (2) The Department of Corrections shall promulgate rules
7 and regulations for operation of the pilot program established
8 pursuant to this subsection (e).

9 (3) Any proposed program or strategy created under this
10 subsection (e) shall be developed after identification of a
11 need in the community for such programs, through consultation
12 with representatives of the general public, judiciary, law
13 enforcement, and defense and prosecution bar.

14 (4) The Department of Corrections may staff programs
15 created under this subsection (e) with employees of the
16 Department or may contract with other public or private
17 agencies for delivery of services as otherwise provided by law.

18 (5) The pilot program shall include wrap-around victim
19 services to ensure the safety of victims upon the release of a
20 committed person under an elderly sentence adjustment program.