



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5082

Introduced 2/14/2008, by Rep. James D. Brosnahan

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-4

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

Amends the Unified Code of Corrections. Provides that if a person is found to be in possession of an item of contraband while serving a sentence in a county jail or while in pre-trial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

LRB095 18531 RLC 44617 b

CORRECTIONAL
BUDGET AND
IMPACT 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 5-8-4 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 one of the offenses for which a defendant was convicted
16 was a violation of Section 32-5.2 of the Criminal Code of 1961
17 and the offense was committed in attempting or committing a
18 forcible felony, the court may impose consecutive sentences.
19 When a term of imprisonment is imposed on a defendant by an
20 Illinois circuit court and the defendant is subsequently
21 sentenced to a term of imprisonment by another state or by a
22 district court of the United States, the Illinois circuit court
23 which imposed the sentence may order that the Illinois sentence

1 be made concurrent with the sentence imposed by the other state
2 or district court of the United States. The defendant must
3 apply to the circuit court within 30 days after the defendant's
4 sentence imposed by the other state or district of the United
5 States is finalized. The court shall impose consecutive
6 sentences if:

7 (i) one of the offenses for which defendant was
8 convicted was first degree murder or a Class X or Class 1
9 felony and the defendant inflicted severe bodily injury, or

10 (ii) the defendant was convicted of a violation of
11 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
12 1961, or

13 (iii) the defendant was convicted of armed violence
14 based upon the predicate offense of solicitation of murder,
15 solicitation of murder for hire, heinous battery,
16 aggravated battery of a senior citizen, criminal sexual
17 assault, a violation of subsection (g) of Section 5 of the
18 Cannabis Control Act, cannabis trafficking, a violation of
19 subsection (a) of Section 401 of the Illinois Controlled
20 Substances Act, controlled substance trafficking involving
21 a Class X felony amount of controlled substance under
22 Section 401 of the Illinois Controlled Substances Act, a
23 violation of the Methamphetamine Control and Community
24 Protection Act, calculated criminal drug conspiracy, or
25 streetgang criminal drug conspiracy, or

26 (iv) the defendant was convicted of the offense of

1 leaving the scene of a motor vehicle accident involving
2 death or personal injuries under Section 11-401 and either:
3 (A) aggravated driving under the influence of alcohol,
4 other drug or drugs, or intoxicating compound or compounds,
5 or any combination thereof under Section 11-501 of the
6 Illinois Vehicle Code, or (B) reckless homicide under
7 Section 9-3 of the Criminal Code of 1961, or both an
8 offense described in subdivision (A) and an offense
9 described in subdivision (B), or

10 (v) the defendant was convicted of a violation of
11 Section 9-3.1 (concealment of homicidal death) or Section
12 12-20.5 (dismembering a human body) of the Criminal Code of
13 1961,

14 in which event the court shall enter sentences to run
15 consecutively. Sentences shall run concurrently unless
16 otherwise specified by the court.

17 (b) Except in cases where consecutive sentences are
18 mandated, the court shall impose concurrent sentences unless,
19 having regard to the nature and circumstances of the offense
20 and the history and character of the defendant, it is of the
21 opinion that consecutive sentences are required to protect the
22 public from further criminal conduct by the defendant, the
23 basis for which the court shall set forth in the record.

24 (c) (1) For sentences imposed under law in effect prior to
25 February 1, 1978 the aggregate maximum of consecutive
26 sentences shall not exceed the maximum term authorized

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

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

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

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

6 (1) the maximum period of a term of imprisonment shall
7 consist of the aggregate of the maximums of the imposed
8 indeterminate terms, if any, plus the aggregate of the
9 imposed determinate sentences for felonies plus the
10 aggregate of the imposed determinate sentences for
11 misdemeanors subject to paragraph (c) of this Section;

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

15 (3) the minimum period of imprisonment shall be the
16 aggregate of the minimum and determinate periods of
17 imprisonment imposed by the court, subject to paragraph (c)
18 of this Section; and

19 (4) the offender shall be awarded credit against the
20 aggregate maximum term and the aggregate minimum term of
21 imprisonment for all time served in an institution since
22 the commission of the offense or offenses and as a
23 consequence thereof at the rate specified in Section 3-6-3
24 of this Code.

25 (f) A sentence of an offender committed to the Department
26 of Corrections at the time of the commission of the offense

1 shall be served consecutive to the sentence under which he is
2 held by the Department of Corrections. However, in case such
3 offender shall be sentenced to punishment by death, the
4 sentence shall be executed at such time as the court may fix
5 without regard to the sentence under which such offender may be
6 held by the Department.

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

10 (h) If a person charged with a felony commits a separate
11 felony while on pre-trial release or in pretrial detention in a
12 county jail facility or county detention facility, the
13 sentences imposed upon conviction of these felonies shall be
14 served consecutively regardless of the order in which the
15 judgments of conviction are entered.

16 (h-1) If a person commits a battery against a county
17 correctional officer or sheriff's employee while serving a
18 sentence or in pretrial detention in a county jail facility,
19 then the sentence imposed upon conviction of the battery shall
20 be served consecutively with the sentence imposed upon
21 conviction of the earlier misdemeanor or felony, regardless of
22 the order in which the judgments of conviction are entered.

23 (i) If a person admitted to bail following conviction of a
24 felony commits a separate felony while free on bond or if a
25 person detained in a county jail facility or county detention
26 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 (j) If a person is found to be in possession of an item of
6 contraband, as defined in clause (c)(2) of Section 31A-1.1 of
7 the Criminal Code of 1961, while serving a sentence in a county
8 jail or while in pre-trial detention in a county jail, the
9 sentence imposed upon conviction for the offense of possessing
10 contraband in a penal institution shall be served consecutively
11 to the sentence imposed for the offense in which the person is
12 serving sentence in the county jail or serving pretrial
13 detention, regardless of the order in which the judgments of
14 conviction are entered.

15 (Source: P.A. 94-556, eff. 9-11-05; 94-985, eff. 1-1-07;
16 95-379, eff. 8-23-07.)