



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5020

Introduced 1/21/2010, by Rep. Suzanne Bassi

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-13  
730 ILCS 5/5-8-1

from Ch. 38, par. 12-13  
from Ch. 38, par. 1005-8-1

Amends the Criminal Code of 1961. Provides that a person who has been convicted of a second or subsequent offense for criminal sexual assault in which the penalty is not natural life imprisonment shall be sentenced to a term of imprisonment of not less than 25 years (unless the minimum sentence is greater than 25 years) and not exceeding natural life imprisonment. Amends the Unified Code of Corrections. Provides that the minimum mandatory supervised release term for defendants who commit a second or subsequent offense of criminal sexual assault on or after the effective date of the amendatory Act shall be the natural life of the defendant (rather than from 3 years to natural life).

LRB096 15711 RLC 30948 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 Criminal Code of 1961 is amended by changing  
5 Section 12-13 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 Sec. 12-13. Criminal Sexual Assault.

8 (a) The accused commits criminal sexual assault if he or  
9 she:

10 (1) commits an act of sexual penetration by the use of  
11 force or threat of force; or

12 (2) commits an act of sexual penetration and the  
13 accused knew that the victim was unable to understand the  
14 nature of the act or was unable to give knowing consent; or

15 (3) commits an act of sexual penetration with a victim  
16 who was under 18 years of age when the act was committed  
17 and the accused was a family member; or

18 (4) commits an act of sexual penetration with a victim  
19 who was at least 13 years of age but under 18 years of age  
20 when the act was committed and the accused was 17 years of  
21 age or over and held a position of trust, authority or  
22 supervision in relation to the victim.

23 (b) Sentence.

1 (1) Criminal sexual assault is a Class 1 felony.

2 (2) A person who is convicted of the offense of  
3 criminal sexual assault as defined in paragraph (a)(1) or  
4 (a)(2) after having previously been convicted of the  
5 offense of criminal sexual assault or the offense of  
6 exploitation of a child, or who is convicted of the offense  
7 of criminal sexual assault as defined in paragraph (a)(1)  
8 or (a)(2) after having previously been convicted under the  
9 laws of this State or any other state of an offense that is  
10 substantially equivalent to the offense of criminal sexual  
11 assault or to the offense of exploitation of a child,  
12 ~~commits a Class X felony for which the person~~ shall be  
13 sentenced to a term of imprisonment of not less than 30  
14 years and not exceeding natural life ~~imprisonment of not~~  
15 ~~less than 30 years and not more than 60 years~~. The  
16 commission of the second or subsequent offense is required  
17 to have been after the initial conviction for this  
18 paragraph (2) to apply.

19 (3) A person who is convicted of the offense of  
20 criminal sexual assault as defined in paragraph (a)(1) or  
21 (a)(2) after having previously been convicted of the  
22 offense of aggravated criminal sexual assault or the  
23 offense of predatory criminal sexual assault of a child, or  
24 who is convicted of the offense of criminal sexual assault  
25 as defined in paragraph (a)(1) or (a)(2) after having  
26 previously been convicted under the laws of this State or

1 any other state of an offense that is substantially  
2 equivalent to the offense of aggravated criminal sexual  
3 assault or the offense of criminal predatory sexual assault  
4 shall be sentenced to a term of natural life imprisonment.  
5 The commission of the second or subsequent offense is  
6 required to have been after the initial conviction for this  
7 paragraph (3) to apply.

8 (4) A person who is convicted for a ~~A~~ second or  
9 subsequent offense conviction for a violation of paragraph  
10 (a) (3) or (a) (4) or under any similar statute of this State  
11 or any other state for any offense involving criminal  
12 sexual assault that is substantially equivalent to or more  
13 serious than the sexual assault prohibited under paragraph  
14 (a) (3) or (a) (4) shall be sentenced to a term of  
15 imprisonment of not less than 25 years and not exceeding  
16 natural life imprisonment ~~is a Class X felony.~~

17 (5) (Blank). ~~When a person has any such prior~~  
18 ~~conviction, the information or indictment charging that~~  
19 ~~person shall state such prior conviction so as to give~~  
20 ~~notice of the State's intention to treat the charge as a~~  
21 ~~Class X felony. The fact of such prior conviction is not an~~  
22 ~~element of the offense and may not be disclosed to the jury~~  
23 ~~during trial unless otherwise permitted by issues properly~~  
24 ~~raised during such trial.~~

25 (Source: P.A. 95-640, eff. 6-1-08.)

1 Section 10. The Unified Code of Corrections is amended by  
2 changing Section 5-8-1 as follows:

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

4 Sec. 5-8-1. Natural life imprisonment; mandatory  
5 supervised release.

6 (a) Except as otherwise provided in the statute defining  
7 the offense or in Article 4.5 of Chapter V, a sentence of  
8 imprisonment for a felony shall be a determinate sentence set  
9 by the court under this Section, according to the following  
10 limitations:

11 (1) for first degree murder,

12 (a) (blank),

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

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

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

1           (ii) is a person who, at the time of the  
2           commission of the murder, had attained the age of  
3           17 or more and is found guilty of murdering an  
4           individual under 12 years of age; or, irrespective  
5           of the defendant's age at the time of the  
6           commission of the offense, is found guilty of  
7           murdering more than one victim, or

8           (iii) is found guilty of murdering a peace  
9           officer, fireman, or emergency management worker  
10          when the peace officer, fireman, or emergency  
11          management worker was killed in the course of  
12          performing his official duties, or to prevent the  
13          peace officer or fireman from performing his  
14          official duties, or in retaliation for the peace  
15          officer, fireman, or emergency management worker  
16          from performing his official duties, and the  
17          defendant knew or should have known that the  
18          murdered individual was a peace officer, fireman,  
19          or emergency management worker, or

20          (iv) is found guilty of murdering an employee  
21          of an institution or facility of the Department of  
22          Corrections, or any similar local correctional  
23          agency, when the employee was killed in the course  
24          of performing his official duties, or to prevent  
25          the employee from performing his official duties,  
26          or in retaliation for the employee performing his

1 official duties, or

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

18 (vi) is a person who, at the time of the  
19 commission of the murder, had not attained the age  
20 of 17, and is found guilty of murdering a person  
21 under 12 years of age and the murder is committed  
22 during the course of aggravated criminal sexual  
23 assault, criminal sexual assault, or aggravated  
24 kidnaping, or

25 (vii) is found guilty of first degree murder  
26 and the murder was committed by reason of any

1 person's activity as a community policing  
2 volunteer or to prevent any person from engaging in  
3 activity as a community policing volunteer. For  
4 the purpose of this Section, "community policing  
5 volunteer" has the meaning ascribed to it in  
6 Section 2-3.5 of the Criminal Code of 1961.

7 For purposes of clause (v), "emergency medical  
8 technician - ambulance", "emergency medical technician  
9 - intermediate", "emergency medical technician -  
10 paramedic", have the meanings ascribed to them in the  
11 Emergency Medical Services (EMS) Systems Act.

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

15 (ii) if, during the commission of the offense,  
16 the person personally discharged a firearm, 20  
17 years shall be added to the term of imprisonment  
18 imposed by the court;

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

26 (2) (blank);



1           (2.5) for a person convicted under the circumstances  
2 described in paragraph (3) of subsection (b) of Section  
3 12-13, paragraph (2) of subsection (d) of Section 12-14,  
4 paragraph (1.2) of subsection (b) of Section 12-14.1, or  
5 paragraph (2) of subsection (b) of Section 12-14.1 of the  
6 Criminal Code of 1961, the sentence shall be a term of  
7 natural life imprisonment.

8           (b) (Blank~~→~~).  

9           (c) (Blank~~→~~).  

10          (d) Subject to earlier termination under Section 3-3-8, the  
11 parole or mandatory supervised release term shall be as  
12 follows:

13           (1) for first degree murder or a Class X felony except  
14 for the offenses of predatory criminal sexual assault of a  
15 child, aggravated criminal sexual assault, and criminal  
16 sexual assault if committed on or after the effective date  
17 of this amendatory Act of the 94th General Assembly and  
18 except for the offense of aggravated child pornography  
19 under Section 11-20.3 of the Criminal Code of 1961, if  
20 committed on or after January 1, 2009, 3 years;

21           (2) for a Class 1 felony or a Class 2 felony except for  
22 the offense of criminal sexual assault if committed on or  
23 after the effective date of this amendatory Act of the 94th  
24 General Assembly and except for the offenses of manufacture  
25 and dissemination of child pornography under clauses  
26 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code

1 of 1961, if committed on or after January 1, 2009, 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, or who commit the offense of aggravated child  
8 pornography, manufacture of child pornography, or  
9 dissemination of child pornography after January 1, 2009,  
10 the term of mandatory supervised release shall range from a  
11 minimum of 3 years to a maximum of the natural life of the  
12 defendant;

13 (4.5) for defendants who commit a second or subsequent  
14 offense of criminal sexual assault on or after the  
15 effective date of this amendatory Act of the 96th General  
16 Assembly, the term of mandatory supervised release shall be  
17 the natural life of the defendant;

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

24 (6) for a felony domestic battery, aggravated domestic  
25 battery, stalking, aggravated stalking, and a felony  
26 violation of an order of protection, 4 years.

1 (e) (Blank~~→~~).1

2 (f) (Blank~~→~~).1

3 (Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09;  
4 96-282, eff. 1-1-10; revised 9-4-09.)