

# HB3292



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB3292**

Introduced 2/24/2011, by Rep. Emily McAsey

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-7-1

from Ch. 38, par. 1005-7-1

Amends the Unified Code of Corrections. Provides that if the court imposes a sentence of imprisonment in excess of 90 days, then it may not also impose a sentence of periodic imprisonment (rather than the court shall not impose a sentence of periodic imprisonment if it imposes a sentence of imprisonment upon the defendant in excess of 90 days). Effective immediately.

LRB097 06016 RLC 46087 b

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 5-7-1 as follows:

6 (730 ILCS 5/5-7-1) (from Ch. 38, par. 1005-7-1)

7 Sec. 5-7-1. Sentence of Periodic Imprisonment.

8 (a) A sentence of periodic imprisonment is a sentence of  
9 imprisonment during which the committed person may be released  
10 for periods of time during the day or night or for periods of  
11 days, or both, or if convicted of a felony, other than first  
12 degree murder, a Class X or Class 1 felony, committed to any  
13 county, municipal, or regional correctional or detention  
14 institution or facility in this State for such periods of time  
15 as the court may direct. Unless the court orders otherwise, the  
16 particular times and conditions of release shall be determined  
17 by the Department of Corrections, the sheriff, or the  
18 Superintendent of the house of corrections, who is  
19 administering the program.

20 (b) A sentence of periodic imprisonment may be imposed to  
21 permit the defendant to:

22 (1) seek employment;

23 (2) work;

1 (3) conduct a business or other self-employed  
2 occupation including housekeeping;

3 (4) attend to family needs;

4 (5) attend an educational institution, including  
5 vocational education;

6 (6) obtain medical or psychological treatment;

7 (7) perform work duties at a county, municipal, or  
8 regional correctional or detention institution or  
9 facility;

10 (8) continue to reside at home with or without  
11 supervision involving the use of an approved electronic  
12 monitoring device, subject to Article 8A of Chapter V; or

13 (9) for any other purpose determined by the court.

14 (c) Except where prohibited by other provisions of this  
15 Code, the court may impose a sentence of periodic imprisonment  
16 for a felony or misdemeanor on a person who is 17 years of age  
17 or older. If the court imposes a sentence of imprisonment in  
18 excess of 90 days, then it may not also impose a sentence of  
19 periodic imprisonment ~~The court shall not impose a sentence of~~  
20 ~~periodic imprisonment if it imposes a sentence of imprisonment~~  
21 ~~upon the defendant in excess of 90 days.~~

22 (d) A sentence of periodic imprisonment shall be for a  
23 definite term of from 3 to 4 years for a Class 1 felony, 18 to  
24 30 months for a Class 2 felony, and up to 18 months, or the  
25 longest sentence of imprisonment that could be imposed for the  
26 offense, whichever is less, for all other offenses; however, no

1 person shall be sentenced to a term of periodic imprisonment  
2 longer than one year if he is committed to a county  
3 correctional institution or facility, and in conjunction with  
4 that sentence participate in a county work release program  
5 comparable to the work and day release program provided for in  
6 Article 13 of the Unified Code of Corrections in State  
7 facilities. The term of the sentence shall be calculated upon  
8 the basis of the duration of its term rather than upon the  
9 basis of the actual days spent in confinement. No sentence of  
10 periodic imprisonment shall be subject to the good time credit  
11 provisions of Section 3-6-3 of this Code.

12 (e) When the court imposes a sentence of periodic  
13 imprisonment, it shall state:

14 (1) the term of such sentence;

15 (2) the days or parts of days which the defendant is to  
16 be confined;

17 (3) the conditions.

18 (f) The court may issue an order of protection pursuant to  
19 the Illinois Domestic Violence Act of 1986 as a condition of a  
20 sentence of periodic imprisonment. The Illinois Domestic  
21 Violence Act of 1986 shall govern the issuance, enforcement and  
22 recording of orders of protection issued under this Section. A  
23 copy of the order of protection shall be transmitted to the  
24 person or agency having responsibility for the case.

25 (f-5) An offender sentenced to a term of periodic  
26 imprisonment for a felony sex offense as defined in the Sex

1 Offender Management Board Act shall be required to undergo and  
2 successfully complete sex offender treatment by a treatment  
3 provider approved by the Board and conducted in conformance  
4 with the standards developed under the Sex Offender Management  
5 Board Act.

6 (g) An offender sentenced to periodic imprisonment who  
7 undergoes mandatory drug or alcohol testing, or both, or is  
8 assigned to be placed on an approved electronic monitoring  
9 device, shall be ordered to pay the costs incidental to such  
10 mandatory drug or alcohol testing, or both, and costs  
11 incidental to such approved electronic monitoring in  
12 accordance with the defendant's ability to pay those costs. The  
13 county board with the concurrence of the Chief Judge of the  
14 judicial circuit in which the county is located shall establish  
15 reasonable fees for the cost of maintenance, testing, and  
16 incidental expenses related to the mandatory drug or alcohol  
17 testing, or both, and all costs incidental to approved  
18 electronic monitoring, of all offenders with a sentence of  
19 periodic imprisonment. The concurrence of the Chief Judge shall  
20 be in the form of an administrative order. The fees shall be  
21 collected by the clerk of the circuit court. The clerk of the  
22 circuit court shall pay all moneys collected from these fees to  
23 the county treasurer who shall use the moneys collected to  
24 defray the costs of drug testing, alcohol testing, and  
25 electronic monitoring. The county treasurer shall deposit the  
26 fees collected in the county working cash fund under Section

1 6-27001 or Section 6-29002 of the Counties Code, as the case  
2 may be.

3 (h) All fees and costs imposed under this Section for any  
4 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle  
5 Code, or a similar provision of a local ordinance, and any  
6 violation of the Child Passenger Protection Act, or a similar  
7 provision of a local ordinance, shall be collected and  
8 disbursed by the circuit clerk as provided under Section 27.5  
9 of the Clerks of Courts Act.

10 (i) A defendant at least 17 years of age who is convicted  
11 of a misdemeanor or felony in a county of 3,000,000 or more  
12 inhabitants and who has not been previously convicted of a  
13 misdemeanor or a felony and who is sentenced to a term of  
14 periodic imprisonment may as a condition of his or her sentence  
15 be required by the court to attend educational courses designed  
16 to prepare the defendant for a high school diploma and to work  
17 toward receiving a high school diploma or to work toward  
18 passing the high school level Test of General Educational  
19 Development (GED) or to work toward completing a vocational  
20 training program approved by the court. The defendant sentenced  
21 to periodic imprisonment must attend a public institution of  
22 education to obtain the educational or vocational training  
23 required by this subsection (i). The defendant sentenced to a  
24 term of periodic imprisonment shall be required to pay for the  
25 cost of the educational courses or GED test, if a fee is  
26 charged for those courses or test. The court shall revoke the

1 sentence of periodic imprisonment of the defendant who wilfully  
2 fails to comply with this subsection (i). The court shall  
3 resentence the defendant whose sentence of periodic  
4 imprisonment has been revoked as provided in Section 5-7-2.  
5 This subsection (i) does not apply to a defendant who has a  
6 high school diploma or has successfully passed the GED test.  
7 This subsection (i) does not apply to a defendant who is  
8 determined by the court to be developmentally disabled or  
9 otherwise mentally incapable of completing the educational or  
10 vocational program.

11 (Source: P.A. 93-616, eff. 1-1-04.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.