



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2276

Introduced 2/10/2011, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

720 ILCS 5/8-4	from Ch. 38, par. 8-4
720 ILCS 5/9-1	from Ch. 38, par. 9-1
730 ILCS 5/5-8-1	from Ch. 38, par. 1005-8-1
725 ILCS 5/119-1 rep.	

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Changes and limits the aggravating factors for which a person convicted of first degree murder may be sentenced to death. Provides for aggravating factors in which a person may be sentenced to natural life imprisonment. Provides that some aggravating factors for which the defendant may have been sentenced to death before the effective date of the amendatory Act may only be considered in determining whether the defendant may be sentenced to natural life imprisonment. Provides that if and only if Senate Bill 3539 of the 96th General Assembly becomes law, then the provisions of that bill abolishing the death penalty are repealed. Effective July 1, 2011.

LRB097 05758 RLC 50587 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 Sections 8-4 and 9-1 as follows:

6 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
7 Sec. 8-4. Attempt.

8 (a) Elements of the offense.

9 A person commits the offense of attempt when, with intent
10 to commit a specific offense, he or she does any act that
11 constitutes a substantial step toward the commission of that
12 offense.

13 (b) Impossibility.

14 It is not a defense to a charge of attempt that because of
15 a misapprehension of the circumstances it would have been
16 impossible for the accused to commit the offense attempted.

17 (c) Sentence.

18 A person convicted of attempt may be fined or imprisoned or
19 both not to exceed the maximum provided for the offense
20 attempted but, except for an attempt to commit the offense
21 defined in Section 33A-2 of this Code:

22 (1) the sentence for attempt to commit first degree
23 murder is the sentence for a Class X felony, except that

1 (A) an attempt to commit first degree murder when
2 at least one of the aggravating factors specified in
3 paragraphs (1) and, (2), ~~and (12)~~ of subsection (b) and
4 in paragraph (1) of subsection (c) of Section 9-1 is
5 present is a Class X felony for which the sentence
6 shall be a term of imprisonment of not less than 20
7 years and not more than 80 years;

8 (B) an attempt to commit first degree murder while
9 armed with a firearm is a Class X felony for which 15
10 years shall be added to the term of imprisonment
11 imposed by the court;

12 (C) an attempt to commit first degree murder during
13 which the person personally discharged a firearm is a
14 Class X felony for which 20 years shall be added to the
15 term of imprisonment imposed by the court;

16 (D) an attempt to commit first degree murder during
17 which the person personally discharged a firearm that
18 proximately caused great bodily harm, permanent
19 disability, permanent disfigurement, or death to
20 another person is a Class X felony for which 25 years
21 or up to a term of natural life shall be added to the
22 term of imprisonment imposed by the court; and

23 (E) if the defendant proves by a preponderance of
24 the evidence at sentencing that, at the time of the
25 attempted murder, he or she was acting under a sudden
26 and intense passion resulting from serious provocation

1 by the individual whom the defendant endeavored to
2 kill, or another, and, had the individual the defendant
3 endeavored to kill died, the defendant would have
4 negligently or accidentally caused that death, then
5 the sentence for the attempted murder is the sentence
6 for a Class 1 felony;

7 (2) the sentence for attempt to commit a Class X felony
8 is the sentence for a Class 1 felony;

9 (3) the sentence for attempt to commit a Class 1 felony
10 is the sentence for a Class 2 felony;

11 (4) the sentence for attempt to commit a Class 2 felony
12 is the sentence for a Class 3 felony; and

13 (5) the sentence for attempt to commit any felony other
14 than those specified in items (1), (2), (3), and (4) of
15 this subsection (c) is the sentence for a Class A
16 misdemeanor.

17 (Source: P.A. 96-710, eff. 1-1-10.)

18 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

19 Sec. 9-1. First degree Murder - Death penalties -
20 Exceptions - Separate Hearings - Proof - Findings - Appellate
21 procedures - Reversals.

22 (a) A person who kills an individual without lawful
23 justification commits first degree murder if, in performing the
24 acts which cause the death:

25 (1) he either intends to kill or do great bodily harm

1 to that individual or another, or knows that such acts will
2 cause death to that individual or another; or

3 (2) he knows that such acts create a strong probability
4 of death or great bodily harm to that individual or
5 another; or

6 (3) he is attempting or committing a forcible felony
7 other than second degree murder.

8 (b) Aggravating Factors; Death Penalty. A defendant who at
9 the time of the commission of the offense has attained the age
10 of 18 or more and who has been found guilty of first degree
11 murder may be sentenced to death if:

12 (1) the murdered individual was a peace officer, ~~or~~
13 fireman, or emergency medical technician killed in the
14 course of performing his or her official duties, to prevent
15 the performance of his or her official duties, or in
16 retaliation for performing his or her official duties, and
17 the defendant knew or should have known that the murdered
18 individual was a peace officer, ~~or~~ fireman, or emergency
19 medical technician; or

20 (2) the murdered individual was an employee of an
21 institution or facility of the Department of Corrections,
22 or any similar local correctional agency, killed in the
23 course of performing his or her official duties, to prevent
24 the performance of his or her official duties, or in
25 retaliation for performing his or her official duties, ~~or~~
26 ~~the murdered individual was an inmate at such institution~~

1 ~~or facility and was killed on the grounds thereof, or the~~
2 ~~murdered individual was otherwise present in such~~
3 ~~institution or facility with the knowledge and approval of~~
4 ~~the chief administrative officer thereof; or~~

5 (3) the defendant has been convicted of murdering 3 ~~two~~
6 or more individuals under subsection (a) of this Section or
7 under any law of the United States or of any state which is
8 substantially similar to subsection (a) of this Section
9 ~~regardless of whether the deaths occurred as the result of~~
10 3 or more separate and the same act or of several related
11 ~~or~~ unrelated acts so long as the deaths were the result of
12 either an intent to kill each ~~more than one~~ person or of
13 separate acts which the defendant knew would cause death or
14 create a strong probability of death or great bodily harm
15 to the murdered individual or another; or

16 (4) the murdered individual was:

17 (i) under 12 years of age, or

18 (ii) 60 years of age or older, or

19 (iii) a disabled person the defendant knew or
20 should have known to be disabled,

21 and the death resulted from exceptionally brutal or heinous
22 behavior indicative of wanton cruelty; or

23 (5) the murdered individual was killed in the course of
24 a sexually violent felony if:

25 (a) the murdered individual:

26 (i) was actually killed by the defendant, or

1 (ii) received physical injuries personally
2 inflicted by the defendant substantially
3 contemporaneously with physical injuries caused by
4 one or more persons for whose conduct the defendant
5 is legally accountable under Section 5-2 of this
6 Code, and the physical injuries inflicted by
7 either the defendant or the other person or persons
8 for whose conduct he or she is legally accountable
9 caused the death of the murdered individual; and

10 (b) in performing the acts which caused the death
11 of the murdered individual or which resulted in
12 physical injuries personally inflicted by the
13 defendant on the murdered individual under the
14 circumstances of subdivision (a)(ii) of this paragraph
15 (5), the defendant acted with the intent to kill the
16 murdered individual or with the knowledge that his or
17 her acts created a strong probability of death or great
18 bodily harm to the murdered individual or another; or

19 (6) the defendant committed the murder with intent to
20 prevent the murdered individual from testifying or
21 participating in any criminal investigation or prosecution
22 or giving material assistance to the State in any
23 investigation or prosecution, either against the defendant
24 or another; or the defendant committed the murder because
25 the murdered individual was a witness in any prosecution or
26 gave material assistance to the State in any investigation

1 or prosecution, either against the defendant or another;
2 for purposes of this paragraph (6), "participating in any
3 criminal investigation or prosecution" is intended to
4 include those appearing in the proceedings in any capacity
5 such as trial judges, prosecutors, defense attorneys,
6 investigators, witnesses, or jurors.

7 (c) Aggravating Factors; Natural Life Imprisonment. A
8 defendant who at the time of the commission of the offense has
9 attained the age of 18 or more and who has been found guilty of
10 first degree murder may be sentenced to natural life
11 imprisonment if:

12 (1) the murdered individual was an inmate of an
13 institution or facility of the Department of Corrections,
14 or any similar local correctional agency, and was killed on
15 the grounds thereof, or the murdered individual was
16 otherwise present in such institution or facility with the
17 knowledge and approval of the chief administrative officer
18 thereof; or

19 (2) ~~(4)~~ the murdered individual was killed as a result
20 of the hijacking of an airplane, train, ship, bus or other
21 public conveyance; or

22 (3) ~~(5)~~ the defendant committed the murder pursuant to
23 a contract, agreement or understanding by which he was to
24 receive money or anything of value in return for committing
25 the murder or procured another to commit the murder for
26 money or anything of value; or

1 (4) ~~(6)~~ the murdered individual was killed in the
2 course of another felony if:

3 (a) the murdered individual:

4 (i) was actually killed by the defendant, or

5 (ii) received physical injuries personally
6 inflicted by the defendant substantially
7 contemporaneously with physical injuries caused by
8 one or more persons for whose conduct the defendant
9 is legally accountable under Section 5-2 of this
10 Code, and the physical injuries inflicted by
11 either the defendant or the other person or persons
12 for whose conduct he or she is legally accountable
13 caused the death of the murdered individual; and

14 (b) in performing the acts which caused the death
15 of the murdered individual or which resulted in
16 physical injuries personally inflicted by the
17 defendant on the murdered individual under the
18 circumstances of subdivision (ii) of subparagraph (a)
19 of paragraph (4) ~~(6)~~ of subsection (c) ~~(b)~~ of this
20 Section, the defendant acted with the intent to kill
21 the murdered individual or with the knowledge that his
22 acts created a strong probability of death or great
23 bodily harm to the murdered individual or another; and

24 (c) the other felony was an inherently violent
25 crime or the attempt to commit an inherently violent
26 crime. In this subparagraph (c), "inherently violent

1 crime" includes, but is not limited to, armed robbery,
2 robbery, predatory criminal sexual assault of a child,
3 aggravated criminal sexual assault, aggravated
4 kidnapping, aggravated vehicular hijacking, aggravated
5 arson, aggravated stalking, residential burglary, and
6 home invasion; or

7 ~~(7) the murdered individual was under 12 years of age~~
8 ~~and the death resulted from exceptionally brutal or heinous~~
9 ~~behavior indicative of wanton cruelty; or~~

10 (5) the defendant has been convicted of murdering two
11 or more individuals under subsection (a) of this Section or
12 under any law of the United States or of any state which is
13 substantially similar to subsection (a) of this Section in
14 which the deaths occurred as the result of the same act or
15 of several related acts so long as the deaths were the
16 result of either an intent to kill more than one person or
17 of separate acts which the defendant knew would cause death
18 or create a strong probability of death or great bodily
19 harm to the murdered individual or another; or

20 (6) the defendant has been convicted of murdering two
21 individuals under subsection (a) of this Section or under
22 any law of the United States or of any state which is
23 substantially similar to subsection (a) of this Section in
24 which the deaths occurred as the result of the two
25 unrelated acts so long as the deaths were the result of
26 either an intent to kill more than one person or of

1 separate acts which the defendant knew would cause death or
2 create a strong probability of death or great bodily harm
3 to the murdered individual or another; or

4 (7) ~~(8)~~ the defendant committed the murder with intent
5 to prevent the murdered individual from testifying or
6 participating in any criminal investigation or prosecution
7 or giving material assistance to the State in any
8 investigation or prosecution, either against the defendant
9 or another; or the defendant committed the murder because
10 the murdered individual was a witness in any prosecution or
11 gave material assistance to the State in any investigation
12 or prosecution, either against the defendant or another;
13 for purposes of this paragraph (7) ~~(8)~~, "participating in
14 any criminal investigation or prosecution" is intended to
15 include those appearing in the proceedings in any capacity
16 such as trial judges, prosecutors, defense attorneys,
17 investigators, witnesses, or jurors; or

18 (8) ~~(9)~~ the defendant, while committing an offense
19 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
20 407 or 407.1 or subsection (b) of Section 404 of the
21 Illinois Controlled Substances Act, or while engaged in a
22 conspiracy or solicitation to commit such offense,
23 intentionally killed an individual or counseled,
24 commanded, induced, procured or caused the intentional
25 killing of the murdered individual; or

26 (9) ~~(10)~~ the defendant was incarcerated in an

1 institution or facility of the Department of Corrections at
2 the time of the murder, and while committing an offense
3 punishable as a felony under Illinois law, or while engaged
4 in a conspiracy or solicitation to commit such offense,
5 intentionally killed an individual or counseled,
6 commanded, induced, procured or caused the intentional
7 killing of the murdered individual; or

8 (10) ~~(11)~~ the murder was committed in a cold,
9 calculated and premeditated manner pursuant to a
10 preconceived plan, scheme or design to take a human life by
11 unlawful means, and the conduct of the defendant created a
12 reasonable expectation that the death of a human being
13 would result therefrom; or

14 ~~(12) the murdered individual was an emergency medical~~
15 ~~technician — ambulance, emergency medical technician —~~
16 ~~intermediate, emergency medical technician — paramedic,~~
17 ~~ambulance driver, or other medical assistance or first aid~~
18 ~~personnel, employed by a municipality or other~~
19 ~~governmental unit, killed in the course of performing his~~
20 ~~official duties, to prevent the performance of his official~~
21 ~~duties, or in retaliation for performing his official~~
22 ~~duties, and the defendant knew or should have known that~~
23 ~~the murdered individual was an emergency medical~~
24 ~~technician — ambulance, emergency medical technician —~~
25 ~~intermediate, emergency medical technician — paramedic,~~
26 ~~ambulance driver, or other medical assistance or first aid~~

1 ~~personnel; or~~

2 (11) ~~(13)~~ the defendant was a principal administrator,
3 organizer, or leader of a calculated criminal drug
4 conspiracy consisting of a hierarchical position of
5 authority superior to that of all other members of the
6 conspiracy, and the defendant counseled, commanded,
7 induced, procured, or caused the intentional killing of the
8 murdered person; or

9 (12) ~~(14)~~ the murder was intentional and involved the
10 infliction of torture. For the purpose of this Section
11 torture means the infliction of or subjection to extreme
12 physical pain, motivated by an intent to increase or
13 prolong the pain, suffering or agony of the victim; or

14 (13) ~~(15)~~ the murder was committed as a result of the
15 intentional discharge of a firearm by the defendant from a
16 motor vehicle and the victim was not present within the
17 motor vehicle; or

18 ~~(16) the murdered individual was 60 years of age or~~
19 ~~older and the death resulted from exceptionally brutal or~~
20 ~~heinous behavior indicative of wanton cruelty; or~~

21 ~~(17) the murdered individual was a disabled person and~~
22 ~~the defendant knew or should have known that the murdered~~
23 ~~individual was disabled. For purposes of this paragraph~~
24 ~~(17), "disabled person" means a person who suffers from a~~
25 ~~permanent physical or mental impairment resulting from~~
26 ~~disease, an injury, a functional disorder, or a congenital~~

1 ~~condition that renders the person incapable of adequately~~
2 ~~providing for his or her own health or personal care; or~~

3 (14) ~~(18)~~ the murder was committed by reason of any
4 person's activity as a community policing volunteer or to
5 prevent any person from engaging in activity as a community
6 policing volunteer; or

7 (15) ~~(19)~~ the murdered individual was subject to an
8 order of protection and the murder was committed by a
9 person against whom the same order of protection was issued
10 under the Illinois Domestic Violence Act of 1986; or

11 (16) ~~(20)~~ the murdered individual was known by the
12 defendant to be a teacher or other person employed in any
13 school and the teacher or other employee is upon the
14 grounds of a school or grounds adjacent to a school, or is
15 in any part of a building used for school purposes; or

16 (17) ~~(21)~~ the murder was committed by the defendant in
17 connection with or as a result of the offense of terrorism
18 as defined in Section 29D-14.9 of this Code; or .

19 (18) ~~(b 5) Aggravating Factor; Natural Life~~
20 ~~Imprisonment. A defendant who has been found guilty of~~
21 ~~first degree murder and who at the time of the commission~~
22 ~~of the offense had attained the age of 18 years or more may~~
23 ~~be sentenced to natural life imprisonment if (i) the~~
24 murdered individual was: (i) a physician, physician
25 assistant, psychologist, nurse, or advanced practice
26 nurse, (ii) a person whom the defendant knew or should have

1 known ~~that the murdered individual~~ was a physician,
2 physician assistant, psychologist, nurse, or advanced
3 practice nurse, and (iii) ~~the murdered individual was~~
4 killed in the course of acting in his or her capacity as a
5 physician, physician assistant, psychologist, nurse, or
6 advanced practice nurse, or to prevent him or her from
7 acting in that capacity, or in retaliation for his or her
8 acting in that capacity; or -

9 (19) the murdered individual was a public official and
10 was killed because of his or her status as a public
11 official. For purposes of this paragraph (19), "public
12 official" means a person who is elected to office in
13 accordance with a statute or who is appointed to an office
14 which is established, and the qualifications and duties of
15 which are prescribed, by statute, to discharge a public
16 duty for the State or any of its political subdivisions or
17 in the case of an elective office any person who has filed
18 the required documents for nomination or election to such
19 office.

20 (d) ~~(e)~~ Consideration of factors in Aggravation and
21 Mitigation.

22 The court shall consider, or shall instruct the jury to
23 consider any aggravating and any mitigating factors which are
24 relevant to the imposition of the death penalty. Aggravating
25 factors may include but need not be limited to those factors
26 set forth in subsection (b). Mitigating factors may include but

1 need not be limited to the following:

2 (1) the defendant has no significant history of prior
3 criminal activity;

4 (2) the murder was committed while the defendant was
5 under the influence of extreme mental or emotional
6 disturbance, although not such as to constitute a defense
7 to prosecution;

8 (3) the murdered individual was a participant in the
9 defendant's homicidal conduct or consented to the
10 homicidal act;

11 (4) the defendant acted under the compulsion of threat
12 or menace of the imminent infliction of death or great
13 bodily harm;

14 (5) the defendant was not personally present during
15 commission of the act or acts causing death;

16 (6) the defendant's background includes a history of
17 extreme emotional or physical abuse;

18 (7) the defendant suffers from a reduced mental
19 capacity.

20 (e) ~~(d)~~ Separate sentencing hearing.

21 Where requested by the State, the court shall conduct a
22 separate sentencing proceeding to determine the existence of
23 factors set forth in subsection (b) and to consider any
24 aggravating or mitigating factors as indicated in subsection
25 (c). The proceeding shall be conducted:

26 (1) before the jury that determined the defendant's

1 guilt; or

2 (2) before a jury impanelled for the purpose of the
3 proceeding if:

4 A. the defendant was convicted upon a plea of
5 guilty; or

6 B. the defendant was convicted after a trial before
7 the court sitting without a jury; or

8 C. the court for good cause shown discharges the
9 jury that determined the defendant's guilt; or

10 (3) before the court alone if the defendant waives a
11 jury for the separate proceeding.

12 (f) ~~(e)~~ Evidence and Argument.

13 During the proceeding any information relevant to any of
14 the factors set forth in subsection (b) may be presented by
15 either the State or the defendant under the rules governing the
16 admission of evidence at criminal trials. Any information
17 relevant to any additional aggravating factors or any
18 mitigating factors indicated in subsection (c) may be presented
19 by the State or defendant regardless of its admissibility under
20 the rules governing the admission of evidence at criminal
21 trials. The State and the defendant shall be given fair
22 opportunity to rebut any information received at the hearing.

23 (g) ~~(f)~~ Proof.

24 The burden of proof of establishing the existence of any of
25 the factors set forth in subsection (b) is on the State and
26 shall not be satisfied unless established beyond a reasonable

1 doubt.

2 (h) ~~(g)~~ Procedure - Jury.

3 If at the separate sentencing proceeding the jury finds
4 that none of the factors set forth in subsection (b) exists,
5 the court shall sentence the defendant to a term of
6 imprisonment under Chapter V of the Unified Code of
7 Corrections. If there is a unanimous finding by the jury that
8 one or more of the factors set forth in subsection (b) exist,
9 the jury shall consider aggravating and mitigating factors as
10 instructed by the court and shall determine whether the
11 sentence of death shall be imposed. If the jury determines
12 unanimously, after weighing the factors in aggravation and
13 mitigation, that death is the appropriate sentence, the court
14 shall sentence the defendant to death. If the court does not
15 concur with the jury determination that death is the
16 appropriate sentence, the court shall set forth reasons in
17 writing including what facts or circumstances the court relied
18 upon, along with any relevant documents, that compelled the
19 court to non-concur with the sentence. This document and any
20 attachments shall be part of the record for appellate review.
21 The court shall be bound by the jury's sentencing
22 determination.

23 If after weighing the factors in aggravation and
24 mitigation, one or more jurors determines that death is not the
25 appropriate sentence, the court shall sentence the defendant to
26 a term of imprisonment under Chapter V of the Unified Code of

1 Corrections.

2 (i) ~~(h)~~ Procedure - No Jury.

3 In a proceeding before the court alone, if the court finds
4 that none of the factors found in subsection (b) exists, the
5 court shall sentence the defendant to a term of imprisonment
6 under Chapter V of the Unified Code of Corrections.

7 If the Court determines that one or more of the factors set
8 forth in subsection (b) exists, the Court shall consider any
9 aggravating and mitigating factors as indicated in subsection
10 (c). If the Court determines, after weighing the factors in
11 aggravation and mitigation, that death is the appropriate
12 sentence, the Court shall sentence the defendant to death.

13 If the court finds that death is not the appropriate
14 sentence, the court shall sentence the defendant to a term of
15 imprisonment under Chapter V of the Unified Code of
16 Corrections.

17 (j) ~~(h-5)~~ Decertification as a capital case.

18 In a case in which the defendant has been found guilty of
19 first degree murder by a judge or jury, or a case on remand for
20 resentencing, and the State seeks the death penalty as an
21 appropriate sentence, on the court's own motion or the written
22 motion of the defendant, the court may decertify the case as a
23 death penalty case if the court finds that the only evidence
24 supporting the defendant's conviction is the uncorroborated
25 testimony of an informant witness, as defined in Section 115-21
26 of the Code of Criminal Procedure of 1963, concerning the

1 confession or admission of the defendant or that the sole
2 evidence against the defendant is a single eyewitness or single
3 accomplice without any other corroborating evidence. If the
4 court decertifies the case as a capital case under either of
5 the grounds set forth above, the court shall issue a written
6 finding. The State may pursue its right to appeal the
7 decertification pursuant to Supreme Court Rule 604(a)(1). If
8 the court does not decertify the case as a capital case, the
9 matter shall proceed to the eligibility phase of the sentencing
10 hearing.

11 (k) ~~(i)~~ Appellate Procedure.

12 The conviction and sentence of death shall be subject to
13 automatic review by the Supreme Court. Such review shall be in
14 accordance with rules promulgated by the Supreme Court. The
15 Illinois Supreme Court may overturn the death sentence, and
16 order the imposition of imprisonment under Chapter V of the
17 Unified Code of Corrections if the court finds that the death
18 sentence is fundamentally unjust as applied to the particular
19 case. If the Illinois Supreme Court finds that the death
20 sentence is fundamentally unjust as applied to the particular
21 case, independent of any procedural grounds for relief, the
22 Illinois Supreme Court shall issue a written opinion explaining
23 this finding.

24 (l) ~~(j)~~ Disposition of reversed death sentence.

25 In the event that the death penalty in this Act is held to
26 be unconstitutional by the Supreme Court of the United States

1 or of the State of Illinois, any person convicted of first
2 degree murder shall be sentenced by the court to a term of
3 imprisonment under Chapter V of the Unified Code of
4 Corrections.

5 In the event that any death sentence pursuant to the
6 sentencing provisions of this Section is declared
7 unconstitutional by the Supreme Court of the United States or
8 of the State of Illinois, the court having jurisdiction over a
9 person previously sentenced to death shall cause the defendant
10 to be brought before the court, and the court shall sentence
11 the defendant to a term of imprisonment under Chapter V of the
12 Unified Code of Corrections.

13 (m) ~~(k)~~ Guidelines for seeking the death penalty.

14 The Attorney General and State's Attorneys Association
15 shall consult on voluntary guidelines for procedures governing
16 whether or not to seek the death penalty. The guidelines do not
17 have the force of law and are only advisory in nature.

18 (n) For purposes of paragraph (b)(4), "disabled person"
19 means a person who suffers from a permanent physical or mental
20 impairment resulting from disease, an injury, a functional
21 disorder, or a congenital condition that renders the person
22 incapable of adequately providing for his or her own health or
23 personal care.

24 For purposes of paragraph (b)(1), "emergency medical
25 technician" means an emergency medical technician-ambulance,
26 emergency medical technician-intermediate, emergency medical

1 technician-paramedic, ambulance driver, or other medical
2 assistance or first aid personnel, employed by a municipality
3 or other governmental unit.

4 For purposes of paragraph (b)(5), "sexually violent
5 felony" means committing or the attempt to commit a sexually
6 violent felony, which includes, but is not limited to,
7 predatory criminal sexual assault of a child, aggravated
8 criminal sexual assault, criminal sexual assault and
9 aggravated criminal sexual abuse; or

10 (Source: P.A. 96-710, eff. 1-1-10; 96-1475, eff. 1-1-11.)

11 Section 10. The Unified Code of Corrections is amended by
12 changing 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. Natural life imprisonment; enhancements for
15 use of a firearm; mandatory supervised release terms.

16 (a) Except as otherwise provided in the statute defining
17 the offense or in Article 4.5 of Chapter V, a sentence of
18 imprisonment for a felony shall be a determinate sentence set
19 by the court under this Section, according to the following
20 limitations:

21 (1) for first degree murder,

22 (a) (blank),

23 (b) if a trier of fact finds beyond a reasonable
24 doubt that the murder was accompanied by exceptionally

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

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

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

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

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

1 retaliation for the peace officer, fireman, or
2 emergency management worker from performing his or
3 her official duties, and the defendant knew or
4 should have known that the murdered individual was
5 a peace officer, fireman, or emergency management
6 worker, or

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

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

1 technician - ambulance, emergency medical
2 technician - intermediate, emergency medical
3 technician - paramedic, ambulance driver, or other
4 medical assistant or first aid personnel, or

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

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

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

25 (d) (i) if the person committed the offense while
26 armed with a firearm, 15 years shall be added to

1 the term of imprisonment imposed by the court;

2 (ii) if, during the commission of the offense,
3 the person personally discharged a firearm, 20
4 years shall be added to the term of imprisonment
5 imposed by the court;

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

13 (2) (blank);

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

21 (b) (Blank).

22 (c) (Blank).

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

26 (1) for first degree murder or a Class X felony except

1 for the offenses of predatory criminal sexual assault of a
2 child, aggravated criminal sexual assault, and criminal
3 sexual assault if committed on or after the effective date
4 of this amendatory Act of the 94th General Assembly and
5 except for the offense of aggravated child pornography
6 under Section 11-20.3 of the Criminal Code of 1961, if
7 committed on or after January 1, 2009, 3 years;

8 (2) for a Class 1 felony or a Class 2 felony except for
9 the offense of criminal sexual assault if committed on or
10 after the effective date of this amendatory Act of the 94th
11 General Assembly and except for the offenses of manufacture
12 and dissemination of child pornography under clauses
13 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code
14 of 1961, if committed on or after January 1, 2009, 2 years;

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

16 (4) for defendants who commit the offense of predatory
17 criminal sexual assault of a child, aggravated criminal
18 sexual assault, or criminal sexual assault, on or after the
19 effective date of this amendatory Act of the 94th General
20 Assembly, or who commit the offense of aggravated child
21 pornography, manufacture of child pornography, or
22 dissemination of child pornography after January 1, 2009,
23 the term of mandatory supervised release shall range from a
24 minimum of 3 years to a maximum of the natural life of the
25 defendant;

26 (5) if the victim is under 18 years of age, for a

1 second or subsequent offense of aggravated criminal sexual
2 abuse or felony criminal sexual abuse, 4 years, at least
3 the first 2 years of which the defendant shall serve in an
4 electronic home detention program under Article 8A of
5 Chapter V of this Code;

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

9 (e) (Blank).

10 (f) (Blank).

11 (Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09;
12 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1200, eff.
13 7-22-10; 96-1475, eff. 1-1-11; revised 9-16-10.)

14 (725 ILCS 5/119-1 rep.)

15 Section 15. If and only if Senate Bill 3539 of the 96th
16 General Assembly becomes law, the Code of Criminal Procedure of
17 1963 is amended by repealing Section 119-1.

18 Section 99. Effective date. This Act takes effect July 1,
19 2011.