



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1591

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-4.05 new
735 ILCS 5/2-1401

from Ch. 110, par. 2-1401

Amends the Unified Code of Corrections. Establishes criteria for the reduction of a sentence imposed for first degree murder, attempt to commit first degree murder, conspiracy to commit murder, or solicitation of murder in which the person was a victim of domestic abuse committed by the abuser. Provides that if all of the criteria are met, the person may submit in writing a petition to the circuit court for reduction of the person's sentence to the maximum sentence available for the offense at the time of its commission that was not an extended term sentence. Amends the Code of Civil Procedure to make conforming changes.

LRB098 08708 RLC 38832 b

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 adding Section 5-5-4.05 as follows:

6 (730 ILCS 5/5-5-4.05 new)

7 Sec. 5-5-4.05. First degree murder; inchoate offense by
8 victim of domestic violence; reduction of sentence.

9 (a) The circuit court of the circuit in which the person
10 was convicted may reduce the sentence of a person who is
11 servng a term of imprisonment for first degree murder or the
12 prior offense of murder, attempt to commit first degree murder,
13 conspiracy to commit murder, or solicitation of murder if each
14 of these circumstances exist:

15 (1) the person must have been tried, sentenced, or pled
16 guilty to the offense prior to the effective date of the
17 federal Battered Women's Testimony Act of 1992;

18 (2) the person must have claimed physical or mental
19 abuse, or both, as defined in Section 112A-3 of the Code of
20 Criminal Procedure of 1963;

21 (3) the person must have written documentation of abuse
22 prior to the effective date of this amendatory Act of the
23 98th General Assembly. Documentation may include, but is

1 not limited to, civil or criminal court records,
2 proceedings, notarized statements, police reports, and
3 witness statements. Abuse must have been claimed but is not
4 required to be proved;

5 (4) the person must be incarcerated for the murder,
6 attempt to commit first degree murder, conspiracy to commit
7 murder, or solicitation of murder of his or her abuser,
8 whether perpetrated by the person imprisoned or whether
9 accountable for the murder, attempt to commit first degree
10 murder, conspiracy to commit murder, or solicitation of
11 murder under Article 5 of the Criminal Code of 2012;

12 (5) the person must not have been previously convicted
13 of first degree murder, a Class X felony, or a Class 1
14 felony; and

15 (6) the person must have been sentenced to a term of
16 imprisonment that is more than the maximum sentence that is
17 not an extended term sentence.

18 (b) If all of the criteria of subsection (a) are met, the
19 person may submit in writing a petition to the circuit court of
20 the circuit in which the person was convicted in accordance
21 with Illinois Supreme Court Rules for reduction of the person's
22 sentence to the maximum sentence available for the offense at
23 the time of its commission that was not an extended term
24 sentence. The petition request must include all documentation
25 required by subsection (a). The circuit court of the circuit in
26 which the person was convicted, within 60 business days from

1 the date the court receives the petition, shall review the
2 petition and all submitted documents, and if the court is
3 satisfied that the criteria of subsection (a) have been met
4 shall reduce the petitioner's sentence to the maximum sentence
5 available for the offense at the time of its commission that
6 was not an extended term sentence.

7 Section 10. The Code of Civil Procedure is amended by
8 changing Section 2-1401 as follows:

9 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

10 Sec. 2-1401. Relief from judgments.

11 (a) Relief from final orders and judgments, after 30 days
12 from the entry thereof, may be had upon petition as provided in
13 this Section. Writs of error coram nobis and coram vobis, bills
14 of review and bills in the nature of bills of review are
15 abolished. All relief heretofore obtainable and the grounds for
16 such relief heretofore available, whether by any of the
17 foregoing remedies or otherwise, shall be available in every
18 case, by proceedings hereunder, regardless of the nature of the
19 order or judgment from which relief is sought or of the
20 proceedings in which it was entered. Except as provided in
21 Section 6 of the Illinois Parentage Act of 1984, there shall be
22 no distinction between actions and other proceedings,
23 statutory or otherwise, as to availability of relief, grounds
24 for relief or the relief obtainable.

1 (b) The petition must be filed in the same proceeding in
2 which the order or judgment was entered but is not a
3 continuation thereof. The petition must be supported by
4 affidavit or other appropriate showing as to matters not of
5 record. All parties to the petition shall be notified as
6 provided by rule.

7 (c) Except as provided in Section 20b of the Adoption Act
8 and Section 2-32 of the Juvenile Court Act of 1987 or in a
9 petition based upon Section 116-3 of the Code of Criminal
10 Procedure of 1963, the petition must be filed not later than 2
11 years after the entry of the order or judgment. Time during
12 which the person seeking relief is under legal disability or
13 duress or the ground for relief is fraudulently concealed shall
14 be excluded in computing the period of 2 years.

15 (d) The filing of a petition under this Section does not
16 affect the order or judgment, or suspend its operation.

17 (e) Unless lack of jurisdiction affirmatively appears from
18 the record proper, the vacation or modification of an order or
19 judgment pursuant to the provisions of this Section does not
20 affect the right, title or interest in or to any real or
21 personal property of any person, not a party to the original
22 action, acquired for value after the entry of the order or
23 judgment but before the filing of the petition, nor affect any
24 right of any person not a party to the original action under
25 any certificate of sale issued before the filing of the
26 petition, pursuant to a sale based on the order or judgment.

1 (f) Nothing contained in this Section affects any existing
2 right to relief from a void order or judgment, or to employ any
3 existing method to procure that relief.

4 (g) This Section does not apply to petitions filed under
5 Section 5-5-4.05 of the Unified Code of Corrections.

6 (Source: P.A. 95-331, eff. 8-21-07.)