

# HB5771



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5771

by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-1

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

Amends the Unified Code of Corrections. Provides that the court shall sentence the defendant to a term of natural life imprisonment if the defendant is a person who, at the time of the commission of the murder, had attained the age of 18 or more and is found guilty of murdering an individual under 12 years of age. Declares legislative intent to re-enact and modify the provision to comply with U.S. Supreme Court and Illinois Supreme Court decisions.

LRB098 17066 RLC 52151 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 5-8-1 as follows:

6 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

7 Sec. 5-8-1. Natural life imprisonment; enhancements for  
8 use of a firearm; mandatory supervised release terms.

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

14 (1) for first degree murder,

15 (a) (blank),

16 (b) if a trier of fact finds beyond a reasonable  
17 doubt that the murder was accompanied by exceptionally  
18 brutal or heinous behavior indicative of wanton  
19 cruelty or, except as set forth in subsection (a) (1) (c)  
20 of this Section, that any of the aggravating factors  
21 listed in subsection (b) or (b-5) of Section 9-1 of the  
22 Criminal Code of 1961 or the Criminal Code of 2012 are  
23 present, the court may sentence the defendant to a term

1 of natural life imprisonment, or

2 (c) the court shall sentence the defendant to a  
3 term of natural life imprisonment when the death  
4 penalty is not imposed if the defendant,

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

7 (ii) is a person who, at the time of the  
8 commission of the murder, had attained the age of  
9 18 or more and is found guilty of murdering an  
10 individual under 12 years of age; or, irrespective  
11 of the defendant's age at the time of the  
12 commission of the offense, is a person who, at the  
13 time of the commission of the murder, had attained  
14 the age of 17 or more and is found guilty of  
15 murdering an individual under 12 years of age; or,  
16 irrespective of the defendant's age at the time of  
17 the commission of the offense, is found guilty of  
18 murdering more than one victim, or

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

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

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

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

1 technician - paramedic, ambulance driver, or other  
2 medical assistant or first aid personnel, or

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

10 (vii) is found guilty of first degree murder  
11 and the murder was committed by reason of any  
12 person's activity as a community policing  
13 volunteer or to prevent any person from engaging in  
14 activity as a community policing volunteer. For  
15 the purpose of this Section, "community policing  
16 volunteer" has the meaning ascribed to it in  
17 Section 2-3.5 of the Criminal Code of 2012.

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

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

26 (ii) if, during the commission of the offense,

1           the person personally discharged a firearm, 20  
2           years shall be added to the term of imprisonment  
3           imposed by the court;

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

11          (2) (blank);

12          (2.5) for a person convicted under the circumstances  
13          described in subdivision (b)(1)(B) of Section 11-1.20 or  
14          paragraph (3) of subsection (b) of Section 12-13,  
15          subdivision (d)(2) of Section 11-1.30 or paragraph (2) of  
16          subsection (d) of Section 12-14, subdivision (b)(1.2) of  
17          Section 11-1.40 or paragraph (1.2) of subsection (b) of  
18          Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or  
19          paragraph (2) of subsection (b) of Section 12-14.1 of the  
20          Criminal Code of 1961 or the Criminal Code of 2012, the  
21          sentence shall be a term of natural life imprisonment.

22          (b) (Blank).

23          (c) (Blank).

24          (d) Subject to earlier termination under Section 3-3-8, the  
25          parole or mandatory supervised release term shall be written as  
26          part of the sentencing order and shall be as follows:

1           (1) for first degree murder or a Class X felony except  
2 for the offenses of predatory criminal sexual assault of a  
3 child, aggravated criminal sexual assault, and criminal  
4 sexual assault if committed on or after the effective date  
5 of this amendatory Act of the 94th General Assembly and  
6 except for the offense of aggravated child pornography  
7 under Section 11-20.1B, 11-20.3, or 11-20.1 with  
8 sentencing under subsection (c-5) of Section 11-20.1 of the  
9 Criminal Code of 1961 or the Criminal Code of 2012, if  
10 committed on or after January 1, 2009, 3 years;

11           (2) for a Class 1 felony or a Class 2 felony except for  
12 the offense of criminal sexual assault if committed on or  
13 after the effective date of this amendatory Act of the 94th  
14 General Assembly and except for the offenses of manufacture  
15 and dissemination of child pornography under clauses  
16 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code  
17 of 1961 or the Criminal Code of 2012, if committed on or  
18 after January 1, 2009, 2 years;

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

20           (4) for defendants who commit the offense of predatory  
21 criminal sexual assault of a child, aggravated criminal  
22 sexual assault, or criminal sexual assault, on or after the  
23 effective date of this amendatory Act of the 94th General  
24 Assembly, or who commit the offense of aggravated child  
25 pornography under Section 11-20.1B, 11-20.3, or 11-20.1  
26 with sentencing under subsection (c-5) of Section 11-20.1

1 of the Criminal Code of 1961 or the Criminal Code of 2012,  
2 manufacture of child pornography, or dissemination of  
3 child pornography after January 1, 2009, the term of  
4 mandatory supervised release shall range from a minimum of  
5 3 years to a maximum of the natural life of the defendant;

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

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

15 (e) (Blank).

16 (f) (Blank).

17 (g) In People v. Wooters, 188 Ill. 2d 500 (1999), the  
18 Illinois Supreme Court declared that Public Act 89-203 violates  
19 the single subject rule of the Illinois Constitution (ILCON  
20 Art. IV, Sec. 8) by including certain provisions relating to  
21 mortgage foreclosure in a bill otherwise relating to crime. It  
22 is the purpose of this amendatory Act of the 98th General  
23 Assembly to re-enact and modify the provision relating to the  
24 imposition of a mandatory term of natural life imprisonment if  
25 the defendant is found guilty of murdering an individual under  
26 12 years of age. It is also the intent of this amendatory Act



1 to comply with the United States Supreme Court decision of  
2 Miller v. Alabama which prohibits mandatory sentences of life  
3 imprisonment without parole for murder where the defendant was  
4 under 18 years of age at the time of the commission of the  
5 offense.

6 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;  
7 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.  
8 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; 97-1109,  
9 eff. 1-1-13; 97-1150, eff. 1-25-13.)