



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1858

Introduced 2/15/2013, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 2012 and the Unified Code of Corrections. Eliminates mandatory sentences of natural life imprisonment for persons convicted of offenses committed before they attain 18 years of age. Provides that a person who was under 18 years of age at the time of an offense, may, after serving 15 years of his or her sentence of either life imprisonment or a term of 40 years or longer of imprisonment, submit a motion in the circuit court of the county in which he or she was originally sentenced for resentencing. Provides that the petitioner shall be eligible to file a second motion for resentencing not sooner than 10 years or longer than 20 years as determined by the court at the first resentencing hearing. Provides that the petitioner may file a motion seeking leave for resentencing upon reaching the age of 60. Establishes procedures and factors that the court shall use in considering the motion. Provides that on or after the effective date of the amendatory Act, when a person was under 18 years of age at the time of the commission of an offense, the court, at the sentencing hearing, shall consider specified factors in determining the appropriate sentence. Provides that no retroactive resentencing hearing shall be conducted until one year after the effective date of the amendatory Act. Provides that within one year of the effective date of the amendatory Act, the Illinois Juvenile Justice Commission shall present the General Assembly with evidence-based findings regarding the effects of sentencing minors as adults. Effective immediately.

LRB098 06111 RLC 40633 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 2012 is amended by changing  
5 Sections 10-2, 11-1.20, 11-1.30, 11-1.40, 12-33, 29D-14.9, and  
6 29D-35 as follows:

7 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

8 Sec. 10-2. Aggravated kidnaping.

9 (a) A person commits the offense of aggravated kidnaping  
10 when he or she commits kidnaping and:

11 (1) kidnaps with the intent to obtain ransom from the  
12 person kidnaped or from any other person;

13 (2) takes as his or her victim a child under the age of  
14 13 years, or a severely or profoundly intellectually  
15 disabled person;

16 (3) inflicts great bodily harm, other than by the  
17 discharge of a firearm, or commits another felony upon his  
18 or her victim;

19 (4) wears a hood, robe, or mask or conceals his or her  
20 identity;

21 (5) commits the offense of kidnaping while armed with a  
22 dangerous weapon, other than a firearm, as defined in  
23 Section 33A-1 of this Code;

1           (6) commits the offense of kidnaping while armed with a  
2           firearm;

3           (7) during the commission of the offense of kidnaping,  
4           personally discharges a firearm; or

5           (8) during the commission of the offense of kidnaping,  
6           personally discharges a firearm that proximately causes  
7           great bodily harm, permanent disability, permanent  
8           disfigurement, or death to another person.

9           As used in this Section, "ransom" includes money, benefit,  
10          or other valuable thing or concession.

11          (b) Sentence. Aggravated kidnaping in violation of  
12          paragraph (1), (2), (3), (4), or (5) of subsection (a) is a  
13          Class X felony. A violation of subsection (a)(6) is a Class X  
14          felony for which 15 years shall be added to the term of  
15          imprisonment imposed by the court. A violation of subsection  
16          (a)(7) is a Class X felony for which 20 years shall be added to  
17          the term of imprisonment imposed by the court. A violation of  
18          subsection (a)(8) is a Class X felony for which 25 years or up  
19          to a term of natural life shall be added to the term of  
20          imprisonment imposed by the court. An offender under the age of  
21          18 years at the time of the commission of aggravated kidnaping  
22          in violation of paragraphs (1) through (8) of subsection (a)  
23          commits a Class X felony and shall be sentenced under Section  
24          5-4.5-105 of the Unified Code of Corrections.

25          A person who has attained the age of 18 years at the time  
26          of the commission of the offense and who is convicted of a

1 second or subsequent offense of aggravated kidnaping shall be  
2 sentenced to a term of natural life imprisonment; except that a  
3 sentence of natural life imprisonment shall not be imposed  
4 under this Section unless the second or subsequent offense was  
5 committed after conviction on the first offense. An offender  
6 under the age of 18 years at the time of the commission of the  
7 second or subsequent offense shall be sentenced under Section  
8 5-4.5-105 of the Unified Code of Corrections.

9 (Source: P.A. 96-710, eff. 1-1-10; 97-227, eff. 1-1-12.)

10 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

11 Sec. 11-1.20. Criminal Sexual Assault.

12 (a) A person commits criminal sexual assault if that person  
13 commits an act of sexual penetration and:

14 (1) uses force or threat of force;

15 (2) knows that the victim is unable to understand the  
16 nature of the act or is unable to give knowing consent;

17 (3) is a family member of the victim, and the victim is  
18 under 18 years of age; or

19 (4) is 17 years of age or over and holds a position of  
20 trust, authority, or supervision in relation to the victim,  
21 and the victim is at least 13 years of age but under 18  
22 years of age.

23 (b) Sentence.

24 (1) Criminal sexual assault is a Class 1 felony, except  
25 that:

1 (A) A person who is convicted of the offense of  
2 criminal sexual assault as defined in paragraph (a) (1)  
3 or (a) (2) after having previously been convicted of the  
4 offense of criminal sexual assault or the offense of  
5 exploitation of a child, or who is convicted of the  
6 offense of criminal sexual assault as defined in  
7 paragraph (a) (1) or (a) (2) after having previously  
8 been convicted under the laws of this State or any  
9 other state of an offense that is substantially  
10 equivalent to the offense of criminal sexual assault or  
11 to the offense of exploitation of a child, commits a  
12 Class X felony for which the person shall be sentenced  
13 to a term of imprisonment of not less than 30 years and  
14 not more than 60 years, except that where the person is  
15 under the age of 18 years at the time of the offense,  
16 he or she shall be sentenced under Section 5-4.5-105 of  
17 the Unified Code of Corrections. The commission of the  
18 second or subsequent offense is required to have been  
19 after the initial conviction for this paragraph (A) to  
20 apply.

21 (B) A person who has attained the age of 18 years  
22 at the time of the commission of the offense and who is  
23 convicted of the offense of criminal sexual assault as  
24 defined in paragraph (a) (1) or (a) (2) after having  
25 previously been convicted of the offense of aggravated  
26 criminal sexual assault or the offense of predatory

1 criminal sexual assault of a child, or who is convicted  
2 of the offense of criminal sexual assault as defined in  
3 paragraph (a)(1) or (a)(2) after having previously  
4 been convicted under the laws of this State or any  
5 other state of an offense that is substantially  
6 equivalent to the offense of aggravated criminal  
7 sexual assault or the offense of predatory criminal  
8 sexual assault of a child shall be sentenced to a term  
9 of natural life imprisonment. The commission of the  
10 second or subsequent offense is required to have been  
11 after the initial conviction for this paragraph (B) to  
12 apply. An offender under the age of 18 years at the  
13 time of the commission of the offense covered by this  
14 subparagraph (B) shall be sentenced under Section  
15 5-4.5-105 of the Unified Code of Corrections.

16 (C) A second or subsequent conviction for a  
17 violation of paragraph (a)(3) or (a)(4) or under any  
18 similar statute of this State or any other state for  
19 any offense involving criminal sexual assault that is  
20 substantially equivalent to or more serious than the  
21 sexual assault prohibited under paragraph (a)(3) or  
22 (a)(4) is a Class X felony.

23 (Source: P.A. 95-640, eff. 6-1-08; 96-1551, eff. 7-1-11.)

24 (720 ILCS 5/11-1.30) (was 720 ILCS 5/12-14)

25 Sec. 11-1.30. Aggravated Criminal Sexual Assault.

1 (a) A person commits aggravated criminal sexual assault if  
2 that person commits criminal sexual assault and any of the  
3 following aggravating circumstances exist during the  
4 commission of the offense or, for purposes of paragraph (7),  
5 occur as part of the same course of conduct as the commission  
6 of the offense:

7 (1) the person displays, threatens to use, or uses a  
8 dangerous weapon, other than a firearm, or any other object  
9 fashioned or used in a manner that leads the victim, under  
10 the circumstances, reasonably to believe that the object is  
11 a dangerous weapon;

12 (2) the person causes bodily harm to the victim, except  
13 as provided in paragraph (10);

14 (3) the person acts in a manner that threatens or  
15 endangers the life of the victim or any other person;

16 (4) the person commits the criminal sexual assault  
17 during the course of committing or attempting to commit any  
18 other felony;

19 (5) the victim is 60 years of age or older;

20 (6) the victim is a physically handicapped person;

21 (7) the person delivers (by injection, inhalation,  
22 ingestion, transfer of possession, or any other means) any  
23 controlled substance to the victim without the victim's  
24 consent or by threat or deception for other than medical  
25 purposes;

26 (8) the person is armed with a firearm;

1           (9) the person personally discharges a firearm during  
2 the commission of the offense; or

3           (10) the person personally discharges a firearm during  
4 the commission of the offense, and that discharge  
5 proximately causes great bodily harm, permanent  
6 disability, permanent disfigurement, or death to another  
7 person.

8           (b) A person commits aggravated criminal sexual assault if  
9 that person is under 17 years of age and: (i) commits an act of  
10 sexual penetration with a victim who is under 9 years of age;  
11 or (ii) commits an act of sexual penetration with a victim who  
12 is at least 9 years of age but under 13 years of age and the  
13 person uses force or threat of force to commit the act.

14           (c) A person commits aggravated criminal sexual assault if  
15 that person commits an act of sexual penetration with a victim  
16 who is a severely or profoundly intellectually disabled person.

17           (d) Sentence.

18           (1) Aggravated criminal sexual assault in violation of  
19 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)  
20 or in violation of subsection (b) or (c) is a Class X  
21 felony. A violation of subsection (a)(1) is a Class X  
22 felony for which 10 years shall be added to the term of  
23 imprisonment imposed by the court. A violation of  
24 subsection (a)(8) is a Class X felony for which 15 years  
25 shall be added to the term of imprisonment imposed by the  
26 court. A violation of subsection (a)(9) is a Class X felony



1 for which 20 years shall be added to the term of  
2 imprisonment imposed by the court. A violation of  
3 subsection (a)(10) is a Class X felony for which 25 years  
4 or up to a term of natural life imprisonment shall be added  
5 to the term of imprisonment imposed by the court. An  
6 offender under the age of 18 years at the time of the  
7 commission of aggravated criminal sexual assault in  
8 violation of paragraphs (1) through (10) of subsection (a)  
9 commits a Class X felony and shall be sentenced under  
10 Section 5-4.5-105 of the Unified Code of Corrections.

11 (2) A person who has attained the age of 18 years at  
12 the time of the commission of the offense and who is  
13 convicted of a second or subsequent offense of aggravated  
14 criminal sexual assault, or who is convicted of the offense  
15 of aggravated criminal sexual assault after having  
16 previously been convicted of the offense of criminal sexual  
17 assault or the offense of predatory criminal sexual assault  
18 of a child, or who is convicted of the offense of  
19 aggravated criminal sexual assault after having previously  
20 been convicted under the laws of this or any other state of  
21 an offense that is substantially equivalent to the offense  
22 of criminal sexual assault, the offense of aggravated  
23 criminal sexual assault or the offense of predatory  
24 criminal sexual assault of a child, shall be sentenced to a  
25 term of natural life imprisonment. The commission of the  
26 second or subsequent offense is required to have been after

1 the initial conviction for this paragraph (2) to apply. An  
2 offender under the age of 18 years at the time of the  
3 commission of the offense covered by this subparagraph (2)  
4 shall be sentenced under Section 5-4.5-105 of the Unified  
5 Code of Corrections.

6 (Source: P.A. 96-1551, eff. 7-1-11; incorporates 97-227, eff.  
7 1-1-12; 97-1109, eff. 1-1-13.)

8 (720 ILCS 5/11-1.40) (was 720 ILCS 5/12-14.1)

9 Sec. 11-1.40. Predatory criminal sexual assault of a child.

10 (a) A person commits predatory criminal sexual assault of a  
11 child if that person commits an act of sexual penetration, is  
12 17 years of age or older, and:

13 (1) the victim is under 13 years of age; or

14 (2) the victim is under 13 years of age and that  
15 person:

16 (A) is armed with a firearm;

17 (B) personally discharges a firearm during the  
18 commission of the offense;

19 (C) causes great bodily harm to the victim that:

20 (i) results in permanent disability; or

21 (ii) is life threatening; or

22 (D) delivers (by injection, inhalation, ingestion,  
23 transfer of possession, or any other means) any  
24 controlled substance to the victim without the  
25 victim's consent or by threat or deception, for other

1 than medical purposes.

2 (b) Sentence.

3 (1) A person convicted of a violation of subsection  
4 (a)(1) commits a Class X felony, for which the person shall  
5 be sentenced to a term of imprisonment of not less than 6  
6 years and not more than 60 years. A person convicted of a  
7 violation of subsection (a)(2)(A) commits a Class X felony  
8 for which 15 years shall be added to the term of  
9 imprisonment imposed by the court. A person convicted of a  
10 violation of subsection (a)(2)(B) commits a Class X felony  
11 for which 20 years shall be added to the term of  
12 imprisonment imposed by the court. A person who has  
13 attained the age of 18 years at the time of the commission  
14 of the offense and who is convicted of a violation of  
15 subsection (a)(2)(C) commits a Class X felony for which the  
16 person shall be sentenced to a term of imprisonment of not  
17 less than 50 years or up to a term of natural life  
18 imprisonment. An offender under the age of 18 years at the  
19 time of the commission of predatory criminal sexual assault  
20 of a child in violation of subsections (a)(1), (a)(2)  
21 (A), (a)(2)(B), and (a)(2)(C) commits a Class X felony  
22 and shall be sentenced under Section 5-4.5-105 of the  
23 Unified Code of Corrections.

24 (1.1) A person convicted of a violation of subsection  
25 (a)(2)(D) commits a Class X felony for which the person  
26 shall be sentenced to a term of imprisonment of not less

1 than 50 years and not more than 60 years. An offender under  
2 the age of 18 years at the time of the commission of  
3 predatory criminal sexual assault of a child in violation  
4 of subsection (a) (2) (D) commits a Class X felony and  
5 shall be sentenced under Section 5-4.5-105 of the Unified  
6 Code of Corrections.

7 (1.2) A person who has attained the age of 18 years at  
8 the time of the commission of the offense and who is  
9 convicted of predatory criminal sexual assault of a child  
10 committed against 2 or more persons regardless of whether  
11 the offenses occurred as the result of the same act or of  
12 several related or unrelated acts shall be sentenced to a  
13 term of natural life imprisonment and an offender under the  
14 age of 18 years at the time of the commission of the  
15 offense shall be sentenced under Section 5-4.5-105 of the  
16 Unified Code of Corrections.

17 (2) A person who has attained the age of 18 years at  
18 the time of the commission of the offense and who is  
19 convicted of a second or subsequent offense of predatory  
20 criminal sexual assault of a child, or who is convicted of  
21 the offense of predatory criminal sexual assault of a child  
22 after having previously been convicted of the offense of  
23 criminal sexual assault or the offense of aggravated  
24 criminal sexual assault, or who is convicted of the offense  
25 of predatory criminal sexual assault of a child after  
26 having previously been convicted under the laws of this

1 State or any other state of an offense that is  
2 substantially equivalent to the offense of predatory  
3 criminal sexual assault of a child, the offense of  
4 aggravated criminal sexual assault or the offense of  
5 criminal sexual assault, shall be sentenced to a term of  
6 natural life imprisonment. The commission of the second or  
7 subsequent offense is required to have been after the  
8 initial conviction for this paragraph (2) to apply. An  
9 offender under the age of 18 years at the time of the  
10 commission of the offense covered by this subparagraph (2)  
11 shall be sentenced under Section 5-4.5-105 of the Unified  
12 Code of Corrections.

13 (Source: P.A. 95-640, eff. 6-1-08; 96-1551, eff. 7-1-11.)

14 (720 ILCS 5/12-33) (from Ch. 38, par. 12-33)

15 Sec. 12-33. Ritualized abuse of a child.

16 (a) A person commits ritualized abuse of a child when he or  
17 she knowingly commits any of the following acts with, upon, or  
18 in the presence of a child as part of a ceremony, rite or any  
19 similar observance:

20 (1) actually or in simulation, tortures, mutilates, or  
21 sacrifices any warm-blooded animal or human being;

22 (2) forces ingestion, injection or other application  
23 of any narcotic, drug, hallucinogen or anaesthetic for the  
24 purpose of dulling sensitivity, cognition, recollection  
25 of, or resistance to any criminal activity;

1           (3) forces ingestion, or external application, of  
2 human or animal urine, feces, flesh, blood, bones, body  
3 secretions, nonprescribed drugs or chemical compounds;

4           (4) involves the child in a mock, unauthorized or  
5 unlawful marriage ceremony with another person or  
6 representation of any force or deity, followed by sexual  
7 contact with the child;

8           (5) places a living child into a coffin or open grave  
9 containing a human corpse or remains;

10           (6) threatens death or serious harm to a child, his or  
11 her parents, family, pets, or friends that instills a  
12 well-founded fear in the child that the threat will be  
13 carried out; or

14           (7) unlawfully dissects, mutilates, or incinerates a  
15 human corpse.

16           (b) The provisions of this Section shall not be construed  
17 to apply to:

18           (1) lawful agricultural, animal husbandry, food  
19 preparation, or wild game hunting and fishing practices and  
20 specifically the branding or identification of livestock;

21           (2) the lawful medical practice of male circumcision or  
22 any ceremony related to male circumcision;

23           (3) any state or federally approved, licensed, or  
24 funded research project; or

25           (4) the ingestion of animal flesh or blood in the  
26 performance of a religious service or ceremony.

1 (b-5) For the purposes of this Section, "child" means any  
2 person under 18 years of age.

3 (c) Ritualized abuse of a child is a Class 1 felony for a  
4 first offense. A second or subsequent conviction for ritualized  
5 abuse of a child is a Class X felony for which an ~~the~~ offender  
6 who has attained the age of 18 years at the time of the  
7 commission of the offense may be sentenced to a term of natural  
8 life imprisonment and an offender under the age of 18 years at  
9 the time of the commission of the offense shall be sentenced  
10 under Section 5-4.5-105 of the Unified Code of Corrections.

11 (d) (Blank).

12 (Source: P.A. 96-1551, eff. 7-1-11.)

13 (720 ILCS 5/29D-14.9) (was 720 ILCS 5/29D-30)

14 Sec. 29D-14.9. Terrorism.

15 (a) A person commits the offense of terrorism when, with  
16 the intent to intimidate or coerce a significant portion of a  
17 civilian population:

18 (1) he or she knowingly commits a terrorist act as  
19 defined in Section 29D-10(1) of this Code within this  
20 State; or

21 (2) he or she, while outside this State, knowingly  
22 commits a terrorist act as defined in Section 29D-10(1) of  
23 this Code that takes effect within this State or produces  
24 substantial detrimental effects within this State.

25 (b) Sentence. Terrorism is a Class X felony. If no deaths

1 are caused by the terrorist act, the sentence shall be a term  
2 of 20 years to natural life imprisonment; if the terrorist act  
3 caused the death of one or more persons, however, a mandatory  
4 term of natural life imprisonment shall be the sentence if the  
5 death penalty is not imposed and the person has attained the  
6 age of 18 years at the time of the commission of the offense.  
7 An offender under the age of 18 years at the time of the  
8 commission of the offense shall be sentenced under Section  
9 5-4.5-105 of the Unified Code of Corrections.

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

11 (720 ILCS 5/29D-35)

12 Sec. 29D-35. Hindering prosecution of terrorism.

13 (a) A person commits the offense of hindering prosecution  
14 of terrorism when he or she renders criminal assistance to a  
15 person who has committed terrorism as defined in Section  
16 29D-14.9 or caused a catastrophe as defined in Section 29D-15.1  
17 of this Code when he or she knows that the person to whom he or  
18 she rendered criminal assistance engaged in an act of terrorism  
19 or caused a catastrophe.

20 (b) Hindering prosecution of terrorism is a Class X felony,  
21 the sentence for which shall be a term of 20 years to natural  
22 life imprisonment if no death was caused by the act of  
23 terrorism committed by the person to whom the defendant  
24 rendered criminal assistance and a mandatory term of natural  
25 life imprisonment if death was caused by the act of terrorism



1 committed by the person to whom the defendant rendered criminal  
2 assistance. An offender under the age of 18 years at the time  
3 of the commission of the offense shall be sentenced under  
4 Section 5-4.5-105 of the Unified Code of Corrections.

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

6 Section 10. The Unified Code of Corrections is amended by  
7 changing Sections 5-4.5-95 and 5-8-1 and by adding Section  
8 5-4.5-105 as follows:

9 (730 ILCS 5/5-4.5-95)

10 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

11 (a) HABITUAL CRIMINALS.

12 (1) Every person who has been twice convicted in any  
13 state or federal court of an offense that contains the same  
14 elements as an offense now (the date of the offense  
15 committed after the 2 prior convictions) classified in  
16 Illinois as a Class X felony, criminal sexual assault,  
17 aggravated kidnapping, or first degree murder, and who is  
18 thereafter convicted of a Class X felony, criminal sexual  
19 assault, or first degree murder, committed after the 2  
20 prior convictions, shall be adjudged an habitual criminal.

21 (2) The 2 prior convictions need not have been for the  
22 same offense.

23 (3) Any convictions that result from or are connected  
24 with the same transaction, or result from offenses

1 committed at the same time, shall be counted for the  
2 purposes of this Section as one conviction.

3 (4) This Section does not apply unless each of the  
4 following requirements are satisfied:

5 (A) The third offense was committed after July 3,  
6 1980.

7 (B) The third offense was committed within 20 years  
8 of the date that judgment was entered on the first  
9 conviction; provided, however, that time spent in  
10 custody shall not be counted.

11 (C) The third offense was committed after  
12 conviction on the second offense.

13 (D) The second offense was committed after  
14 conviction on the first offense.

15 (5) Anyone who, having attained the age of 18 at the  
16 time of the third offense, is ~~Except when the death penalty~~  
17 ~~is imposed, anyone~~ adjudged an habitual criminal shall be  
18 sentenced to a term of natural life imprisonment.

19 (6) A prior conviction shall not be alleged in the  
20 indictment, and no evidence or other disclosure of that  
21 conviction shall be presented to the court or the jury  
22 during the trial of an offense set forth in this Section  
23 unless otherwise permitted by the issues properly raised in  
24 that trial. After a plea or verdict or finding of guilty  
25 and before sentence is imposed, the prosecutor may file  
26 with the court a verified written statement signed by the

1 State's Attorney concerning any former conviction of an  
2 offense set forth in this Section rendered against the  
3 defendant. The court shall then cause the defendant to be  
4 brought before it; shall inform the defendant of the  
5 allegations of the statement so filed, and of his or her  
6 right to a hearing before the court on the issue of that  
7 former conviction and of his or her right to counsel at  
8 that hearing; and unless the defendant admits such  
9 conviction, shall hear and determine the issue, and shall  
10 make a written finding thereon. If a sentence has  
11 previously been imposed, the court may vacate that sentence  
12 and impose a new sentence in accordance with this Section.

13 (7) A duly authenticated copy of the record of any  
14 alleged former conviction of an offense set forth in this  
15 Section shall be prima facie evidence of that former  
16 conviction; and a duly authenticated copy of the record of  
17 the defendant's final release or discharge from probation  
18 granted, or from sentence and parole supervision (if any)  
19 imposed pursuant to that former conviction, shall be prima  
20 facie evidence of that release or discharge.

21 (8) Any claim that a previous conviction offered by the  
22 prosecution is not a former conviction of an offense set  
23 forth in this Section because of the existence of any  
24 exceptions described in this Section, is waived unless duly  
25 raised at the hearing on that conviction, or unless the  
26 prosecution's proof shows the existence of the exceptions

1 described in this Section.

2 (9) If the person so convicted shows to the  
3 satisfaction of the court before whom that conviction was  
4 had that he or she was released from imprisonment, upon  
5 either of the sentences upon a pardon granted for the  
6 reason that he or she was innocent, that conviction and  
7 sentence shall not be considered under this Section.

8 (b) When a defendant, over the age of 21 years, is  
9 convicted of a Class 1 or Class 2 felony, after having twice  
10 been convicted in any state or federal court of an offense that  
11 contains the same elements as an offense now (the date the  
12 Class 1 or Class 2 felony was committed) classified in Illinois  
13 as a Class 2 or greater Class felony and those charges are  
14 separately brought and tried and arise out of different series  
15 of acts, that defendant shall be sentenced as a Class X  
16 offender. This subsection does not apply unless:

17 (1) the first felony was committed after February 1,  
18 1978 (the effective date of Public Act 80-1099);

19 (2) the second felony was committed after conviction on  
20 the first; and

21 (3) the third felony was committed after conviction on  
22 the second.

23 A person sentenced as a Class X offender under this  
24 subsection (b) is not eligible to apply for treatment as a  
25 condition of probation as provided by Section 40-10 of the  
26 Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS

1 301/40-10).

2 (Source: P.A. 95-1052, eff. 7-1-09.)

3 (730 ILCS 5/5-4.5-105 new)

4 Sec. 5-4.5-105. SENTENCING AND RESENTENCING OF INDIVIDUALS  
5 UNDER THE AGE OF 18 AT THE TIME OF THE COMMISSION OF AN  
6 OFFENSE.

7 (a) On or after the effective date of this amendatory Act  
8 of the 98th General Assembly, when a person commits an offense  
9 and the person is under 18 years of age at the time of the  
10 commission of the offense, the court, at the sentencing hearing  
11 conducted under Section 5-4-1, shall consider the following  
12 additional factors in determining the appropriate sentence:

13 (1) the petitioner's age, impetuosity, and level of  
14 maturity at the time of the offense, including the ability  
15 to consider risks and consequences of behavior;

16 (2) the petitioner's susceptibility to outside  
17 pressure, including peer pressure, familial pressure, or  
18 negative influences, at the time of the offense;

19 (3) the petitioner's family, home environment, and  
20 social background, including any history of parental  
21 neglect, physical abuse, or other childhood trauma;

22 (4) the petitioner's potential for rehabilitation or  
23 evidence of rehabilitation, or both;

24 (5) the circumstances of the offense;

25 (6) the petitioner's degree of participation and

1 specific role in the offense;

2 (7) whether the petitioner was able to meaningfully  
3 participate in his or her defense;

4 (8) the petitioner's overall record of behavior while  
5 incarcerated, including disciplinary history,  
6 participation in educational and vocational programs  
7 whenever available to the petitioner, including but not  
8 limited to restorative justice programs, and extent of  
9 cooperation with staff;

10 (9) the petitioner's likelihood of committing future  
11 offenses, including the petitioner's likely  
12 post-incarceration support system;

13 (10) the petitioner's prior juvenile or criminal  
14 history; and

15 (11) any other information the court finds relevant and  
16 reliable, including an expression of remorse, if  
17 appropriate.

18 The court may sentence the defendant to any appropriate  
19 sentence as provided by law, subject to subsection (b).

20 (b) Any person who was under 18 years of age at the time of  
21 the commission of an offense may, after serving 15 years of his  
22 or her sentence of either life imprisonment or a term of 40  
23 years or longer of imprisonment, submit a motion for  
24 resentencing in the circuit court of the county in which he or  
25 she was originally sentenced. The procedure for resentencing  
26 shall occur in the following manner:

1           (1) The chief judge of the criminal division of the  
2           circuit located in a county of 2,000,000 or more  
3           inhabitants, or in counties under 2,000,000 inhabitants,  
4           the chief judge of the circuit or a judge assigned by the  
5           chief judge, in which the motion is filed, shall assign the  
6           matter to any judge.

7           (2) Upon receipt of the motion and assignment to a  
8           judge, the judge shall docket the petition. If the  
9           petitioner is without counsel and alleges in the motion for  
10           resentencing that he or she is without means to procure  
11           counsel, he or she shall state whether or not he or she  
12           wishes counsel to be appointed to represent him or her. If  
13           appointment of counsel is requested, the court shall  
14           appoint counsel if satisfied that the petitioner has no  
15           means to procure counsel. The clerk of the circuit court  
16           shall serve a copy of the motion to the State's Attorney of  
17           that county or his or her representative.

18           (3) Upon receipt of the motion for resentencing, the  
19           State's Attorney's Office shall provide the victim or his  
20           or her family, or both, with a copy of the motion.

21           (4) The petitioner, if pro se, or his or her attorney  
22           may amend the motion for resentencing.

23           (5) The State's Attorney must be afforded an  
24           opportunity to respond to the motion and the court shall  
25           provide the petitioner with the opportunity to reply.

26           (6) Within 90 days after the filing of the motion for

1 resentencing, the court shall set the matter for a  
2 resentencing hearing. This date may be extended by motion  
3 of either party and at the court's discretion for good  
4 cause shown.

5 (7) At the resentencing hearing, the court shall:

6 (A) consider the factors listed in paragraphs (1)  
7 through (11) of subsection (a);

8 (B) consider the evidence, if any, received upon  
9 the trial;

10 (C) consider any presentence reports;

11 (D) consider the financial impact of incarceration  
12 based on the financial impact statement filed with the  
13 clerk of the court by the Department of Corrections;

14 (E) consider any additional evidence and  
15 information offered by the parties in aggravation and  
16 mitigation, including, but not limited to, scientific  
17 evidence of recidivism;

18 (F) consider the petitioner's acceptance of  
19 responsibility for the crime or expressions of  
20 remorse, or both. However, nothing in this subsection  
21 shall be construed against a petitioner who avers a  
22 good faith claim of innocence;

23 (G) hear arguments as to sentencing alternatives;

24 (H) afford the petitioner the opportunity to make a  
25 statement in his or her own behalf;

26 (I) afford the victim or families of victims of the



1 crime, or both, for which the petitioner was originally  
2 sentenced an opportunity to provide a victim impact  
3 statement to the court. The court shall permit those  
4 statements and may consider the live testimony of a  
5 victim or a victim representative at its discretion.

6 (8) Following the resentencing hearing, the court may  
7 re-sentence the petitioner to any appropriate sentence,  
8 subject to paragraph (9). In resentencing the petitioner,  
9 the court must make a finding detailing its consideration  
10 of the factors listed in paragraph (7).

11 (9) The petitioner shall be eligible to file a second  
12 motion for resentencing not sooner than 10 years or longer  
13 than 20 years as determined by the court at the first  
14 resentencing hearing. In considering the motion, the court  
15 shall follow the procedure stated in this Section.

16 (10) The petitioner may file a motion seeking leave for  
17 resentencing upon reaching the age of 60. The motion must  
18 clearly set forth the need for resentencing, including the  
19 efforts the petitioner has made towards rehabilitation and  
20 his or her demonstrated maturity.

21 (A) Within 90 days after the filing of this motion,  
22 the court shall examine the motion and enter an order  
23 thereon. If the court determines the motion is  
24 frivolous or is patently without merit, it shall deny  
25 the motion in a written order, specifying the  
26 underlying basis for its decision that continued

1           incarceration is appropriate and necessary. The order  
2           is a final judgment and shall be served upon the  
3           petitioner by certified mail within 10 days of its  
4           entry.

5           (B) If the petition is not dismissed under  
6           subparagraph (A), the court shall order the motion for  
7           resentencing to be docketed for further consideration  
8           in accordance with the procedure stated in this  
9           Section.

10           (C) In considering a motion under this paragraph  
11           (14), the court may examine the court file of the  
12           proceeding in which the petitioner was convicted, any  
13           action taken by an appellate court in that proceeding,  
14           any transcripts of that proceeding, and any transcript  
15           or court documents from previous proceedings under  
16           this Section.

17           (11) This Section shall operate retroactively to  
18           provide any person incarcerated for a crime committed when  
19           he or she was under the age of 18 years and serving life  
20           imprisonment or a term of 40 years or more of imprisonment  
21           and committed before the effective date of this amendatory  
22           Act of the 98th General Assembly with the opportunity to  
23           file a motion for resentencing under this Section under the  
24           terms provided in this Section. No retroactive  
25           resentencing hearing shall be conducted under this Section  
26           until one year after the effective date of this amendatory

1 Act of the 98th General Assembly.

2 (12) Notwithstanding anything else to the contrary in  
3 this Section, nothing in this Section shall be construed to  
4 delay parole or mandatory supervised release consideration  
5 for petitioners who, prior to the effective date of this  
6 amendatory Act of the 98th General Assembly, are or will be  
7 eligible for release earlier than this Section provides.

8 (13) Within one year of the effective date of this  
9 amendatory Act of the 98th General Assembly, the Illinois  
10 Juvenile Justice Commission shall present the General  
11 Assembly with evidence-based findings regarding the  
12 effects of sentencing minors as adults.

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  
25 brutal or heinous behavior indicative of wanton

1 cruelty or, except as set forth in subsection (a) (1) (c)  
2 of this Section, that any of the aggravating factors  
3 listed in subsection (b) or (b-5) of Section 9-1 of the  
4 Criminal Code of 1961 or the Criminal Code of 2012 are  
5 present, the court may sentence the defendant, subject  
6 to the limitations found in Section 5-4.5-105, to a  
7 term of natural life 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, at the time of  
11 the commission of the murder, had attained the age of  
12 18, and

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

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

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

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

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

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

1 murdered individual was an emergency medical  
2 technician - ambulance, emergency medical  
3 technician - intermediate, emergency medical  
4 technician - paramedic, ambulance driver, or other  
5 medical assistant or first aid personnel, or

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

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

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

26 (d) (i) if the person committed the offense while

1 armed with a firearm, 15 years shall be added to  
2 the term of imprisonment imposed by the court;

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

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

14 (2) (blank);

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

25 (b) (Blank).

26 (c) (Blank).

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

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

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

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

23 (4) for defendants who commit the offense of predatory  
24 criminal sexual assault of a child, aggravated criminal  
25 sexual assault, or criminal sexual assault, on or after the  
26 effective date of this amendatory Act of the 94th General



1 Assembly, or who commit the offense of aggravated child  
2 pornography under Section 11-20.1B, 11-20.3, or 11-20.1  
3 with sentencing under subsection (c-5) of Section 11-20.1  
4 of the Criminal Code of 1961 or the Criminal Code of 2012,  
5 manufacture of child pornography, or dissemination of  
6 child pornography after January 1, 2009, the term of  
7 mandatory supervised release shall range from a minimum of  
8 3 years to a maximum of the natural life of the defendant;

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

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

18 (e) (Blank).

19 (f) (Blank).

20 (Source: P.A. 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10;  
21 96-1200, eff. 7-22-10; 96-1475, eff. 1-1-11; 96-1551, eff.  
22 7-1-11; 97-333, eff. 8-12-11; 97-531, eff. 1-1-12; 97-1109,  
23 eff. 1-1-13; 97-1150, eff. 1-25-13.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	720 ILCS 5/10-2	from Ch. 38, par. 10-2
4	720 ILCS 5/11-1.20	was 720 ILCS 5/12-13
5	720 ILCS 5/11-1.30	was 720 ILCS 5/12-14
6	720 ILCS 5/11-1.40	was 720 ILCS 5/12-14.1
7	720 ILCS 5/12-33	from Ch. 38, par. 12-33
8	720 ILCS 5/29D-14.9	was 720 ILCS 5/29D-30
9	720 ILCS 5/29D-35	
10	730 ILCS 5/5-4.5-95	
11	730 ILCS 5/5-4.5-105 new	
12	730 ILCS 5/5-8-1	from Ch. 38, par. 1005-8-1