

HB5771



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5771

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4.5-105

730 ILCS 5/5-8-1

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

Amends the Unified Code of Corrections. Corrects a cross reference in the provision concerning sentencing of persons who were under the age of 18 at the time of the commission of an offense. Provides that certain mandatory natural life sentencing provisions for criminal sexual assault, aggravated criminal sexual assault, and predatory criminal sexual assault of a child apply only to a person who has attained the age of 18 years at the time of the commission of the offense.

LRB099 16804 RLC 41151 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-4.5-105 and 5-8-1 as follows:

6 (730 ILCS 5/5-4.5-105)

7 Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF
8 18 AT THE TIME OF THE COMMISSION OF AN OFFENSE.

9 (a) On or after the effective date of this amendatory Act
10 of the 99th General Assembly, when a person commits an offense
11 and the person is under 18 years of age at the time of the
12 commission of the offense, the court, at the sentencing hearing
13 conducted under Section 5-4-1, shall consider the following
14 additional factors in mitigation in determining the
15 appropriate sentence:

16 (1) the person's age, impetuosity, and level of
17 maturity at the time of the offense, including the ability
18 to consider risks and consequences of behavior, and the
19 presence of cognitive or developmental disability, or
20 both, if any;

21 (2) whether the person was subjected to outside
22 pressure, including peer pressure, familial pressure, or
23 negative influences;

1 (3) the person's family, home environment, educational
2 and social background, including any history of parental
3 neglect, physical abuse, or other childhood trauma;

4 (4) the person's potential for rehabilitation or
5 evidence of rehabilitation, or both;

6 (5) the circumstances of the offense;

7 (6) the person's degree of participation and specific
8 role in the offense, including the level of planning by the
9 defendant before the offense;

10 (7) whether the person was able to meaningfully
11 participate in his or her defense;

12 (8) the person's prior juvenile or criminal history;
13 and

14 (9) any other information the court finds relevant and
15 reliable, including an expression of remorse, if
16 appropriate. However, if the person, on advice of counsel
17 chooses not to make a statement, the court shall not
18 consider a lack of an expression of remorse as an
19 aggravating factor.

20 (b) Except as provided in subsection (c), the court may
21 sentence the defendant to any disposition authorized for the
22 class of the offense of which he or she was found guilty as
23 described in Article 4.5 of this Code, and may, in its
24 discretion, decline to impose any otherwise applicable
25 sentencing enhancement based upon firearm possession,
26 possession with personal discharge, or possession with

1 personal discharge that proximately causes great bodily harm,
2 permanent disability, permanent disfigurement, or death to
3 another person.

4 (c) Notwithstanding any other provision of law, if the
5 defendant is convicted of first degree murder and would
6 otherwise be subject to sentencing under clause (iii), (iv),
7 (v), or (vii) of subparagraph (c) of paragraph (1) of
8 subsection (a)-(e) of Section 5-8-1 of this Code based on the
9 category of persons identified therein, the court shall impose
10 a sentence of not less than 40 years of imprisonment. In
11 addition, the court may, in its discretion, decline to impose
12 the sentencing enhancements based upon the possession or use of
13 a firearm during the commission of the offense included in
14 subsection (d) of Section 5-8-1.

15 (Source: P.A. 99-69, eff. 1-1-16; 99-258, eff. 1-1-16.)

16 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

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

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

24 (1) for first degree murder,

25 (a) (blank),

1 (b) if a trier of fact finds beyond a reasonable
2 doubt that the murder was accompanied by exceptionally
3 brutal or heinous behavior indicative of wanton
4 cruelty or, except as set forth in subsection (a) (1) (c)
5 of this Section, that any of the aggravating factors
6 listed in subsection (b) or (b-5) of Section 9-1 of the
7 Criminal Code of 1961 or the Criminal Code of 2012 are
8 present, the court may sentence the defendant, subject
9 to Section 5-4.5-105, to a term of natural life
10 imprisonment, or

11 (c) the court shall sentence the defendant to a
12 term of natural life imprisonment if the defendant, at
13 the time of the commission of the murder, had attained
14 the age of 18, and

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

17 (ii) is found guilty of murdering more than one
18 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) (blank), or

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

12 For purposes of clause (v), "emergency medical
13 technician - ambulance", "emergency medical technician
14 - intermediate", "emergency medical technician -
15 paramedic", have the meanings ascribed to them in the
16 Emergency Medical Services (EMS) Systems Act.

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

20 (ii) if, during the commission of the offense,
21 the person personally discharged a firearm, 20
22 years shall be added to the term of imprisonment
23 imposed by the court;

24 (iii) if, during the commission of the
25 offense, the person personally discharged a
26 firearm that proximately caused great bodily harm,

1 permanent disability, permanent disfigurement, or
2 death to another person, 25 years or up to a term
3 of natural life shall be added to the term of
4 imprisonment imposed by the court.

5 (2) (blank);

6 (2.5) for a person who has attained the age of 18 years
7 at the time of the commission of the offense and who is
8 convicted under the circumstances described in subdivision
9 (b) (1) (B) of Section 11-1.20 or paragraph (3) of subsection
10 (b) of Section 12-13, subdivision (d) (2) of Section 11-1.30
11 or paragraph (2) of subsection (d) of Section 12-14,
12 subdivision (b) (1.2) of Section 11-1.40 or paragraph (1.2)
13 of subsection (b) of Section 12-14.1, subdivision (b) (2) of
14 Section 11-1.40 or paragraph (2) of subsection (b) of
15 Section 12-14.1 of the Criminal Code of 1961 or the
16 Criminal Code of 2012, the sentence shall be a term of
17 natural life imprisonment.

18 (b) (Blank).

19 (c) (Blank).

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

23 (1) for first degree murder or a Class X felony except
24 for the offenses of predatory criminal sexual assault of a
25 child, aggravated criminal sexual assault, and criminal
26 sexual assault if committed on or after the effective date

1 of this amendatory Act of the 94th General Assembly and
2 except for the offense of aggravated child pornography
3 under Section 11-20.1B, 11-20.3, or 11-20.1 with
4 sentencing under subsection (c-5) of Section 11-20.1 of the
5 Criminal Code of 1961 or the Criminal Code of 2012, if
6 committed on or after January 1, 2009, 3 years;

7 (2) for a Class 1 felony or a Class 2 felony except for
8 the offense of criminal sexual assault if committed on or
9 after the effective date of this amendatory Act of the 94th
10 General Assembly and except for the offenses of manufacture
11 and dissemination of child pornography under clauses
12 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
13 of 1961 or the Criminal Code of 2012, if committed on or
14 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 under Section 11-20.1B, 11-20.3, or 11-20.1
22 with sentencing under subsection (c-5) of Section 11-20.1
23 of the Criminal Code of 1961 or the Criminal Code of 2012,
24 manufacture of child pornography, or dissemination of
25 child pornography after January 1, 2009, the term of
26 mandatory supervised release shall range from a minimum of

1 3 years to a maximum of the natural life of the defendant;
2 (5) if the victim is under 18 years of age, for a
3 second or subsequent offense of aggravated criminal sexual
4 abuse or felony criminal sexual abuse, 4 years, at least
5 the first 2 years of which the defendant shall serve in an
6 electronic home detention program under Article 8A of
7 Chapter V of this Code;
8 (6) for a felony domestic battery, aggravated domestic
9 battery, stalking, aggravated stalking, and a felony
10 violation of an order of protection, 4 years.
11 (e) (Blank).
12 (f) (Blank).
13 (Source: P.A. 99-69, eff. 1-1-16.)