



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3189

Introduced 11/14/2006, by Sen. Jacqueline Y. Collins

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 when the death penalty is not imposed if the defendant is found guilty of murdering an active duty member of the Armed Forces of the United States or a veteran of the Armed Forces of the United States if the active duty member of the Armed Forces of the United States or veteran of the Armed Forces of the United States served combat duty in the most recent conflict authorized by the President of the United States and the defendant knew or should have known that the murdered individual was an active duty member of the Armed Forces of the United States or was a veteran of the Armed Forces of the United States who served combat duty in the most recent conflict authorized by the President of the United States. Effective immediately.

LRB094 21057 RLC 59384 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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. Sentence of Imprisonment for Felony.

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

12 (1) for first degree murder,

13 (a) a term shall be not less than 20 years and not
14 more than 60 years, or

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

23 (c) the court shall sentence the defendant to a
24 term of natural life imprisonment when the death
25 penalty is not imposed if the defendant,

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

28 (ii) is a person who, at the time of the
29 commission of the murder, had attained the age of
30 17 or more and is found guilty of murdering an
31 individual under 12 years of age; or, irrespective
32 of the defendant's age at the time of the

1 commission of the offense, is found guilty of
2 murdering more than one victim, or

3 (iii) is found guilty of murdering a peace
4 officer, fireman, or emergency management worker
5 when the peace officer, fireman, or emergency
6 management worker was killed in the course of
7 performing his official duties, or to prevent the
8 peace officer or fireman from performing his
9 official duties, or in retaliation for the peace
10 officer, fireman, or emergency management worker
11 from performing his official duties, and the
12 defendant knew or should have known that the
13 murdered individual was a peace officer, fireman,
14 or emergency management worker, or

15 (iv) is found guilty of murdering an employee
16 of an institution or facility of the Department of
17 Corrections, or any similar local correctional
18 agency, when the employee was killed in the course
19 of performing his official duties, or to prevent
20 the employee from performing his official duties,
21 or in retaliation for the employee performing his
22 official duties, or

23 (v) is found guilty of murdering an emergency
24 medical technician - ambulance, emergency medical
25 technician - intermediate, emergency medical
26 technician - paramedic, ambulance driver or other
27 medical assistance or first aid person while
28 employed by a municipality or other governmental
29 unit when the person was killed in the course of
30 performing official duties or to prevent the
31 person from performing official duties or in
32 retaliation for performing official duties and the
33 defendant knew or should have known that the
34 murdered individual was an emergency medical
35 technician - ambulance, emergency medical
36 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 1961, or -

18 (viii) is found guilty of murdering an active
19 duty member of the Armed Forces of the United
20 States or a veteran of the Armed Forces of the
21 United States if the active duty member of the
22 Armed Forces of the United States or veteran of the
23 Armed Forces of the United States served combat
24 duty in the most recent conflict authorized by the
25 President of the United States and the defendant
26 knew or should have known that the murdered
27 individual was an active duty member of the Armed
28 Forces of the United States or was a veteran of the
29 Armed Forces of the United States who served combat
30 duty in the most recent conflict authorized by the
31 President of the United States. For purposes of
32 this clause (viii), "Armed Forces" means the Armed
33 Forces of the United States, any reserve component
34 of the Armed Forces of the United States, including
35 the United States Army Reserve, United States
36 Marine Corps Reserve, United States Navy Reserve,

1 United States Air Force Reserve, and United States
2 Coast Guard Reserve, or the Illinois Army National
3 Guard or Illinois Air National Guard.

4 For purposes of clause (v), "emergency medical
5 technician - ambulance", "emergency medical technician
6 - intermediate", "emergency medical technician -
7 paramedic", have the meanings ascribed to them in the
8 Emergency Medical Services (EMS) Systems Act.

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

12 (ii) if, during the commission of the offense,
13 the person personally discharged a firearm, 20
14 years shall be added to the term of imprisonment
15 imposed by the court;

16 (iii) if, during the commission of the
17 offense, the person personally discharged a
18 firearm that proximately caused great bodily harm,
19 permanent disability, permanent disfigurement, or
20 death to another person, 25 years or up to a term
21 of natural life shall be added to the term of
22 imprisonment imposed by the court.

23 (1.5) for second degree murder, a term shall be not
24 less than 4 years and not more than 20 years;

25 (2) for a person adjudged a habitual criminal under
26 Article 33B of the Criminal Code of 1961, as amended, the
27 sentence shall be a term of natural life imprisonment;

28 (2.5) for a person convicted under the circumstances
29 described in paragraph (3) of subsection (b) of Section
30 12-13, paragraph (2) of subsection (d) of Section 12-14,
31 paragraph (1.2) of subsection (b) of Section 12-14.1, or
32 paragraph (2) of subsection (b) of Section 12-14.1 of the
33 Criminal Code of 1961, the sentence shall be a term of
34 natural life imprisonment;

35 (3) except as otherwise provided in the statute
36 defining the offense, for a Class X felony, the sentence

1 shall be not less than 6 years and not more than 30 years;

2 (4) for a Class 1 felony, other than second degree
3 murder, the sentence shall be not less than 4 years and not
4 more than 15 years;

5 (5) for a Class 2 felony, the sentence shall be not
6 less than 3 years and not more than 7 years;

7 (6) for a Class 3 felony, the sentence shall be not
8 less than 2 years and not more than 5 years;

9 (7) for a Class 4 felony, the sentence shall be not
10 less than 1 year and not more than 3 years.

11 (b) The sentencing judge in each felony conviction shall
12 set forth his reasons for imposing the particular sentence he
13 enters in the case, as provided in Section 5-4-1 of this Code.
14 Those reasons may include any mitigating or aggravating factors
15 specified in this Code, or the lack of any such circumstances,
16 as well as any other such factors as the judge shall set forth
17 on the record that are consistent with the purposes and
18 principles of sentencing set out in this Code.

19 (c) A motion to reduce a sentence may be made, or the court
20 may reduce a sentence without motion, within 30 days after the
21 sentence is imposed. A defendant's challenge to the correctness
22 of a sentence or to any aspect of the sentencing hearing shall
23 be made by a written motion filed within 30 days following the
24 imposition of sentence. However, the court may not increase a
25 sentence once it is imposed.

26 If a motion filed pursuant to this subsection is timely
27 filed within 30 days after the sentence is imposed, the
28 proponent of the motion shall exercise due diligence in seeking
29 a determination on the motion and the court shall thereafter
30 decide such motion within a reasonable time.

31 If a motion filed pursuant to this subsection is timely
32 filed within 30 days after the sentence is imposed, then for
33 purposes of perfecting an appeal, a final judgment shall not be
34 considered to have been entered until the motion to reduce a
35 sentence has been decided by order entered by the trial court.

36 A motion filed pursuant to this subsection shall not be

1 considered to have been timely filed unless it is filed with
2 the circuit court clerk within 30 days after the sentence is
3 imposed together with a notice of motion, which notice of
4 motion shall set the motion on the court's calendar on a date
5 certain within a reasonable time after the date of filing.

6 (d) Except where a term of natural life is imposed, every
7 sentence shall include as though written therein a term in
8 addition to the term of imprisonment. For those sentenced under
9 the law in effect prior to February 1, 1978, such term shall be
10 identified as a parole term. For those sentenced on or after
11 February 1, 1978, such term shall be identified as a mandatory
12 supervised release term. Subject to earlier termination under
13 Section 3-3-8, the parole or mandatory supervised release term
14 shall be as follows:

15 (1) for first degree murder or a Class X felony except
16 for the offenses of predatory criminal sexual assault of a
17 child, aggravated criminal sexual assault, and criminal
18 sexual assault if committed on or after the effective date
19 of this amendatory Act of the 94th General Assembly, 3
20 years;

21 (2) for a Class 1 felony or a Class 2 felony except for
22 the offense of criminal sexual assault if committed on or
23 after the effective date of this amendatory Act of the 94th
24 General Assembly, 2 years;

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

26 (4) for defendants who commit the offense of predatory
27 criminal sexual assault of a child, aggravated criminal
28 sexual assault, or criminal sexual assault, on or after the
29 effective date of this amendatory Act of the 94th General
30 Assembly, the term of mandatory supervised release shall
31 range from a minimum of 3 years to a maximum of the natural
32 life of the defendant;

33 (5) if the victim is under 18 years of age, for a
34 second or subsequent offense of aggravated criminal sexual
35 abuse or felony criminal sexual abuse, 4 years, at least
36 the first 2 years of which the defendant shall serve in an

1 electronic home detention program under Article 8A of
2 Chapter V of this Code.

3 (e) A defendant who has a previous and unexpired sentence
4 of imprisonment imposed by another state or by any district
5 court of the United States and who, after sentence for a crime
6 in Illinois, must return to serve the unexpired prior sentence
7 may have his sentence by the Illinois court ordered to be
8 concurrent with the prior sentence in the other state. The
9 court may order that any time served on the unexpired portion
10 of the sentence in the other state, prior to his return to
11 Illinois, shall be credited on his Illinois sentence. The other
12 state shall be furnished with a copy of the order imposing
13 sentence which shall provide that, when the offender is
14 released from confinement of the other state, whether by parole
15 or by termination of sentence, the offender shall be
16 transferred by the Sheriff of the committing county to the
17 Illinois Department of Corrections. The court shall cause the
18 Department of Corrections to be notified of such sentence at
19 the time of commitment and to be provided with copies of all
20 records regarding the sentence.

21 (f) A defendant who has a previous and unexpired sentence
22 of imprisonment imposed by an Illinois circuit court for a
23 crime in this State and who is subsequently sentenced to a term
24 of imprisonment by another state or by any district court of
25 the United States and who has served a term of imprisonment
26 imposed by the other state or district court of the United
27 States, and must return to serve the unexpired prior sentence
28 imposed by the Illinois Circuit Court may apply to the court
29 which imposed sentence to have his sentence reduced.

30 The circuit court may order that any time served on the
31 sentence imposed by the other state or district court of the
32 United States be credited on his Illinois sentence. Such
33 application for reduction of a sentence under this subsection
34 (f) shall be made within 30 days after the defendant has
35 completed the sentence imposed by the other state or district
36 court of the United States.

1 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
2 94-715, eff. 12-13-05.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.