

# HB1145



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1145

by Rep. Charles E. Jefferson

### 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 first degree murder and the murder was committed by the discharge of a firearm from a motor vehicle.

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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. 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

1 term of natural life imprisonment when the death  
2 penalty is not imposed if the defendant,

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

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

12 (iii) is found guilty of murdering a peace  
13 officer, fireman, or emergency management worker  
14 when the peace officer, fireman, or emergency  
15 management worker was killed in the course of  
16 performing his official duties, or to prevent the  
17 peace officer or fireman from performing his  
18 official duties, or in retaliation for the peace  
19 officer, fireman, or emergency management worker  
20 from performing his official duties, and the  
21 defendant knew or should have known that the  
22 murdered individual was a peace officer, fireman,  
23 or emergency management worker, or

24 (iv) is found guilty of murdering an employee  
25 of an institution or facility of the Department of  
26 Corrections, or any similar local correctional

1 agency, when the employee was killed in the course  
2 of performing his official duties, or to prevent  
3 the employee from performing his official duties,  
4 or in retaliation for the employee performing his  
5 official duties, or

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

22 (vi) is a person who, at the time of the  
23 commission of the murder, had not attained the age  
24 of 17, and is found guilty of murdering a person  
25 under 12 years of age and the murder is committed  
26 during the course of aggravated criminal sexual

1 assault, criminal sexual assault, or aggravated  
2 kidnaping, or

3 (vii) is found guilty of first degree murder  
4 and the murder was committed by reason of any  
5 person's activity as a community policing  
6 volunteer or to prevent any person from engaging in  
7 activity as a community policing volunteer. For  
8 the purpose of this Section, "community policing  
9 volunteer" has the meaning ascribed to it in  
10 Section 2-3.5 of the Criminal Code of 1961, or -

11 (viii) is found guilty of first degree murder  
12 and the murder was committed by the discharge of a  
13 firearm from a motor vehicle.

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

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

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

26 (iii) if, during the commission of the

1 offense, the person personally discharged a  
2 firearm that proximately caused great bodily harm,  
3 permanent disability, permanent disfigurement, or  
4 death to another person, 25 years or up to a term  
5 of natural life shall be added to the term of  
6 imprisonment imposed by the court.

7 (1.5) for second degree murder, a term shall be not  
8 less than 4 years and not more than 20 years;

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

12 (2.5) for a person convicted under the circumstances  
13 described in paragraph (3) of subsection (b) of Section  
14 12-13, paragraph (2) of subsection (d) of Section 12-14,  
15 paragraph (1.2) of subsection (b) of Section 12-14.1, or  
16 paragraph (2) of subsection (b) of Section 12-14.1 of the  
17 Criminal Code of 1961, the sentence shall be a term of  
18 natural life imprisonment;

19 (3) except as otherwise provided in the statute  
20 defining the offense, for a Class X felony, the sentence  
21 shall be not less than 6 years and not more than 30 years;

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

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

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

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

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

13          (c) A motion to reduce a sentence may be made, or the court  
14          may reduce a sentence without motion, within 30 days after the  
15          sentence is imposed. A defendant's challenge to the correctness  
16          of a sentence or to any aspect of the sentencing hearing shall  
17          be made by a written motion filed within 30 days following the  
18          imposition of sentence. However, the court may not increase a  
19          sentence once it is imposed.

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

25          If a motion filed pursuant to this subsection is timely  
26          filed within 30 days after the sentence is imposed, then for

1 purposes of perfecting an appeal, a final judgment shall not be  
2 considered to have been entered until the motion to reduce a  
3 sentence has been decided by order entered by the trial court.

4 A motion filed pursuant to this subsection shall not be  
5 considered to have been timely filed unless it is filed with  
6 the circuit court clerk within 30 days after the sentence is  
7 imposed together with a notice of motion, which notice of  
8 motion shall set the motion on the court's calendar on a date  
9 certain within a reasonable time after the date of filing.

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

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

25 (2) for a Class 1 felony or a Class 2 felony except for  
26 the offense of criminal sexual assault if committed on or



1 after the effective date of this amendatory Act of the 94th  
2 General Assembly, 2 years;

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

4 (4) for defendants who commit the offense of predatory  
5 criminal sexual assault of a child, aggravated criminal  
6 sexual assault, or criminal sexual assault, on or after the  
7 effective date of this amendatory Act of the 94th General  
8 Assembly, the term of mandatory supervised release shall  
9 range from a minimum of 3 years to a maximum of the natural  
10 life of the defendant;

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

17 (e) A defendant who has a previous and unexpired sentence  
18 of imprisonment imposed by another state or by any district  
19 court of the United States and who, after sentence for a crime  
20 in Illinois, must return to serve the unexpired prior sentence  
21 may have his sentence by the Illinois court ordered to be  
22 concurrent with the prior sentence in the other state. The  
23 court may order that any time served on the unexpired portion  
24 of the sentence in the other state, prior to his return to  
25 Illinois, shall be credited on his Illinois sentence. The other  
26 state shall be furnished with a copy of the order imposing

1 sentence which shall provide that, when the offender is  
2 released from confinement of the other state, whether by parole  
3 or by termination of sentence, the offender shall be  
4 transferred by the Sheriff of the committing county to the  
5 Illinois Department of Corrections. The court shall cause the  
6 Department of Corrections to be notified of such sentence at  
7 the time of commitment and to be provided with copies of all  
8 records regarding the sentence.

9 (f) A defendant who has a previous and unexpired sentence  
10 of imprisonment imposed by an Illinois circuit court for a  
11 crime in this State and who is subsequently sentenced to a term  
12 of imprisonment by another state or by any district court of  
13 the United States and who has served a term of imprisonment  
14 imposed by the other state or district court of the United  
15 States, and must return to serve the unexpired prior sentence  
16 imposed by the Illinois Circuit Court may apply to the court  
17 which imposed sentence to have his sentence reduced.

18 The circuit court may order that any time served on the  
19 sentence imposed by the other state or district court of the  
20 United States be credited on his Illinois sentence. Such  
21 application for reduction of a sentence under this subsection  
22 (f) shall be made within 30 days after the defendant has  
23 completed the sentence imposed by the other state or district  
24 court of the United States.

25 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;  
26 94-715, eff. 12-13-05.)