



Judiciary II - Criminal Law Committee

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09600HB1032ham001

LRB096 09808 RLC 23488 a

1 AMENDMENT TO HOUSE BILL 1032

2 AMENDMENT NO. _____. Amend House Bill 1032 on page 9, by
3 inserting immediately below line 8 the following:

4 "Section 10. The Unified Code of Corrections is amended by
5 changing Section 5-8-4 as follows:

6 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

7 Sec. 5-8-4. Concurrent and Consecutive Terms of
8 Imprisonment.

9 (a) When multiple sentences of imprisonment are imposed on
10 a defendant at the same time, or when a term of imprisonment is
11 imposed on a defendant who is already subject to sentence in
12 this State or in another state, or for a sentence imposed by
13 any district court of the United States, the sentences shall
14 run concurrently or consecutively as determined by the court.
15 When one of the offenses for which a defendant was convicted
16 was a violation of Section 32-5.2 of the Criminal Code of 1961

1 and the offense was committed in attempting or committing a
2 forcible felony, the court may impose consecutive sentences.
3 When a term of imprisonment is imposed on a defendant by an
4 Illinois circuit court and the defendant is subsequently
5 sentenced to a term of imprisonment by another state or by a
6 district court of the United States, the Illinois circuit court
7 which imposed the sentence may order that the Illinois sentence
8 be made concurrent with the sentence imposed by the other state
9 or district court of the United States. The defendant must
10 apply to the circuit court within 30 days after the defendant's
11 sentence imposed by the other state or district of the United
12 States is finalized. The court shall impose consecutive
13 sentences if:

14 (i) one of the offenses for which defendant was
15 convicted was first degree murder or a Class X or Class 1
16 felony and the defendant inflicted severe bodily injury, or

17 (ii) the defendant was convicted of a violation of
18 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
19 1961, or

20 (iii) the defendant was convicted of armed violence
21 based upon the predicate offense of solicitation of murder,
22 solicitation of murder for hire, heinous battery,
23 aggravated battery of a senior citizen, criminal sexual
24 assault, a violation of subsection (g) of Section 5 of the
25 Cannabis Control Act, cannabis trafficking, a violation of
26 subsection (a) of Section 401 of the Illinois Controlled

1 Substances Act, controlled substance trafficking involving
2 a Class X felony amount of controlled substance under
3 Section 401 of the Illinois Controlled Substances Act, a
4 violation of the Methamphetamine Control and Community
5 Protection Act, calculated criminal drug conspiracy, or
6 streetgang criminal drug conspiracy, or

7 (iv) the defendant was convicted of the offense of
8 leaving the scene of a motor vehicle accident involving
9 death or personal injuries under Section 11-401 and either:
10 (A) aggravated driving under the influence of alcohol,
11 other drug or drugs, or intoxicating compound or compounds,
12 or any combination thereof under Section 11-501 of the
13 Illinois Vehicle Code, or (B) reckless homicide under
14 Section 9-3 of the Criminal Code of 1961, or both an
15 offense described in subdivision (A) and an offense
16 described in subdivision (B), or

17 (v) the defendant was convicted of a violation of
18 Section 9-3.1 (concealment of homicidal death) or Section
19 12-20.5 (dismembering a human body) of the Criminal Code of
20 1961, or

21 (vi) the defendant was convicted of a violation of
22 Section 24-3.7 (use of a stolen firearm in the commission
23 of an offense) of the Criminal Code of 1961,

24 in which event the court shall enter sentences to run
25 consecutively. Sentences shall run concurrently unless
26 otherwise specified by the court.

1 (b) Except in cases where consecutive sentences are
2 mandated, the court shall impose concurrent sentences unless,
3 having regard to the nature and circumstances of the offense
4 and the history and character of the defendant, it is of the
5 opinion that consecutive sentences are required to protect the
6 public from further criminal conduct by the defendant, the
7 basis for which the court shall set forth in the record.

8 (c) (1) For sentences imposed under law in effect prior to
9 February 1, 1978 the aggregate maximum of consecutive
10 sentences shall not exceed the maximum term authorized
11 under Section 5-8-1 for the 2 most serious felonies
12 involved. The aggregate minimum period of consecutive
13 sentences shall not exceed the highest minimum term
14 authorized under Section 5-8-1 for the 2 most serious
15 felonies involved. When sentenced only for misdemeanors, a
16 defendant shall not be consecutively sentenced to more than
17 the maximum for one Class A misdemeanor.

18 (2) For sentences imposed under the law in effect on or
19 after February 1, 1978, the aggregate of consecutive
20 sentences for offenses that were committed as part of a
21 single course of conduct during which there was no
22 substantial change in the nature of the criminal objective
23 shall not exceed the sum of the maximum terms authorized
24 under Section 5-8-2 for the 2 most serious felonies
25 involved, but no such limitation shall apply for offenses
26 that were not committed as part of a single course of

1 conduct during which there was no substantial change in the
2 nature of the criminal objective. When sentenced only for
3 misdemeanors, a defendant shall not be consecutively
4 sentenced to more than the maximum for one Class A
5 misdemeanor.

6 (d) An offender serving a sentence for a misdemeanor who is
7 convicted of a felony and sentenced to imprisonment shall be
8 transferred to the Department of Corrections, and the
9 misdemeanor sentence shall be merged in and run concurrently
10 with the felony sentence.

11 (e) In determining the manner in which consecutive
12 sentences of imprisonment, one or more of which is for a
13 felony, will be served, the Department of Corrections shall
14 treat the offender as though he had been committed for a single
15 term with the following incidents:

16 (1) the maximum period of a term of imprisonment shall
17 consist of the aggregate of the maximums of the imposed
18 indeterminate terms, if any, plus the aggregate of the
19 imposed determinate sentences for felonies plus the
20 aggregate of the imposed determinate sentences for
21 misdemeanors subject to paragraph (c) of this Section;

22 (2) the parole or mandatory supervised release term
23 shall be as provided in paragraph (e) of Section 5-8-1 of
24 this Code for the most serious of the offenses involved;

25 (3) the minimum period of imprisonment shall be the
26 aggregate of the minimum and determinate periods of

1 imprisonment imposed by the court, subject to paragraph (c)
2 of this Section; and

3 (4) the offender shall be awarded credit against the
4 aggregate maximum term and the aggregate minimum term of
5 imprisonment for all time served in an institution since
6 the commission of the offense or offenses and as a
7 consequence thereof at the rate specified in Section 3-6-3
8 of this Code.

9 (f) A sentence of an offender committed to the Department
10 of Corrections at the time of the commission of the offense
11 shall be served consecutive to the sentence under which he is
12 held by the Department of Corrections. However, in case such
13 offender shall be sentenced to punishment by death, the
14 sentence shall be executed at such time as the court may fix
15 without regard to the sentence under which such offender may be
16 held by the Department.

17 (g) A sentence under Section 3-6-4 for escape or attempted
18 escape shall be served consecutive to the terms under which the
19 offender is held by the Department of Corrections.

20 (h) If a person charged with a felony commits a separate
21 felony while on pre-trial release or in pretrial detention in a
22 county jail facility or county detention facility, the
23 sentences imposed upon conviction of these felonies shall be
24 served consecutively regardless of the order in which the
25 judgments of conviction are entered.

26 (h-1) If a person commits a battery against a county

1 correctional officer or sheriff's employee while serving a
2 sentence or in pretrial detention in a county jail facility,
3 then the sentence imposed upon conviction of the battery shall
4 be served consecutively with the sentence imposed upon
5 conviction of the earlier misdemeanor or felony, regardless of
6 the order in which the judgments of conviction are entered.

7 (i) If a person admitted to bail following conviction of a
8 felony commits a separate felony while free on bond or if a
9 person detained in a county jail facility or county detention
10 facility following conviction of a felony commits a separate
11 felony while in detention, any sentence following conviction of
12 the separate felony shall be consecutive to that of the
13 original sentence for which the defendant was on bond or
14 detained.

15 (j) If a person is found to be in possession of an item of
16 contraband, as defined in clause (c)(2) of Section 31A-1.1 of
17 the Criminal Code of 1961, while serving a sentence in a penal
18 institution or while in pre-trial detention in a county jail,
19 the sentence imposed upon conviction for the offense of
20 possessing contraband in a penal institution shall be served
21 consecutively to the sentence imposed for the offense in which
22 the person is serving sentence in the county jail or serving
23 pretrial detention, regardless of the order in which the
24 judgments of conviction are entered.

25 (Source: P.A. 94-556, eff. 9-11-05; 94-985, eff. 1-1-07;
26 95-379, eff. 8-23-07; 95-766, eff. 1-1-09.)".