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LRB096 05323 RLC 23339 a

1 AMENDMENT TO HOUSE BILL 1964

2 AMENDMENT NO. _____. Amend House Bill 1964 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-8-1 and by adding Section 3-3-5.1 as
6 follows:

7 (730 ILCS 5/3-3-5.1 new)

8 Sec. 3-3-5.1. First degree murder; domestic relations;
9 early release.

10 (a) Notwithstanding any other provision of law to the
11 contrary, any committed person who has been sentenced to death
12 or natural life imprisonment shall be eligible for parole or
13 mandatory supervised release after having served 15 years of
14 such sentence when the Prisoner Review Board determines by
15 using the guidelines established by this Section that there is
16 a strong and reasonable probability that the person will not

1 thereafter violate the law and the person:

2 (1) pleaded guilty to or was found guilty of first
3 degree murder of a spouse or household member who had an
4 intimate dating or engagement relationship with the
5 committed person;

6 (2) has no prior felony convictions that constitute
7 violent crimes as defined in subsection (c) of Section 3 of
8 the Rights of Crime Victims and Witnesses Act;

9 (3) no longer has a cognizable legal claim or legal
10 recourse; and

11 (4) has a history of being a victim of continual and
12 substantial physical or sexual domestic violence that was
13 not presented as an affirmative defense at trial or
14 sentencing and such history can be corroborated with
15 evidence of facts or circumstances which existed at the
16 time of the alleged physical or sexual domestic violence of
17 the offender, including but not limited to witness
18 statements, hospital records, social services records, and
19 law enforcement records.

20 (b) The Prisoner Review Board shall give a thorough review
21 of the case history and prison record of any offender described
22 in subsection (a) of this Section. At the end of the Board's
23 review, the Board shall provide the offender with a copy of a
24 statement of reasons for its parole or mandatory supervised
25 release decision.

26 (c) Any offender released under the provisions of this

1 Section shall be under the supervision of the Prisoner Review
2 Board for an amount of time to be determined by the Board.

3 (d) The Board shall consider, but not be limited to the
4 following criteria when making its parole or mandatory
5 supervised release decision:

6 (1) length of time served;

7 (2) correctional institution record and
8 self-rehabilitation efforts;

9 (3) whether the history of the case included
10 corroborative material of physical, sexual, mental, or
11 emotional abuse of the offender, including but not limited
12 to witness statements, hospital records, social service
13 records, and law enforcement records;

14 (4) if an offer of a plea bargain was made and if so,
15 why the offender rejected or accepted the offer;

16 (5) any victim information submitted under the Rights
17 of Crime Victims and Witnesses Act;

18 (6) the offender's continued claim of innocence;

19 (7) the age and maturity of the offender at the time of
20 the Board's decision;

21 (8) the age and maturity of the offender at the time of
22 the crime and any contributing influence affecting the
23 offender's judgment;

24 (9) the presence of a workable parole plan; and

25 (10) community and family support.

26 (e) Nothing in this Section shall limit the review of any

1 offender's case who is eligible for parole or mandatory
2 supervised release prior to 15 years, nor shall it limit in any
3 way the Prisoner Review Board's power to grant parole or
4 mandatory supervised release prior to 15 years.

5 (f) Nothing in this Section shall limit the review of any
6 defendant's case who has applied for executive clemency, nor
7 shall it limit in any way the Governor's power to grant
8 clemency.

9 (g) It shall be the responsibility of the defendant to
10 petition the Board for a hearing under this subsection.

11 (h) A person commits the crime of perjury under Section
12 32-2 of the Criminal Code of 1961 if he or she, with the
13 purpose to deceive, knowingly makes a false witness statement
14 to the Board.

15 (i) In cases where witness statements alleging physical or
16 sexual domestic violence are in conflict as to whether such
17 violence occurred or was continual and substantial in nature,
18 the history of such alleged violence shall be established by
19 other corroborative evidence in addition to witness
20 statements, as provided by subsection (a) of this Section. A
21 contradictory statement of the victim shall not be deemed a
22 conflicting statement for purposes of this Section.

23 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

24 (Text of Section after amendment by P.A. 95-983)

25 Sec. 5-8-1. Sentence of Imprisonment for Felony.

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

5 (1) for first degree murder,

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

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

16 (c) the court shall sentence the defendant to a
17 term of natural life imprisonment when the death
18 penalty is not imposed if the defendant,

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

21 (ii) is a person who, at the time of the
22 commission of the murder, had attained the age of
23 17 or more and is found guilty of murdering an
24 individual under 12 years of age; or, irrespective
25 of the defendant's age at the time of the
26 commission of the offense, is found guilty of

1 murdering more than one victim, or

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

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

22 (v) is found guilty of murdering an emergency
23 medical technician - ambulance, emergency medical
24 technician - intermediate, emergency medical
25 technician - paramedic, ambulance driver or other
26 medical assistance or first aid person while

1 employed by a municipality or other governmental
2 unit when the person was killed in the course of
3 performing official duties or to prevent the
4 person from performing official duties or in
5 retaliation for performing official duties and the
6 defendant knew or should have known that the
7 murdered individual was an emergency medical
8 technician - ambulance, emergency medical
9 technician - intermediate, emergency medical
10 technician - paramedic, ambulance driver, or other
11 medical assistant or first aid personnel, or

12 (vi) is a person who, at the time of the
13 commission of the murder, had not attained the age
14 of 17, and is found guilty of murdering a person
15 under 12 years of age and the murder is committed
16 during the course of aggravated criminal sexual
17 assault, criminal sexual assault, or aggravated
18 kidnaping, or

19 (vii) is found guilty of first degree murder
20 and the murder was committed by reason of any
21 person's activity as a community policing
22 volunteer or to prevent any person from engaging in
23 activity as a community policing volunteer. For
24 the purpose of this Section, "community policing
25 volunteer" has the meaning ascribed to it in
26 Section 2-3.5 of the Criminal Code of 1961.

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

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

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

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

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

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

25 (2.5) for a person convicted under the circumstances
26 described in paragraph (3) of subsection (b) of Section

1 12-13, paragraph (2) of subsection (d) of Section 12-14,
2 paragraph (1.2) of subsection (b) of Section 12-14.1, or
3 paragraph (2) of subsection (b) of Section 12-14.1 of the
4 Criminal Code of 1961, the sentence shall be a term of
5 natural life imprisonment;

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

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

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

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

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

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

26 (c) A motion to reduce a sentence may be made, or the court

1 may reduce a sentence without motion, within 30 days after the
2 sentence is imposed. A defendant's challenge to the correctness
3 of a sentence or to any aspect of the sentencing hearing shall
4 be made by a written motion filed within 30 days following the
5 imposition of sentence. However, the court may not increase a
6 sentence once it is imposed.

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

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

17 A motion filed pursuant to this subsection shall not be
18 considered to have been timely filed unless it is filed with
19 the circuit court clerk within 30 days after the sentence is
20 imposed together with a notice of motion, which notice of
21 motion shall set the motion on the court's calendar on a date
22 certain within a reasonable time after the date of filing.

23 (d) Except where a term of natural life is imposed and
24 except as otherwise provided in Section 3-3-5.1, every sentence
25 shall include as though written therein a term in addition to
26 the term of imprisonment. For those sentenced under the law in

1 effect prior to February 1, 1978, such term shall be identified
2 as a parole term. For those sentenced on or after February 1,
3 1978, such term shall be identified as a mandatory supervised
4 release term. Subject to earlier termination under Section
5 3-3-8, the parole or mandatory supervised release term shall be
6 as follows:

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

15 (2) for a Class 1 felony or a Class 2 felony except for
16 the offense of criminal sexual assault if committed on or
17 after the effective date of this amendatory Act of the 94th
18 General Assembly and except for the offenses of manufacture
19 and dissemination of child pornography under clauses
20 (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code
21 of 1961, if committed on or 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, manufacture of child pornography, or
3 dissemination of child pornography after January 1, 2009,
4 the term of mandatory supervised release shall range from a
5 minimum of 3 years to a maximum of the natural life of the
6 defendant;

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

13 (e) A defendant who has a previous and unexpired sentence
14 of imprisonment imposed by another state or by any district
15 court of the United States and who, after sentence for a crime
16 in Illinois, must return to serve the unexpired prior sentence
17 may have his sentence by the Illinois court ordered to be
18 concurrent with the prior sentence in the other state. The
19 court may order that any time served on the unexpired portion
20 of the sentence in the other state, prior to his return to
21 Illinois, shall be credited on his Illinois sentence. The other
22 state shall be furnished with a copy of the order imposing
23 sentence which shall provide that, when the offender is
24 released from confinement of the other state, whether by parole
25 or by termination of sentence, the offender shall be
26 transferred by the Sheriff of the committing county to the

1 Illinois Department of Corrections. The court shall cause the
2 Department of Corrections to be notified of such sentence at
3 the time of commitment and to be provided with copies of all
4 records regarding the sentence.

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

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

21 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
22 94-715, eff. 12-13-05; 95-983, eff. 6-1-09.)".