



Sen. Toi W. Hutchinson

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10000HB1804sam001

LRB100 09059 RLC 34872 a

1 AMENDMENT TO HOUSE BILL 1804

2 AMENDMENT NO. _____. Amend House Bill 1804 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 116-2.2 as follows:

6 (725 ILCS 5/116-2.2 new)

7 Sec. 116-2.2. Petition to resentence; statutory penalty
8 reduction.

9 (a) A person serving a sentence for any criminal offense
10 under the Criminal Code of 1961 or the Criminal Code of 2012 or
11 a similar local ordinance for which the statutory penalty has
12 been subsequently reduced or altered may petition the trial
13 court that entered the judgment of conviction to request
14 resentencing or dismissal in accordance with the statutory
15 penalty in effect at the time of the filing of the petition.

16 (b) Upon verified petition for resentencing by the

1 defendant, the trial court that entered the judgment of
2 conviction in a defendant's case may order resentencing at any
3 time after 30 days have passed following the imposition of a
4 sentence under a guilty verdict or a finding of guilt for any
5 criminal offense under the Criminal Code of 1961 or the
6 Criminal Code of 2012 or a similar local ordinance provided:

7 (1) the State's Attorney or other prosecuting attorney
8 is given at least 30-day notice of the filing of the
9 petition seeking resentencing; and

10 (2) the statutory penalty for the offense for which the
11 defendant was found guilty or convicted, since his or her
12 plea of guilty or conviction, has been subsequently reduced
13 or altered in a manner that includes, but is not limited
14 to:

15 (A) reducing the minimum or maximum sentence for
16 the offense;

17 (B) granting the court more discretion over the
18 range of penalties available for the offense; or

19 (C) changing the penalties associated with the
20 offense or conduct underlying the offense in any way.

21 (c) In determining whether to grant a petition under this
22 Section, the court shall determine whether the petitioner
23 satisfies the criteria in subsection (b). If the petitioner
24 satisfies the criteria in subsection (b), the court shall
25 resentence the defendant in a manner that is consistent with
26 the penalty the defendant would have received if the statutory

1 penalty in effect at the time of the filing of the petition was
2 in effect on the date when the offense was committed or the
3 original sentence was imposed, unless the court, in its
4 discretion, determines that resentencing the petitioner would
5 pose an unreasonable risk of danger to public safety. In
6 exercising its discretion, the court may consider any of the
7 following:

8 (1) the petitioner's criminal conviction history,
9 including the type of offenses committed, the extent of
10 injury to victims, the length of prior prison commitments,
11 and the remoteness of the offenses;

12 (2) the petitioner's disciplinary record and record of
13 rehabilitation while incarcerated; and

14 (3) any other evidence the court, within its
15 discretion, determines to be relevant in deciding whether a
16 new sentence would result in an unreasonable risk of danger
17 to public safety.

18 In this subsection (c), "unreasonable risk of danger to
19 public safety" means an unreasonable risk that the petitioner
20 will commit a new violent felony under the Criminal Code of
21 2012.

22 (d) A person who is resentenced under subsection (b) shall
23 be given credit for time served and shall be subject to parole
24 or mandatory supervised release for one year following
25 completion of his or her sentence, unless the court, in its
26 discretion, as part of its resentencing order, releases the

1 person from parole or mandatory supervised release.

2 (e) Resentencing under this Section may not result in the
3 imposition of a term of imprisonment longer than the original
4 sentence.

5 (f) A person who has completed his or her sentence for a
6 conviction of a felony who would have been guilty of a
7 misdemeanor if the current law was in effect on the date when
8 the offense was committed or the original sentence was imposed,
9 may petition the trial court that entered the judgment of
10 conviction in his or her case to have the felony conviction
11 designated as a misdemeanor.

12 (g) If the petition satisfies the criteria in subsection
13 (f), the court shall designate the felony offense as a
14 misdemeanor.

15 (h) A person who has completed his or her sentence for a
16 conviction of a felony who would not have been guilty of an
17 offense if the statutory penalty in effect at the time of the
18 filing of the petition was in effect on the date when the
19 offense was committed or the original sentence was imposed, may
20 file an application before the trial court that entered the
21 judgment of conviction in his or her case to have the
22 conviction dismissed and sealed."