



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB4574**

Introduced 1/11/2006, by Rep. Robert S. Molaro

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-8-4

from Ch. 38, par. 1005-8-4

Amends the Unified Code of Corrections. Provides that an offender committed to the Department of Corrections who commits a battery or aggravated battery while incarcerated in a facility of the Department of Corrections shall serve his or her sentence for the battery or aggravated battery concurrently with the sentence for the offense or offenses for which he or she was incarcerated at the time of the commission of the battery or aggravated battery. Provides that the sentence for the battery or aggravated battery shall run from the time of the commission of the battery or aggravated battery.

LRB094 17997 RLC 53300 b

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 5-8-4 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 a term of imprisonment is imposed on a defendant by an  
16 Illinois circuit court and the defendant is subsequently  
17 sentenced to a term of imprisonment by another state or by a  
18 district court of the United States, the Illinois circuit court  
19 which imposed the sentence may order that the Illinois sentence  
20 be made concurrent with the sentence imposed by the other state  
21 or district court of the United States. The defendant must  
22 apply to the circuit court within 30 days after the defendant's  
23 sentence imposed by the other state or district of the United  
24 States is finalized. The court shall impose consecutive  
25 sentences if:

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

29 (ii) the defendant was convicted of a violation of  
30 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of  
31 1961, or

32 (iii) the defendant was convicted of armed violence

1 based upon the predicate offense of solicitation of murder,  
2 solicitation of murder for hire, heinous battery,  
3 aggravated battery of a senior citizen, criminal sexual  
4 assault, a violation of subsection (g) of Section 5 of the  
5 Cannabis Control Act, cannabis trafficking, a violation of  
6 subsection (a) of Section 401 of the Illinois Controlled  
7 Substances Act, controlled substance trafficking involving  
8 a Class X felony amount of controlled substance under  
9 Section 401 of the Illinois Controlled Substances Act, a  
10 violation of the Methamphetamine Control and Community  
11 Protection Act, calculated criminal drug conspiracy, or  
12 streetgang criminal drug conspiracy, or

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

23 (v) the defendant was convicted of a violation of  
24 Section 9-3.1 (concealment of homicidal death) or Section  
25 12-20.5 (dismembering a human body) of the Criminal Code of  
26 1961,

27 in which event the court shall enter sentences to run  
28 consecutively. Sentences shall run concurrently unless  
29 otherwise specified by the court.

30 (b) Except in cases where consecutive sentences are  
31 mandated, the court shall impose concurrent sentences unless,  
32 having regard to the nature and circumstances of the offense  
33 and the history and character of the defendant, it is of the  
34 opinion that consecutive sentences are required to protect the  
35 public from further criminal conduct by the defendant, the  
36 basis for which the court shall set forth in the record.

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

11 (2) For sentences imposed under the law in effect on or  
12 after February 1, 1978, the aggregate of consecutive  
13 sentences for offenses that were committed as part of a  
14 single course of conduct during which there was no  
15 substantial change in the nature of the criminal objective  
16 shall not exceed the sum of the maximum terms authorized  
17 under Section 5-8-2 for the 2 most serious felonies  
18 involved, but no such limitation shall apply for offenses  
19 that were not committed as part of a single course of  
20 conduct during which there was no substantial change in the  
21 nature of the criminal objective. When sentenced only for  
22 misdemeanors, a defendant shall not be consecutively  
23 sentenced to more than the maximum for one Class A  
24 misdemeanor.

25 (d) An offender serving a sentence for a misdemeanor who is  
26 convicted of a felony and sentenced to imprisonment shall be  
27 transferred to the Department of Corrections, and the  
28 misdemeanor sentence shall be merged in and run concurrently  
29 with the felony sentence.

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

35 (1) the maximum period of a term of imprisonment shall  
36 consist of the aggregate of the maximums of the imposed

1 indeterminate terms, if any, plus the aggregate of the  
2 imposed determinate sentences for felonies plus the  
3 aggregate of the imposed determinate sentences for  
4 misdemeanors subject to paragraph (c) of this Section;

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

8 (3) the minimum period of imprisonment shall be the  
9 aggregate of the minimum and determinate periods of  
10 imprisonment imposed by the court, subject to paragraph (c)  
11 of this Section; and

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

18 (f) A sentence of an offender committed to the Department  
19 of Corrections at the time of the commission of the offense  
20 shall be served consecutive to the sentence under which he is  
21 held by the Department of Corrections; except that an offender  
22 committed to the Department of Corrections who commits a  
23 battery or aggravated battery while incarcerated in a facility  
24 of the Department of Corrections shall serve his or her  
25 sentence for the battery or aggravated battery concurrently  
26 with the sentence for the offense or offenses for which he or  
27 she was incarcerated at the time of the commission of the  
28 battery or aggravated battery. The sentence for the battery or  
29 aggravated battery shall run from the time of the commission of  
30 the battery or aggravated battery. However, in case such  
31 offender shall be sentenced to punishment by death, the  
32 sentence shall be executed at such time as the court may fix  
33 without regard to the sentence under which such offender may be  
34 held by the Department.

35 (g) A sentence under Section 3-6-4 for escape or attempted  
36 escape shall be served consecutive to the terms under which the

1 offender is held by the Department of Corrections.

2 (h) If a person charged with a felony commits a separate  
3 felony while on pre-trial release or in pretrial detention in a  
4 county jail facility or county detention facility, the  
5 sentences imposed upon conviction of these felonies shall be  
6 served consecutively regardless of the order in which the  
7 judgments of conviction are entered.

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

16 (Source: P.A. 93-160, eff. 7-10-03; 93-768, eff. 7-20-04;  
17 94-556, eff. 9-11-05.)