



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3521

Introduced 2/24/2011, by Rep. Patricia R. Bellock - Joe Sosnowski

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-13
730 ILCS 5/5-8-1

from Ch. 38, par. 12-13
from Ch. 38, par. 1005-8-1

Amends the Criminal Code of 1961. Provides that a person who has been convicted of a second or subsequent offense for criminal sexual assault in which the penalty is not natural life imprisonment shall be sentenced to a term of imprisonment of not less than 25 years (unless the minimum sentence is greater than 25 years) and not exceeding natural life imprisonment. Amends the Unified Code of Corrections. Provides that the minimum mandatory supervised release term for defendants who commit a second or subsequent offense of criminal sexual assault on or after the effective date of the amendatory Act shall be the natural life of the defendant (rather than from 3 years to natural life).

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Criminal Code of 1961 is amended by changing
5 Section 12-13 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 Sec. 12-13. Criminal Sexual Assault.

8 (a) The accused commits criminal sexual assault if he or
9 she:

10 (1) commits an act of sexual penetration by the use of
11 force or threat of force; or

12 (2) commits an act of sexual penetration and the
13 accused knew that the victim was unable to understand the
14 nature of the act or was unable to give knowing consent; or

15 (3) commits an act of sexual penetration with a victim
16 who was under 18 years of age when the act was committed
17 and the accused was a family member; or

18 (4) commits an act of sexual penetration with a victim
19 who was at least 13 years of age but under 18 years of age
20 when the act was committed and the accused was 17 years of
21 age or over and held a position of trust, authority or
22 supervision in relation to the victim.

23 (b) Sentence.

1 (1) Criminal sexual assault is a Class 1 felony.

2 (2) A person who is convicted of the offense of
3 criminal sexual assault as defined in paragraph (a)(1) or
4 (a)(2) after having previously been convicted of the
5 offense of criminal sexual assault or the offense of
6 exploitation of a child, or who is convicted of the offense
7 of criminal sexual assault as defined in paragraph (a)(1)
8 or (a)(2) after having previously been convicted under the
9 laws of this State or any other state of an offense that is
10 substantially equivalent to the offense of criminal sexual
11 assault or to the offense of exploitation of a child,
12 ~~commits a Class X felony for which the person~~ shall be
13 sentenced to a term of imprisonment of not less than 30
14 years and not exceeding natural life ~~imprisonment of not~~
15 ~~less than 30 years and not more than 60 years.~~ The
16 commission of the second or subsequent offense is required
17 to have been after the initial conviction for this
18 paragraph (2) to apply.

19 (3) A person who is convicted of the offense of
20 criminal sexual assault as defined in paragraph (a)(1) or
21 (a)(2) after having previously been convicted of the
22 offense of aggravated criminal sexual assault or the
23 offense of predatory criminal sexual assault of a child, or
24 who is convicted of the offense of criminal sexual assault
25 as defined in paragraph (a)(1) or (a)(2) after having
26 previously been convicted under the laws of this State or

1 any other state of an offense that is substantially
2 equivalent to the offense of aggravated criminal sexual
3 assault or the offense of criminal predatory sexual assault
4 shall be sentenced to a term of natural life imprisonment.
5 The commission of the second or subsequent offense is
6 required to have been after the initial conviction for this
7 paragraph (3) to apply.

8 (4) A person who is convicted for a ~~A~~ second or
9 subsequent offense conviction for a violation of paragraph
10 (a) (3) or (a) (4) or under any similar statute of this State
11 or any other state for any offense involving criminal
12 sexual assault that is substantially equivalent to or more
13 serious than the sexual assault prohibited under paragraph
14 (a) (3) or (a) (4) shall be sentenced to a term of
15 imprisonment of not less than 25 years and not exceeding
16 natural life imprisonment ~~is a Class X felony.~~

17 (5) (Blank). ~~When a person has any such prior~~
18 ~~conviction, the information or indictment charging that~~
19 ~~person shall state such prior conviction so as to give~~
20 ~~notice of the State's intention to treat the charge as a~~
21 ~~Class X felony. The fact of such prior conviction is not an~~
22 ~~element of the offense and may not be disclosed to the jury~~
23 ~~during trial unless otherwise permitted by issues properly~~
24 ~~raised during such trial.~~

25 (Source: P.A. 95-640, eff. 6-1-08.)

1 Section 10. The Unified Code of Corrections is amended by
2 changing Section 5-8-1 as follows:

3 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

4 Sec. 5-8-1. Natural life imprisonment; enhancements for
5 use of a firearm; mandatory supervised release terms.

6 (a) Except as otherwise provided in the statute defining
7 the offense or in Article 4.5 of Chapter V, a sentence of
8 imprisonment for a felony shall be a determinate sentence set
9 by the court under this Section, according to the following
10 limitations:

11 (1) for first degree murder,

12 (a) (blank),

13 (b) if a trier of fact finds beyond a reasonable
14 doubt that the murder was accompanied by exceptionally
15 brutal or heinous behavior indicative of wanton
16 cruelty or, except as set forth in subsection (a)(1)(c)
17 of this Section, that any of the aggravating factors
18 listed in subsection (b) or (b-5) of Section 9-1 of the
19 Criminal Code of 1961 are present, the court may
20 sentence the defendant to a term of natural life
21 imprisonment, or

22 (c) the court shall sentence the defendant to a
23 term of natural life imprisonment when the death
24 penalty is not imposed if the defendant,

25 (i) has previously been convicted of first

1 degree murder under any state or federal law, or

2 (ii) is a person who, at the time of the
3 commission of the murder, had attained the age of
4 17 or more and is found guilty of murdering an
5 individual under 12 years of age; or, irrespective
6 of the defendant's age at the time of the
7 commission of the offense, is found guilty of
8 murdering more than one victim, or

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

21 (iv) is found guilty of murdering an employee
22 of an institution or facility of the Department of
23 Corrections, or any similar local correctional
24 agency, when the employee was killed in the course
25 of performing his official duties, or to prevent
26 the employee from performing his official duties,

1 or in retaliation for the employee performing his
2 official duties, or

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

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

26 (vii) is found guilty of first degree murder

1 and the murder was committed by reason of any
2 person's activity as a community policing
3 volunteer or to prevent any person from engaging in
4 activity as a community policing volunteer. For
5 the purpose of this Section, "community policing
6 volunteer" has the meaning ascribed to it in
7 Section 2-3.5 of the Criminal Code of 1961.

8 For purposes of clause (v), "emergency medical
9 technician - ambulance", "emergency medical technician
10 - intermediate", "emergency medical technician -
11 paramedic", have the meanings ascribed to them in the
12 Emergency Medical Services (EMS) Systems Act.

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

16 (ii) if, during the commission of the offense,
17 the person personally discharged a firearm, 20
18 years shall be added to the term of imprisonment
19 imposed by the court;

20 (iii) if, during the commission of the
21 offense, the person personally discharged a
22 firearm that proximately caused great bodily harm,
23 permanent disability, permanent disfigurement, or
24 death to another person, 25 years or up to a term
25 of natural life shall be added to the term of
26 imprisonment imposed by the court.

1 (2) (blank);

2 (2.5) for a person convicted under the circumstances
3 described in paragraph (3) of subsection (b) of Section
4 12-13, paragraph (2) of subsection (d) of Section 12-14,
5 paragraph (1.2) of subsection (b) of Section 12-14.1, or
6 paragraph (2) of subsection (b) of Section 12-14.1 of the
7 Criminal Code of 1961, the sentence shall be a term of
8 natural life imprisonment.

9 (b) (Blank).

10 (c) (Blank).

11 (d) Subject to earlier termination under Section 3-3-8, the
12 parole or mandatory supervised release term shall be as
13 follows:

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

22 (2) for a Class 1 felony or a Class 2 felony except for
23 the offense of criminal sexual assault if committed on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly and except for the offenses of manufacture
26 and dissemination of child pornography under clauses

1 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code
2 of 1961, if committed on or after January 1, 2009, 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, or who commit the offense of aggravated child
9 pornography, manufacture of child pornography, or
10 dissemination of child pornography after January 1, 2009,
11 the term of mandatory supervised release shall range from a
12 minimum of 3 years to a maximum of the natural life of the
13 defendant;

14 (4.5) for defendants who commit a second or subsequent
15 offense of criminal sexual assault on or after the
16 effective date of this amendatory Act of the 97th General
17 Assembly, the term of mandatory supervised release shall be
18 the natural life of the defendant;

19 (5) if the victim is under 18 years of age, for a
20 second or subsequent offense of aggravated criminal sexual
21 abuse or felony criminal sexual abuse, 4 years, at least
22 the first 2 years of which the defendant shall serve in an
23 electronic home detention program under Article 8A of
24 Chapter V of this Code;

25 (6) for a felony domestic battery, aggravated domestic
26 battery, stalking, aggravated stalking, and a felony

1 violation of an order of protection, 4 years.

2 (e) (Blank).

3 (f) (Blank).

4 (Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09;
5 96-282, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1200, eff.
6 7-22-10; 96-1475, eff. 1-1-11; revised 9-16-10.)