

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 5-5-3.1 as follows:

6 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

7 Sec. 5-5-3.1. Factors in Mitigation.

8 (a) The following grounds shall be accorded weight in favor
9 of withholding or minimizing a sentence of imprisonment:

10 (1) The defendant's criminal conduct neither caused
11 nor threatened serious physical harm to another.

12 (2) The defendant did not contemplate that his criminal
13 conduct would cause or threaten serious physical harm to
14 another.

15 (3) The defendant acted under a strong provocation.

16 (4) There were substantial grounds tending to excuse or
17 justify the defendant's criminal conduct, though failing
18 to establish a defense.

19 (5) The defendant's criminal conduct was induced or
20 facilitated by someone other than the defendant.

21 (6) The defendant has compensated or will compensate
22 the victim of his criminal conduct for the damage or injury
23 that he sustained.

1 (7) The defendant has no history of prior delinquency
2 or criminal activity or has led a law-abiding life for a
3 substantial period of time before the commission of the
4 present crime.

5 (8) The defendant's criminal conduct was the result of
6 circumstances unlikely to recur.

7 (9) The character and attitudes of the defendant
8 indicate that he is unlikely to commit another crime.

9 (10) The defendant is particularly likely to comply
10 with the terms of a period of probation.

11 (11) The imprisonment of the defendant would entail
12 excessive hardship to his dependents.

13 (12) The imprisonment of the defendant would endanger
14 his or her medical condition.

15 (13) The defendant was intellectually disabled as
16 defined in Section 5-1-13 of this Code.

17 (14) The defendant sought or obtained emergency
18 medical assistance for an overdose and was convicted of a
19 Class 3 felony or higher possession, manufacture, or
20 delivery of a controlled, counterfeit, or look-alike
21 substance or a controlled substance analog under the
22 Illinois Controlled Substances Act or a Class 2 felony or
23 higher possession, manufacture or delivery of
24 methamphetamine under the Methamphetamine Control and
25 Community Protection Act.

26 (15) At the time of the offense, the defendant is or

1 had been the victim of domestic violence and the effects of
2 the domestic violence tended to excuse or justify the
3 defendant's criminal conduct. As used in this paragraph
4 (15), "domestic violence" means abuse as defined in Section
5 103 of the Illinois Domestic Violence Act of 1986.

6 (b) If the court, having due regard for the character of
7 the offender, the nature and circumstances of the offense and
8 the public interest finds that a sentence of imprisonment is
9 the most appropriate disposition of the offender, or where
10 other provisions of this Code mandate the imprisonment of the
11 offender, the grounds listed in paragraph (a) of this
12 subsection shall be considered as factors in mitigation of the
13 term imposed.

14 (Source: P.A. 97-227, eff. 1-1-12; 97-678, eff. 6-1-12; 98-463,
15 eff. 8-16-13.)

16 Section 10. The Code of Civil Procedure is amended by
17 changing Section 2-1401 as follows:

18 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

19 Sec. 2-1401. Relief from judgments.

20 (a) Relief from final orders and judgments, after 30 days
21 from the entry thereof, may be had upon petition as provided in
22 this Section. Writs of error coram nobis and coram vobis, bills
23 of review and bills in the nature of bills of review are
24 abolished. All relief heretofore obtainable and the grounds for

1 such relief heretofore available, whether by any of the
2 foregoing remedies or otherwise, shall be available in every
3 case, by proceedings hereunder, regardless of the nature of the
4 order or judgment from which relief is sought or of the
5 proceedings in which it was entered. Except as provided in
6 Section 6 of the Illinois Parentage Act of 1984, there shall be
7 no distinction between actions and other proceedings,
8 statutory or otherwise, as to availability of relief, grounds
9 for relief or the relief obtainable.

10 (b) The petition must be filed in the same proceeding in
11 which the order or judgment was entered but is not a
12 continuation thereof. The petition must be supported by
13 affidavit or other appropriate showing as to matters not of
14 record. All parties to the petition shall be notified as
15 provided by rule.

16 (b-5) A movant may present a meritorious claim under this
17 Section if the allegations in the petition establish each of
18 the following by a preponderance of the evidence:

19 (1) the movant was convicted of a forcible felony;

20 (2) the movant's participation in the offense was
21 related to him or her previously having been a victim of
22 domestic violence as perpetrated by an intimate partner;

23 (3) no evidence of domestic violence against the movant
24 was presented at the movant's sentencing hearing;

25 (4) the movant was unaware of the mitigating nature of
26 the evidence of the domestic violence at the time of

1 sentencing and could not have learned of its significance
2 sooner through diligence; and

3 (5) the new evidence of domestic violence against the
4 movant is material and noncumulative to other evidence
5 offered at the sentencing hearing, and is of such a
6 conclusive character that it would likely change the
7 sentence imposed by the original trial court.

8 Nothing in this subsection (b-5) shall prevent a movant
9 from applying for any other relief under this Section or any
10 other law otherwise available to him or her.

11 As used in this subsection (b-5):

12 "Domestic violence" means abuse as defined in Section
13 103 of the Illinois Domestic Violence Act of 1986.

14 "Forcible felony" has the meaning ascribed to the term
15 in Section 2-8 of the Criminal Code of 2012.

16 "Intimate partner" means a spouse or former spouse,
17 persons who have or allegedly have had a child in common,
18 or persons who have or have had a dating or engagement
19 relationship.

20 (c) Except as provided in Section 20b of the Adoption Act
21 and Section 2-32 of the Juvenile Court Act of 1987 or in a
22 petition based upon Section 116-3 of the Code of Criminal
23 Procedure of 1963, the petition must be filed not later than 2
24 years after the entry of the order or judgment. Time during
25 which the person seeking relief is under legal disability or
26 duress or the ground for relief is fraudulently concealed shall

1 be excluded in computing the period of 2 years.

2 (d) The filing of a petition under this Section does not
3 affect the order or judgment, or suspend its operation.

4 (e) Unless lack of jurisdiction affirmatively appears from
5 the record proper, the vacation or modification of an order or
6 judgment pursuant to the provisions of this Section does not
7 affect the right, title or interest in or to any real or
8 personal property of any person, not a party to the original
9 action, acquired for value after the entry of the order or
10 judgment but before the filing of the petition, nor affect any
11 right of any person not a party to the original action under
12 any certificate of sale issued before the filing of the
13 petition, pursuant to a sale based on the order or judgment.

14 (f) Nothing contained in this Section affects any existing
15 right to relief from a void order or judgment, or to employ any
16 existing method to procure that relief.

17 (Source: P.A. 95-331, eff. 8-21-07.)