

PRINCIPLES FOR LEGISLATION

1. The inquiry shall be whether the purposes of sentencing embodied in the Illinois Constitution, and the interests of justice based on current circumstances of the individual and the victim of the crime of conviction, changes in law, policy and scientific knowledge, would be better served by a modified sentence than the petitioner's completion of the original sentence.
2. Authorize a fair, consistent, and proportionate mechanism for judicial review and specify the criteria for eligibility and identify the people or entities that can file petitions for resentencing.
3. Specify the time frame in which the right to reapply after initial eligibility shall recur, for example successive petitions can be brought every 3 to 5 years.
4. Specify how individuals who are incarcerated shall be notified of their right to file petitions and have adequate assistance for the preparation of the petitions, which may be provided by counsel or nonlawyers.
5. Provide for procedures to screen and dismiss applications that lack merit on their face.
6. The judicial decisionmaker shall be authorized to modify any aspect of the original sentence so long as the portion of the modified sentence to be served is no more severe than the remainder of the original sentence. The sentence modification authority under this provision shall not be limited by any mandatory minimum terms of imprisonment or mandatory sentence enhancements under state law.
7. Victims shall be notified of the resentencing proceedings if they can be located with reasonable efforts. The judicial decisionmaker may consider any victim impact evidence offered in the original sentencing and victims shall be afforded an opportunity to submit a supplemental impact statement, limited to changed circumstances since the original sentencing. The victim shall also be informed if a restorative justice process is available to them either through local authorities or the Illinois Department of Corrections.
8. The prosecuting authority shall be properly served with the motion for resentencing and be given a reasonable time in which to respond.
9. An adequate record of the proceedings shall be maintained, and the judicial decisionmaker shall be required to state in the order resolving the petition the reasons for its decision to either grant or deny relief.
10. There shall be a mechanism for review of decisions under this provision, which may be discretionary or mandatory to ensure the process is fair.
11. The legislation shall set forth the authority for retroactive application of the resentencing procedure to individuals who were sentenced before its effective date.
12. Provide for collection of data to support analysis of the process and outcomes of the resentencing process. The court shall provide copies of its orders, both granting and denying relief, to the Sentencing Policy Advisory Council.