

(730 ILCS 5/5-4.5-110)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-4.5-110. SENTENCING GUIDELINES FOR INDIVIDUALS WITH PRIOR FELONY FIREARM-RELATED OR OTHER SPECIFIED CONVICTIONS.

(a) DEFINITIONS. For the purposes of this Section:

"Firearm" has the meaning ascribed to it in Section 1.1 of the Firearm Owners Identification Card Act.

"Qualifying predicate offense" means the following offenses under the Criminal Code of 2012:

(A) aggravated unlawful use of a weapon under Section 24-1.6 or similar offense under the Criminal Code of 1961, when the weapon is a firearm;

(B) unlawful use or possession of a weapon by a felon under Section 24-1.1 or similar offense under the Criminal Code of 1961, when the weapon is a firearm;

(C) first degree murder under Section 9-1 or similar offense under the Criminal Code of 1961;

(D) attempted first degree murder with a firearm or similar offense under the Criminal Code of 1961;

(E) aggravated kidnapping with a firearm under paragraph (6) or (7) of subsection (a) of Section 10-2 or similar offense under the Criminal Code of 1961;

(F) aggravated battery with a firearm under subsection (e) of Section 12-3.05 or similar offense under the Criminal Code of 1961;

(G) aggravated criminal sexual assault under Section 11-1.30 or similar offense under the Criminal Code of 1961;

(H) predatory criminal sexual assault of a child under Section 11-1.40 or similar offense under the Criminal Code of 1961;

(I) armed robbery under Section 18-2 or similar offense under the Criminal Code of 1961;

(J) vehicular hijacking under Section 18-3 or similar offense under the Criminal Code of 1961;

(K) aggravated vehicular hijacking under Section 18-4 or similar offense under the Criminal Code of 1961;

(L) home invasion with a firearm under paragraph (3), (4), or (5) of subsection (a) of Section 19-6 or similar offense under the Criminal Code of 1961;

(M) aggravated discharge of a firearm under Section 24-1.2 or similar offense under the Criminal Code of 1961;

(N) aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm under Section 24-1.2-5 or similar offense under the Criminal Code of 1961;

(O) unlawful use of firearm projectiles under Section 24-2.1 or similar offense under the Criminal Code of 1961;

(P) manufacture, sale, or transfer of bullets or shells represented to be armor piercing bullets, dragon's breath shotgun shells, bolo shells, or flechette shells under Section 24-2.2 or similar offense under the Criminal Code of 1961;

(Q) unlawful sale or delivery of firearms under Section 24-3 or similar offense under the Criminal Code of 1961;

(R) unlawful discharge of firearm projectiles under Section 24-3.2 or similar offense under the Criminal Code of 1961;

(S) unlawful sale or delivery of firearms on school premises of any school under Section 24-3.3 or

similar offense under the Criminal Code of 1961;

(T) unlawful purchase of a firearm under Section 24-3.5 or similar offense under the Criminal Code of 1961;

(U) use of a stolen firearm in the commission of an offense under Section 24-3.7 or similar offense under the Criminal Code of 1961;

(V) possession of a stolen firearm under Section 24-3.8 or similar offense under the Criminal Code of 1961;

(W) aggravated possession of a stolen firearm under Section 24-3.9 or similar offense under the Criminal Code of 1961;

(X) gunrunning under Section 24-3A or similar offense under the Criminal Code of 1961;

(Y) defacing identification marks of firearms under Section 24-5 or similar offense under the Criminal Code of 1961; and

(Z) armed violence under Section 33A-2 or similar offense under the Criminal Code of 1961.

(b) APPLICABILITY. For an offense committed on or after the effective date of this amendatory Act of the 100th General Assembly and before January 1, 2023, when a person is convicted of unlawful use or possession of a weapon by a felon, when the weapon is a firearm, or aggravated unlawful use of a weapon, when the weapon is a firearm, after being previously convicted of a qualifying predicate offense the person shall be subject to the sentencing guidelines under this Section.

(c) SENTENCING GUIDELINES.

(1) When a person is convicted of unlawful use or possession of a weapon by a felon, when the weapon is a firearm, and that person has been previously convicted of a qualifying predicate offense, the person shall be sentenced to a term of imprisonment within the sentencing range of not less than 7 years and not more than 14 years, unless the court finds that a departure from the sentencing guidelines under this paragraph is warranted under subsection (d) of this Section.

(2) When a person is convicted of aggravated unlawful use of a weapon, when the weapon is a firearm, and that person has been previously convicted of a qualifying predicate offense, the person shall be sentenced to a term of imprisonment within the sentencing range of not less than 6 years and not more than 7 years, unless the court finds that a departure from the sentencing guidelines under this paragraph is warranted under subsection (d) of this Section.

(3) The sentencing guidelines in paragraphs (1) and (2) of this subsection (c) apply only to offenses committed on and after the effective date of this amendatory Act of the 100th General Assembly and before January 1, 2023.

(d) DEPARTURE FROM SENTENCING GUIDELINES.

(1) At the sentencing hearing conducted under Section 5-4-1 of this Code, the court may depart from the sentencing guidelines provided in subsection (c) of this Section and impose a sentence otherwise authorized by law for the offense if the court, after considering any factor under paragraph (2) of this subsection (d) relevant to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record substantial and compelling justification that the sentence within the sentencing guidelines would be unduly harsh and that a sentence otherwise authorized by law would be

consistent with public safety and does not deprecate the seriousness of the offense.

(2) In deciding whether to depart from the sentencing guidelines under this paragraph, the court shall consider:

(A) the age, immaturity, or limited mental capacity of the defendant at the time of commission of the qualifying predicate or current offense, including whether the defendant was suffering from a mental or physical condition insufficient to constitute a defense but significantly reduced the defendant's culpability;

(B) the nature and circumstances of the qualifying predicate offense;

(C) the time elapsed since the qualifying predicate offense;

(D) the nature and circumstances of the current offense;

(E) the defendant's prior criminal history;

(F) whether the defendant committed the qualifying predicate or current offense under specific and credible duress, coercion, threat, or compulsion;

(G) whether the defendant aided in the apprehension of another felon or testified truthfully on behalf of another prosecution of a felony; and

(H) whether departure is in the interest of the person's rehabilitation, including employment or educational or vocational training, after taking into account any past rehabilitation efforts or dispositions of probation or supervision, and the defendant's cooperation or response to rehabilitation.

(3) When departing from the sentencing guidelines under this Section, the court shall specify on the record, the particular evidence, information, factor or factors, or other reasons which led to the departure from the sentencing guidelines. When departing from the sentencing range in accordance with this subsection (d), the court shall indicate on the sentencing order which departure factor or factors outlined in paragraph (2) of this subsection (d) led to the sentence imposed. The sentencing order shall be filed with the clerk of the court and shall be a public record.

(e) This Section is repealed on January 1, 2023.

(Source: P.A. 100-3, eff. 1-1-18.)