

Restore Justice Foundation

Criminal Justice Issues and Prisoners' Rights

<https://restorejustice.org/about-us/resources/know-more/>

Policy Issue Resources

The criminal legal and prison systems in Illinois can often feel like a jigsaw puzzle, full of interlocking laws, policies, and eccentricities that can be overwhelming even to experienced advocates. Restore Justice publishes a series of Know More posts. Each post will provide a straightforward overview of a different aspect of the Illinois criminal legal system.

In Illinois, it is legal for a person to be arrested, charged, and convicted of a crime they not only did not commit but also did not plan, agree, or intend to commit, and at which they were not even present. Like many states, Illinois has enacted a statute generally known as an accomplice liability law, which allows a person to be held criminally responsible for someone else's actions. In Illinois, this statute is called the law of accountability, or accountability theory.

Today, children as young as 16 may be automatically transferred to adult court if they are charged with certain offenses. Once in adult court, they face more punitive sentencing conventions and no longer benefit from consideration under a juvenile system that aims to provide age-appropriate, reintegration-focused treatment.

De facto life sentences (also known as virtual life sentences) refer to non-life sentences that are so long that the sentenced person will likely die or live out a significant majority of their natural lives before they are released.

Executive clemency is a set of powers granted to the Governor by the Illinois Constitution to pardon a person who has committed a crime or to commute his or her sentence.

In Illinois, felonies are sorted into six classes based on severity. A felonys class determines the range of sentences judges are legally permitted to dispense for an offense, outside a few offense-specific carveouts and enhancements. This range includes the mandatory minimum, which is the shortest prison term a judge is legally able to sentence for a given crime.

In Illinois, a person can be charged and convicted of first-degree murder, even if they did not actually kill the victim or intend to commit the murder. To charge someone with first-degree murder, an individual (1) intended to kill or do great bodily harm or knew that their actions would cause death; (2) knew that their actions created a strong probability of death or great bodily harm; or (3) were attempting or committing another felony crime. Under this rule, people can be and often are convicted of first-degree murder in scenarios where a death is unintentional or is caused by another person, all in the commission of a different type of crime.

In Illinois, judges are required to add 15, 20, or 25 years to the prison sentences of defendants convicted of certain felonies if the defendant was found to have possessed or discharged a firearm during the crime's commission.

The Freedom of Information Act (FOIA) is a set of laws that seeks to make government more transparent by giving individuals and organizations the power to request and receive public documents from public institutions. It does so by creating a relatively straightforward process for individuals to request documents and places requirements on government to respond in a timely manner or face potential lawsuits.

Recidivism describes the tendency for individuals to encounter the criminal justice system after concluding prior terms of prison or probation. Policymakers and advocates often use recidivism data to assess the effectiveness of correctional practices. However, while recidivism can describe a relapse into new criminal behavior, not all recidivism events should be considered synonymous with backslide into criminality.

What is retroactivity? When it comes to criminal legal policy, the word retroactivity means applying new legislation to previous cases to people who have already been sentenced. A retroactive law is a legislative act that looks backward or contemplates the past, affecting acts or facts that existed.

Before 1998, inmates in Illinois prison could proactively earn time off their court-appointed sentence through good behavior and participation in prison programming. This system changed in 1998 with the passage of truth-in-sentencing (TIS) laws. Today, these laws limit the amount of time inmates convicted of certain offenses can earn off their non-life sentences.

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