

725 ILCS 5/123

Section 725 ILCS 5/123 - Motion to resentence by the People

- (a)** The purpose of sentencing is to advance public safety through punishment, rehabilitation, and restorative justice. By providing a means to reevaluate a sentence after some time has passed, the General Assembly intends to provide the State's Attorney and the court with another tool to ensure that these purposes are achieved.
- (b)** At any time upon the recommendation of the State's Attorney of the county in which the defendant was sentenced, the State's Attorney may petition the sentencing court or the sentencing court's successor to resentence the offender if the original sentence no longer advances the interests of justice. The sentencing court or the sentencing court's successor may resentence the offender if it finds that the original sentence no longer advances the interests of justice.
- (c)** Upon the receipt of a petition for resentencing, the court may resentence the defendant in the same manner as if the offender had not previously been sentenced; however, the new sentence, if any, may not be greater than the initial sentence.
- (d)** The court may consider postconviction factors, including, but not limited to, the inmate's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice. Credit shall be given for time served.
- (e)** Victims shall be afforded all rights as outlined in the Rights of Crime Victims and Witnesses Act.
- (f)** A resentencing under this Section shall not reopen the defendant's conviction to challenges that would otherwise be barred.
- (g)** Nothing in this Section shall be construed to limit the power of the Governor under the Constitution to grant a reprieve, commutation of sentence, or pardon.

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Added by P.A. 102-0102, § 5, eff. 7/15/2021.
