

enhancement. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5 On May 1, 2011, defendant, while at the Market Place Mall in Champaign, Illinois, shot and injured Tony Brock. Following a February 2012 trial, a jury convicted defendant of attempted first degree murder (720 ILCS 5/8-4, 9-1(a) (West 2010)) and signed a special verdict form finding defendant, while committing the offense of attempted first degree murder, personally discharged a firearm that proximately caused great bodily harm to another person.

¶ 6 At an April 2012 sentencing hearing, the trial court imposed a maximum sentence of 30 years in DOC, a sentence for which defendant was statutorily required to serve 85% pursuant to the truth-in-sentencing statute. See 730 ILCS 5/3-6-3(a)(2)(ii) (West 2010). The court also imposed a mandatory 25-year sentencing enhancement based on the jury's finding on the special verdict that defendant discharged a firearm resulting in great bodily harm. The court also ordered defendant to serve 85% of the sentencing enhancement. On April 26, 2012, defendant filed a motion to reconsider sentence, asserting the court abused its discretion in imposing a maximum sentence, which the court denied. This appeal followed.

¶ 7

II. ANALYSIS

¶ 8 Defendant asserts the trial court erred in ordering defendant to serve 85% of the 25-year sentencing enhancement. We disagree.

¶ 9 Questions of statutory interpretation, such as determining whether the firearm sentencing enhancement constitutes a separate offense from attempted first degree murder, are subject to *de novo* review. See *People v. Robinson*, 172 Ill. 2d 452, 457, 667 N.E.2d 1305, 1307

(1996).

¶ 10 First, we note defendant failed to raise this issue in his motion to reconsider sentence. However, that deficiency is not fatal to defendant's claim because a void sentence may be challenged at any time, in any court. *People v. Thompson*, 209 Ill. 2d 19, 25, 805 N.E.2d 1200, 1203 (2004). A void sentence is one that does not conform to statutory requirements; thus, a trial court imposing such a sentence would be entering an order beyond its inherent power and jurisdiction. See *People v. Burse*, 2012 IL App (4th) 100973, ¶ 14, 970 N.E.2d 1276; *People v. Wade*, 116 Ill. 2d 1, 5, 506 N.E.2d 954, 955 (1987).

¶ 11 In support of his argument, defendant contends the attempted first degree murder charge is a separate penal offense from the offense prohibiting the use of a firearm during the commission of attempted first degree murder. Thus, defendant asserts, as the offense constituting the use of a firearm during the commission of attempted first degree murder is not specifically listed under the truth-in-sentencing statute (730 ILCS 5/3-6-3 (West 2010)), the offense, by default, is subject to day-for-day sentencing credit.

¶ 12 The State, in turn, asserts the offense of attempted murder "by use of a firearm" is not a distinct offense from attempted first degree murder; rather, the use of a firearm during the commission of attempted first degree murder is a question of fact from which the jury determines the *manner* in which the defendant attempted to commit the offense of murder. See *People v. Bloomingburg*, 346 Ill. App. 3d 308, 325-26, 804 N.E.2d 638, 652 (2004) ("The focus of the firearm-enhancement provision is the *manner* in which the death occurred, not the fact that it occurred."). Thus, the State argues, the firearm provision serves as a sentencing enhancement subject to the same truth-in-sentencing provisions as the underlying offense. We agree with the

State's argument.

¶ 13 Section 8-4(c) of the Illinois Criminal Code of 1961 requires a person convicted of attempted first degree murder to be sentenced as a Class X offender, except "an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person is a Class X felony for which 25 years or up to a term of natural life *shall be added* to the term of imprisonment imposed by the court[.]" (Emphasis added.) 720 ILCS 5/8-4(c)(1)(D) (West 2010).

The rules of statutory construction require us to give meaning to each word contained within the statute so that no language is rendered superfluous. *People v. Gutman*, 2011 IL 110338, ¶ 12, 959 N.E.2d 621. We begin by looking at the plain language of the statute with regard to the word "added." See *People v. McClure*, 218 Ill. 2d 375, 382, 843 N.E.2d 308, 312 (2006) (the best indicator of legislative intent is the plain, unambiguous language of the statute). To "add" is defined as "to join or unite so as to bring about an increase or improvement" and to "combine (numbers) into an equivalent simple quantity or number." Merriam-Webster's Dictionary Collegiate Dictionary 13 (10th ed. 2000). In this instance, the requirement that an enhancement of 25 years to life "shall be *added* to the term of imprisonment imposed by the court" clearly serves to increase the penalty for committing attempted first degree murder when the defendant commits the offense with a firearm; it does not create a new offense. Because the sentencing enhancement attaches to and increases the penalty for the offense of attempted first degree

murder, it logically follows that the enhancement is subject to the same truth-in-sentencing provisions as the offense to which it attaches.

¶ 14 We find additional support for our interpretation by looking to the current criminal Illinois Pattern Jury Instructions. Chapter 28 provides instructions regarding sentencing enhancements such as the firearm enhancements for murder cases. Illinois Pattern Jury Instructions, Criminal, Nos. 28.00 to 28.06 (4th ed. Supp. 2009). The instructions plainly state the jury is to first determine whether the defendant is guilty of the underlying offense, *i.e.*, attempted first degree murder, then determine whether the State has proved the factors necessary to impose the sentencing enhancement. Illinois Pattern Jury Instructions, Criminal, No. 28.04 (4th ed. Supp. 2009). Thus, the firearm enhancement is dependent upon a finding of guilt on the underlying offense; the jury could not reach the question of whether the State proved beyond a reasonable doubt the allegation that defendant personally discharged a firearm resulting in great bodily harm without first finding the defendant guilty of attempted first degree murder. Accordingly, we conclude the firearm provision is an enhancement of defendant's attempted first degree murder charge, not a separate offense, and is therefore subject to the same truth-in-sentencing provision as the underlying offense.

¶ 15 III. CONCLUSION

¶ 16 For the reasons previously stated, we affirm the trial court's sentence. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 17 Affirmed.