

HB0351



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0351

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-1.30
720 ILCS 5/11-1.40

was 720 ILCS 5/12-14
was 720 ILCS 5/12-14.1

Amends the Criminal Code of 2012. Provides that the sentence for aggravated criminal sexual assault, which does not otherwise provide for an enhanced penalty, is a Class X felony for which 5 years shall be added to the term of imprisonment imposed by the court. Provides that the sentence for predatory criminal sexual assault of a child, which does not otherwise provide for an enhanced penalty, is a Class X felony with a minimum term of imprisonment of 11 (rather than 6) years.

LRB100 04317 RLC 14323 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 11-1.30 and 11-1.40 as follows:

6 (720 ILCS 5/11-1.30) (was 720 ILCS 5/12-14)

7 Sec. 11-1.30. Aggravated Criminal Sexual Assault.

8 (a) A person commits aggravated criminal sexual assault if
9 that person commits criminal sexual assault and any of the
10 following aggravating circumstances exist during the
11 commission of the offense or, for purposes of paragraph (7),
12 occur as part of the same course of conduct as the commission
13 of the offense:

14 (1) the person displays, threatens to use, or uses a
15 dangerous weapon, other than a firearm, or any other object
16 fashioned or used in a manner that leads the victim, under
17 the circumstances, reasonably to believe that the object is
18 a dangerous weapon;

19 (2) the person causes bodily harm to the victim, except
20 as provided in paragraph (10);

21 (3) the person acts in a manner that threatens or
22 endangers the life of the victim or any other person;

23 (4) the person commits the criminal sexual assault

1 during the course of committing or attempting to commit any
2 other felony;

3 (5) the victim is 60 years of age or older;

4 (6) the victim is a person with a physical disability;

5 (7) the person delivers (by injection, inhalation,
6 ingestion, transfer of possession, or any other means) any
7 controlled substance to the victim without the victim's
8 consent or by threat or deception for other than medical
9 purposes;

10 (8) the person is armed with a firearm;

11 (9) the person personally discharges a firearm during
12 the commission of the offense; or

13 (10) the person personally discharges a firearm during
14 the commission of the offense, and that discharge
15 proximately causes great bodily harm, permanent
16 disability, permanent disfigurement, or death to another
17 person.

18 (b) A person commits aggravated criminal sexual assault if
19 that person is under 17 years of age and: (i) commits an act of
20 sexual penetration with a victim who is under 9 years of age;
21 or (ii) commits an act of sexual penetration with a victim who
22 is at least 9 years of age but under 13 years of age and the
23 person uses force or threat of force to commit the act.

24 (c) A person commits aggravated criminal sexual assault if
25 that person commits an act of sexual penetration with a victim
26 who is a person with a severe or profound intellectual

1 disability.

2 (d) Sentence.

3 (1) Aggravated criminal sexual assault in violation of
4 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)
5 or in violation of subsection (b) or (c) is a Class X
6 felony for which 5 years shall be added to the term of
7 imprisonment imposed by the court. A violation of
8 subsection (a)(1) is a Class X felony for which 10 years
9 shall be added to the term of imprisonment imposed by the
10 court. A violation of subsection (a)(8) is a Class X felony
11 for which 15 years shall be added to the term of
12 imprisonment imposed by the court. A violation of
13 subsection (a)(9) is a Class X felony for which 20 years
14 shall be added to the term of imprisonment imposed by the
15 court. A violation of subsection (a)(10) is a Class X
16 felony for which 25 years or up to a term of natural life
17 imprisonment shall be added to the term of imprisonment
18 imposed by the court. An offender under the age of 18 years
19 at the time of the commission of aggravated criminal sexual
20 assault in violation of paragraphs (1) through (10) of
21 subsection (a) shall be sentenced under Section 5-4.5-105
22 of the Unified Code of Corrections.

23 (2) A person who has attained the age of 18 years at
24 the time of the commission of the offense and who is
25 convicted of a second or subsequent offense of aggravated
26 criminal sexual assault, or who is convicted of the offense

1 of aggravated criminal sexual assault after having
2 previously been convicted of the offense of criminal sexual
3 assault or the offense of predatory criminal sexual assault
4 of a child, or who is convicted of the offense of
5 aggravated criminal sexual assault after having previously
6 been convicted under the laws of this or any other state of
7 an offense that is substantially equivalent to the offense
8 of criminal sexual assault, the offense of aggravated
9 criminal sexual assault or the offense of predatory
10 criminal sexual assault of a child, shall be sentenced to a
11 term of natural life imprisonment. The commission of the
12 second or subsequent offense is required to have been after
13 the initial conviction for this paragraph (2) to apply. An
14 offender under the age of 18 years at the time of the
15 commission of the offense covered by this paragraph (2)
16 shall be sentenced under Section 5-4.5-105 of the Unified
17 Code of Corrections.

18 (Source: P.A. 99-69, eff. 1-1-16; 99-143, eff. 7-27-15; 99-642,
19 eff. 7-28-16.)

20 (720 ILCS 5/11-1.40) (was 720 ILCS 5/12-14.1)

21 Sec. 11-1.40. Predatory criminal sexual assault of a child.

22 (a) A person commits predatory criminal sexual assault of a
23 child if that person is 17 years of age or older, and commits
24 an act of contact, however slight, between the sex organ or
25 anus of one person and the part of the body of another for the

1 purpose of sexual gratification or arousal of the victim or the
2 accused, or an act of sexual penetration, and:

3 (1) the victim is under 13 years of age; or

4 (2) the victim is under 13 years of age and that
5 person:

6 (A) is armed with a firearm;

7 (B) personally discharges a firearm during the
8 commission of the offense;

9 (C) causes great bodily harm to the victim that:

10 (i) results in permanent disability; or

11 (ii) is life threatening; or

12 (D) delivers (by injection, inhalation, ingestion,
13 transfer of possession, or any other means) any
14 controlled substance to the victim without the
15 victim's consent or by threat or deception, for other
16 than medical purposes.

17 (b) Sentence.

18 (1) A person convicted of a violation of subsection
19 (a) (1) commits a Class X felony, for which the person shall
20 be sentenced to a term of imprisonment of not less than 11
21 ~~6~~ years and not more than 60 years. A person convicted of a
22 violation of subsection (a) (2) (A) commits a Class X felony
23 for which 15 years shall be added to the term of
24 imprisonment imposed by the court. A person convicted of a
25 violation of subsection (a) (2) (B) commits a Class X felony
26 for which 20 years shall be added to the term of

1 imprisonment imposed by the court. A person who has
2 attained the age of 18 years at the time of the commission
3 of the offense and who is convicted of a violation of
4 subsection (a) (2) (C) commits a Class X felony for which the
5 person shall be sentenced to a term of imprisonment of not
6 less than 50 years or up to a term of natural life
7 imprisonment. An offender under the age of 18 years at the
8 time of the commission of predatory criminal sexual assault
9 of a child in violation of subsections (a) (1), (a) (2) (A),
10 (a) (2) (B), and (a) (2) (C) shall be sentenced under Section
11 5-4.5-105 of the Unified Code of Corrections.

12 (1.1) A person convicted of a violation of subsection
13 (a) (2) (D) commits a Class X felony for which the person
14 shall be sentenced to a term of imprisonment of not less
15 than 50 years and not more than 60 years. An offender under
16 the age of 18 years at the time of the commission of
17 predatory criminal sexual assault of a child in violation
18 of subsection (a) (2) (D) shall be sentenced under Section
19 5-4.5-105 of the Unified Code of Corrections.

20 (1.2) A person who has attained the age of 18 years at
21 the time of the commission of the offense and convicted of
22 predatory criminal sexual assault of a child committed
23 against 2 or more persons regardless of whether the
24 offenses occurred as the result of the same act or of
25 several related or unrelated acts shall be sentenced to a
26 term of natural life imprisonment and an offender under the

1 age of 18 years at the time of the commission of the
2 offense shall be sentenced under Section 5-4.5-105 of the
3 Unified Code of Corrections.

4 (2) A person who has attained the age of 18 years at
5 the time of the commission of the offense and who is
6 convicted of a second or subsequent offense of predatory
7 criminal sexual assault of a child, or who is convicted of
8 the offense of predatory criminal sexual assault of a child
9 after having previously been convicted of the offense of
10 criminal sexual assault or the offense of aggravated
11 criminal sexual assault, or who is convicted of the offense
12 of predatory criminal sexual assault of a child after
13 having previously been convicted under the laws of this
14 State or any other state of an offense that is
15 substantially equivalent to the offense of predatory
16 criminal sexual assault of a child, the offense of
17 aggravated criminal sexual assault or the offense of
18 criminal sexual assault, shall be sentenced to a term of
19 natural life imprisonment. The commission of the second or
20 subsequent offense is required to have been after the
21 initial conviction for this paragraph (2) to apply. An
22 offender under the age of 18 years at the time of the
23 commission of the offense covered by this paragraph (2)
24 shall be sentenced under Section 5-4.5-105 of the Unified
25 Code of Corrections.

26 (Source: P.A. 98-370, eff. 1-1-14; 98-756, eff. 7-16-14;

HB0351

- 8 -

LRB100 04317 RLC 14323 b

1 98-903, eff. 8-15-14; 99-69, eff. 1-1-16.)