



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB5768**

by Rep. John Connor

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-1.40  
720 ILCS 5/11-9.1

was 720 ILCS 5/12-14.1  
from Ch. 38, par. 11-9.1

Amends the Criminal Code of 2012. Places the offenses of attempted predatory criminal sexual assault of a child and attempted sexual exploitation of a child in the offense provision for each respective offense. Defines the offenses and provides penalties.

LRB100 20294 RLC 35581 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 11-1.40 and 11-9.1 as follows:

6 (720 ILCS 5/11-1.40) (was 720 ILCS 5/12-14.1)

7 Sec. 11-1.40. Predatory criminal sexual assault of a child;  
8 attempted predatory criminal sexual assault of a child.

9 (a) A person commits predatory criminal sexual assault of a  
10 child if that person is 17 years of age or older, and commits  
11 an act of contact, however slight, between the sex organ or  
12 anus of one person and the part of the body of another for the  
13 purpose of sexual gratification or arousal of the victim or the  
14 accused, or an act of sexual penetration, and:

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

16 (2) the victim is under 13 years of age and that  
17 person:

18 (A) is armed with a firearm;

19 (B) personally discharges a firearm during the  
20 commission of the offense;

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

22 (i) results in permanent disability; or

23 (ii) is life threatening; or

1 (D) delivers (by injection, inhalation, ingestion,  
2 transfer of possession, or any other means) any  
3 controlled substance to the victim without the  
4 victim's consent or by threat or deception, for other  
5 than medical purposes.

6 (a-5) A person commits attempted predatory criminal sexual  
7 assault of a child when he or she, with intent to commit  
8 predatory criminal sexual assault of a child as defined in  
9 subsection (a) of this Section, does any act that constitutes a  
10 substantial step toward the commission of predatory criminal  
11 sexual assault of a child.

12 (b) Sentence.

13 (1) A person convicted of a violation of subsection  
14 (a) (1) commits a Class X felony, for which the person shall  
15 be sentenced to a term of imprisonment of not less than 6  
16 years and not more than 60 years. A person convicted of a  
17 violation of subsection (a) (2) (A) commits a Class X felony  
18 for which 15 years shall be added to the term of  
19 imprisonment imposed by the court. A person convicted of a  
20 violation of subsection (a) (2) (B) commits a Class X felony  
21 for which 20 years shall be added to the term of  
22 imprisonment imposed by the court. A person who has  
23 attained the age of 18 years at the time of the commission  
24 of the offense and who is convicted of a violation of  
25 subsection (a) (2) (C) commits a Class X felony for which the  
26 person shall be sentenced to a term of imprisonment of not

1 less than 50 years or up to a term of natural life  
2 imprisonment. An offender under the age of 18 years at the  
3 time of the commission of predatory criminal sexual assault  
4 of a child in violation of subsections (a)(1), (a)(2)(A),  
5 (a)(2)(B), and (a)(2)(C) shall be sentenced under Section  
6 5-4.5-105 of the Unified Code of Corrections.

7 (1.1) A person convicted of a violation of subsection  
8 (a)(2)(D) commits a Class X felony for which the person  
9 shall be sentenced to a term of imprisonment of not less  
10 than 50 years and not more than 60 years. An offender under  
11 the age of 18 years at the time of the commission of  
12 predatory criminal sexual assault of a child in violation  
13 of subsection (a)(2)(D) shall be sentenced under Section  
14 5-4.5-105 of the Unified Code of Corrections.

15 (1.2) A person who has attained the age of 18 years at  
16 the time of the commission of the offense and convicted of  
17 predatory criminal sexual assault of a child committed  
18 against 2 or more persons regardless of whether the  
19 offenses occurred as the result of the same act or of  
20 several related or unrelated acts shall be sentenced to a  
21 term of natural life imprisonment and an offender under the  
22 age of 18 years at the time of the commission of the  
23 offense shall be sentenced under Section 5-4.5-105 of the  
24 Unified Code of Corrections.

25 (2) A person who has attained the age of 18 years at  
26 the time of the commission of the offense and who is

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

21 (3) Attempted predatory criminal sexual assault of a  
22 child under subsection (a-5) of this Section is a Class 1  
23 felony.

24 (Source: P.A. 98-370, eff. 1-1-14; 98-756, eff. 7-16-14;  
25 98-903, eff. 8-15-14; 99-69, eff. 1-1-16.)

1 (720 ILCS 5/11-9.1) (from Ch. 38, par. 11-9.1)

2 Sec. 11-9.1. Sexual exploitation of a child; attempted  
3 sexual exploitation of a child.

4 (a) A person commits sexual exploitation of a child if in  
5 the presence or virtual presence, or both, of a child and with  
6 knowledge that a child or one whom he or she believes to be a  
7 child would view his or her acts, that person:

8 (1) engages in a sexual act; or

9 (2) exposes his or her sex organs, anus or breast for  
10 the purpose of sexual arousal or gratification of such  
11 person or the child or one whom he or she believes to be a  
12 child.

13 (a-5) A person commits sexual exploitation of a child who  
14 knowingly entices, coerces, or persuades a child to remove the  
15 child's clothing for the purpose of sexual arousal or  
16 gratification of the person or the child, or both.

17 (a-6) A person commits attempted sexual exploitation of a  
18 child when he or she, with intent to commit sexual exploitation  
19 of a child as defined in subsection (a) or (a-5) of this  
20 Section, does any act that constitutes a substantial step  
21 toward the commission of sexual exploitation of a child.

22 (b) Definitions. As used in this Section:

23 "Sexual act" means masturbation, sexual conduct or sexual  
24 penetration as defined in Section 11-0.1 of this Code.

25 "Sex offense" means any violation of Article 11 of this  
26 Code or Section 12-5.01 of this Code.

1 "Child" means a person under 17 years of age.

2 "Virtual presence" means an environment that is created  
3 with software and presented to the user and or receiver via the  
4 Internet, in such a way that the user appears in front of the  
5 receiver on the computer monitor or screen or hand-held ~~hand~~  
6 ~~held~~ portable electronic device, usually through a web camming  
7 program. "Virtual presence" includes primarily experiencing  
8 through sight or sound, or both, a video image that can be  
9 explored interactively at a personal computer or hand-held ~~hand~~  
10 ~~held~~ communication device, or both.

11 "Webcam" means a video capturing device connected to a  
12 computer or computer network that is designed to take digital  
13 photographs or live or recorded video which allows for the live  
14 transmission to an end user over the Internet.

15 (c) Sentence.

16 (1) Sexual exploitation of a child is a Class A  
17 misdemeanor. A second or subsequent violation of this  
18 Section or a substantially similar law of another state is  
19 a Class 4 felony.

20 (2) Sexual exploitation of a child is a Class 4 felony  
21 if the person has been previously convicted of a sex  
22 offense.

23 (3) Sexual exploitation of a child is a Class 4 felony  
24 if the victim was under 13 years of age at the time of the  
25 commission of the offense.

26 (4) Sexual exploitation of a child is a Class 4 felony

1 if committed by a person 18 years of age or older who is on  
2 or within 500 feet of elementary or secondary school  
3 grounds when children are present on the grounds.

4 (5) Attempted sexual exploitation of a child is a Class  
5 B misdemeanor. A second or subsequent violation of  
6 subsection (a-6) of this Section or a substantially similar  
7 law of another state is a Class A misdemeanor.

8 (6) Attempted sexual exploitation of a child is a Class  
9 A misdemeanor if the person has been previously convicted  
10 of a sex offense.

11 (7) Attempted sexual exploitation of a child is a Class  
12 A misdemeanor if the victim was under 13 years of age at  
13 the time of the commission of the offense.

14 (8) Attempted sexual exploitation of a child is a Class  
15 A misdemeanor if committed by a person 18 years of age or  
16 older who is on or within 500 feet of elementary or  
17 secondary school grounds when children are present on the  
18 grounds.

19 (Source: P.A. 96-1090, eff. 1-1-11; 96-1098, eff. 1-1-11;  
20 96-1551, eff. 7-1-11; 97-333, eff. 8-12-11; 97-1150, eff.  
21 1-25-13; revised 10-5-17.)