



Rep. Frances Ann Hurley

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1 AMENDMENT TO SENATE BILL 416

2 AMENDMENT NO. _____. Amend Senate Bill 416 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-5-3.1 and 5-5-3.2 as follows:

6 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

7 Sec. 5-5-3.1. Factors in mitigation.

8 (a) The following grounds shall be accorded weight in favor
9 of withholding or minimizing a sentence of imprisonment:

10 (1) The defendant's criminal conduct neither caused
11 nor threatened serious physical harm to another.

12 (2) The defendant did not contemplate that his criminal
13 conduct would cause or threaten serious physical harm to
14 another.

15 (3) The defendant acted under a strong provocation.

16 (4) There were substantial grounds tending to excuse or

1 justify the defendant's criminal conduct, though failing
2 to establish a defense.

3 (5) The defendant's criminal conduct was induced or
4 facilitated by someone other than the defendant.

5 (6) The defendant has compensated or will compensate
6 the victim of his criminal conduct for the damage or injury
7 that he sustained.

8 (7) The defendant has no history of prior delinquency
9 or criminal activity or has led a law-abiding life for a
10 substantial period of time before the commission of the
11 present crime.

12 (8) The defendant's criminal conduct was the result of
13 circumstances unlikely to recur.

14 (9) The character and attitudes of the defendant
15 indicate that he is unlikely to commit another crime.

16 (10) The defendant is particularly likely to comply
17 with the terms of a period of probation.

18 (11) The imprisonment of the defendant would entail
19 excessive hardship to his dependents.

20 (12) The imprisonment of the defendant would endanger
21 his or her medical condition.

22 (13) The defendant was a person with an intellectual
23 disability as defined in Section 5-1-13 of this Code.

24 (14) The defendant sought or obtained emergency
25 medical assistance for an overdose and was convicted of a
26 Class 3 felony or higher possession, manufacture, or

1 delivery of a controlled, counterfeit, or look-alike
2 substance or a controlled substance analog under the
3 Illinois Controlled Substances Act or a Class 2 felony or
4 higher possession, manufacture or delivery of
5 methamphetamine under the Methamphetamine Control and
6 Community Protection Act.

7 (15) At the time of the offense, the defendant is or
8 had been the victim of domestic violence and the effects of
9 the domestic violence tended to excuse or justify the
10 defendant's criminal conduct. As used in this paragraph
11 (15), "domestic violence" means abuse as defined in Section
12 103 of the Illinois Domestic Violence Act of 1986.

13 (16) At the time of the offense, the defendant was
14 suffering from a serious mental illness which, though
15 insufficient to establish the defense of insanity,
16 substantially affected his or her ability to understand the
17 nature of his or her acts or to conform his or her conduct
18 to the requirements of the law.

19 (17) At the time of the offense, the defendant was
20 suffering from post-partum depression or post-partum
21 psychosis which was either undiagnosed or untreated, or
22 both, and this temporary mental illness tended to excuse or
23 justify the defendant's criminal conduct and the defendant
24 has been diagnosed as suffering from post-partum
25 depression or post-partum psychosis, or both, by a
26 qualified medical person and the diagnoses or testimony, or

1 both, was not used at trial. In this paragraph (17):

2 "Post-partum depression" means a mood disorder
3 which strikes many women during and after pregnancy
4 which usually occurs during pregnancy and up to 12
5 months after delivery. This depression can include
6 anxiety disorders.

7 "Post-partum psychosis" means an extreme form of
8 post-partum depression which can occur during
9 pregnancy and up to 12 months after delivery. This can
10 include losing touch with reality, distorted thinking,
11 delusions, auditory and visual hallucinations,
12 paranoia, hyperactivity and rapid speech, or mania.

13 (18) The defendant had a demonstrated history of
14 compliance with the penal institution's rules during his or
15 her pretrial incarceration. In this paragraph (18), "penal
16 institution" has the meaning ascribed to it in Section 2-14
17 of the Criminal Code of 2012.

18 (b) If the court, having due regard for the character of
19 the offender, the nature and circumstances of the offense and
20 the public interest finds that a sentence of imprisonment is
21 the most appropriate disposition of the offender, or where
22 other provisions of this Code mandate the imprisonment of the
23 offender, the grounds listed in paragraph (a) of this
24 subsection shall be considered as factors in mitigation of the
25 term imposed.

26 (Source: P.A. 99-143, eff. 7-27-15; 99-384, eff. 1-1-16;

1 99-642, eff. 7-28-16; 99-877, eff. 8-22-16; 100-574, eff.
2 6-1-18.)

3 (730 ILCS 5/5-5-3.2)

4 Sec. 5-5-3.2. Factors in aggravation and extended-term
5 sentencing.

6 (a) The following factors shall be accorded weight in favor
7 of imposing a term of imprisonment or may be considered by the
8 court as reasons to impose a more severe sentence under Section
9 5-8-1 or Article 4.5 of Chapter V:

10 (1) the defendant's conduct caused or threatened
11 serious harm;

12 (2) the defendant received compensation for committing
13 the offense;

14 (3) the defendant has a history of prior delinquency or
15 criminal activity;

16 (4) the defendant, by the duties of his office or by
17 his position, was obliged to prevent the particular offense
18 committed or to bring the offenders committing it to
19 justice;

20 (5) the defendant held public office at the time of the
21 offense, and the offense related to the conduct of that
22 office;

23 (6) the defendant utilized his professional reputation
24 or position in the community to commit the offense, or to
25 afford him an easier means of committing it;

1 (7) the sentence is necessary to deter others from
2 committing the same crime;

3 (8) the defendant committed the offense against a
4 person 60 years of age or older or such person's property;

5 (9) the defendant committed the offense against a
6 person who has a physical disability or such person's
7 property;

8 (10) by reason of another individual's actual or
9 perceived race, color, creed, religion, ancestry, gender,
10 sexual orientation, physical or mental disability, or
11 national origin, the defendant committed the offense
12 against (i) the person or property of that individual; (ii)
13 the person or property of a person who has an association
14 with, is married to, or has a friendship with the other
15 individual; or (iii) the person or property of a relative
16 (by blood or marriage) of a person described in clause (i)
17 or (ii). For the purposes of this Section, "sexual
18 orientation" has the meaning ascribed to it in paragraph
19 (O-1) of Section 1-103 of the Illinois Human Rights Act;

20 (11) the offense took place in a place of worship or on
21 the grounds of a place of worship, immediately prior to,
22 during or immediately following worship services. For
23 purposes of this subparagraph, "place of worship" shall
24 mean any church, synagogue or other building, structure or
25 place used primarily for religious worship;

26 (12) the defendant was convicted of a felony committed

1 while he was released on bail or his own recognizance
2 pending trial for a prior felony and was convicted of such
3 prior felony, or the defendant was convicted of a felony
4 committed while he was serving a period of probation,
5 conditional discharge, or mandatory supervised release
6 under subsection (d) of Section 5-8-1 for a prior felony;

7 (13) the defendant committed or attempted to commit a
8 felony while he was wearing a bulletproof vest. For the
9 purposes of this paragraph (13), a bulletproof vest is any
10 device which is designed for the purpose of protecting the
11 wearer from bullets, shot or other lethal projectiles;

12 (14) the defendant held a position of trust or
13 supervision such as, but not limited to, family member as
14 defined in Section 11-0.1 of the Criminal Code of 2012,
15 teacher, scout leader, baby sitter, or day care worker, in
16 relation to a victim under 18 years of age, and the
17 defendant committed an offense in violation of Section
18 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
19 11-14.4 except for an offense that involves keeping a place
20 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
21 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
22 or 12-16 of the Criminal Code of 1961 or the Criminal Code
23 of 2012 against that victim;

24 (15) the defendant committed an offense related to the
25 activities of an organized gang. For the purposes of this
26 factor, "organized gang" has the meaning ascribed to it in

1 Section 10 of the Streetgang Terrorism Omnibus Prevention
2 Act;

3 (16) the defendant committed an offense in violation of
4 one of the following Sections while in a school, regardless
5 of the time of day or time of year; on any conveyance
6 owned, leased, or contracted by a school to transport
7 students to or from school or a school related activity; on
8 the real property of a school; or on a public way within
9 1,000 feet of the real property comprising any school:
10 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
11 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
12 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
13 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
14 18-2, or 33A-2, or Section 12-3.05 except for subdivision
15 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
16 Criminal Code of 2012;

17 (16.5) the defendant committed an offense in violation
18 of one of the following Sections while in a day care
19 center, regardless of the time of day or time of year; on
20 the real property of a day care center, regardless of the
21 time of day or time of year; or on a public way within
22 1,000 feet of the real property comprising any day care
23 center, regardless of the time of day or time of year:
24 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
25 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
26 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,

1 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
2 18-2, or 33A-2, or Section 12-3.05 except for subdivision
3 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
4 Criminal Code of 2012;

5 (17) the defendant committed the offense by reason of
6 any person's activity as a community policing volunteer or
7 to prevent any person from engaging in activity as a
8 community policing volunteer. For the purpose of this
9 Section, "community policing volunteer" has the meaning
10 ascribed to it in Section 2-3.5 of the Criminal Code of
11 2012;

12 (18) the defendant committed the offense in a nursing
13 home or on the real property comprising a nursing home. For
14 the purposes of this paragraph (18), "nursing home" means a
15 skilled nursing or intermediate long term care facility
16 that is subject to license by the Illinois Department of
17 Public Health under the Nursing Home Care Act, the
18 Specialized Mental Health Rehabilitation Act of 2013, the
19 ID/DD Community Care Act, or the MC/DD Act;

20 (19) the defendant was a federally licensed firearm
21 dealer and was previously convicted of a violation of
22 subsection (a) of Section 3 of the Firearm Owners
23 Identification Card Act and has now committed either a
24 felony violation of the Firearm Owners Identification Card
25 Act or an act of armed violence while armed with a firearm;

26 (20) the defendant (i) committed the offense of

1 reckless homicide under Section 9-3 of the Criminal Code of
2 1961 or the Criminal Code of 2012 or the offense of driving
3 under the influence of alcohol, other drug or drugs,
4 intoxicating compound or compounds or any combination
5 thereof under Section 11-501 of the Illinois Vehicle Code
6 or a similar provision of a local ordinance and (ii) was
7 operating a motor vehicle in excess of 20 miles per hour
8 over the posted speed limit as provided in Article VI of
9 Chapter 11 of the Illinois Vehicle Code;

10 (21) the defendant (i) committed the offense of
11 reckless driving or aggravated reckless driving under
12 Section 11-503 of the Illinois Vehicle Code and (ii) was
13 operating a motor vehicle in excess of 20 miles per hour
14 over the posted speed limit as provided in Article VI of
15 Chapter 11 of the Illinois Vehicle Code;

16 (22) the defendant committed the offense against a
17 person that the defendant knew, or reasonably should have
18 known, was a member of the Armed Forces of the United
19 States serving on active duty. For purposes of this clause
20 (22), the term "Armed Forces" means any of the Armed Forces
21 of the United States, including a member of any reserve
22 component thereof or National Guard unit called to active
23 duty;

24 (23) the defendant committed the offense against a
25 person who was elderly or infirm or who was a person with a
26 disability by taking advantage of a family or fiduciary

1 relationship with the elderly or infirm person or person
2 with a disability;

3 (24) the defendant committed any offense under Section
4 11-20.1 of the Criminal Code of 1961 or the Criminal Code
5 of 2012 and possessed 100 or more images;

6 (25) the defendant committed the offense while the
7 defendant or the victim was in a train, bus, or other
8 vehicle used for public transportation;

9 (26) the defendant committed the offense of child
10 pornography or aggravated child pornography, specifically
11 including paragraph (1), (2), (3), (4), (5), or (7) of
12 subsection (a) of Section 11-20.1 of the Criminal Code of
13 1961 or the Criminal Code of 2012 where a child engaged in,
14 solicited for, depicted in, or posed in any act of sexual
15 penetration or bound, fettered, or subject to sadistic,
16 masochistic, or sadomasochistic abuse in a sexual context
17 and specifically including paragraph (1), (2), (3), (4),
18 (5), or (7) of subsection (a) of Section 11-20.1B or
19 Section 11-20.3 of the Criminal Code of 1961 where a child
20 engaged in, solicited for, depicted in, or posed in any act
21 of sexual penetration or bound, fettered, or subject to
22 sadistic, masochistic, or sadomasochistic abuse in a
23 sexual context;

24 (27) the defendant committed the offense of first
25 degree murder, assault, aggravated assault, battery,
26 aggravated battery, robbery, armed robbery, or aggravated

1 robbery against a person who was a veteran and the
2 defendant knew, or reasonably should have known, that the
3 person was a veteran performing duties as a representative
4 of a veterans' organization. For the purposes of this
5 paragraph (27), "veteran" means an Illinois resident who
6 has served as a member of the United States Armed Forces, a
7 member of the Illinois National Guard, or a member of the
8 United States Reserve Forces; and "veterans' organization"
9 means an organization comprised of members of which
10 substantially all are individuals who are veterans or
11 spouses, widows, or widowers of veterans, the primary
12 purpose of which is to promote the welfare of its members
13 and to provide assistance to the general public in such a
14 way as to confer a public benefit;

15 (28) the defendant committed the offense of assault,
16 aggravated assault, battery, aggravated battery, robbery,
17 armed robbery, or aggravated robbery against a person that
18 the defendant knew or reasonably should have known was a
19 letter carrier or postal worker while that person was
20 performing his or her duties delivering mail for the United
21 States Postal Service;

22 (29) the defendant committed the offense of criminal
23 sexual assault, aggravated criminal sexual assault,
24 criminal sexual abuse, or aggravated criminal sexual abuse
25 against a victim with an intellectual disability, and the
26 defendant holds a position of trust, authority, or

1 supervision in relation to the victim;

2 (30) the defendant committed the offense of promoting
3 juvenile prostitution, patronizing a prostitute, or
4 patronizing a minor engaged in prostitution and at the time
5 of the commission of the offense knew that the prostitute
6 or minor engaged in prostitution was in the custody or
7 guardianship of the Department of Children and Family
8 Services; ~~or~~

9 (31) the defendant (i) committed the offense of driving
10 while under the influence of alcohol, other drug or drugs,
11 intoxicating compound or compounds or any combination
12 thereof in violation of Section 11-501 of the Illinois
13 Vehicle Code or a similar provision of a local ordinance
14 and (ii) the defendant during the commission of the offense
15 was driving his or her vehicle upon a roadway designated
16 for one-way traffic in the opposite direction of the
17 direction indicated by official traffic control devices;
18 or

19 (32) the defendant had a demonstrated history of
20 incidents of non-compliance with the penal institution's
21 rules during his or her pretrial incarceration, including,
22 but not limited to, being found guilty of an administrative
23 infraction related to assaulting staff of the penal
24 institution, possession of contraband in the penal
25 institution, or committing an act of public indecency in
26 the penal institution. In this paragraph (32), "penal

1 institution" has the meaning ascribed to it in Section 2-14
2 of the Criminal Code of 2012.

3 For the purposes of this Section:

4 "School" is defined as a public or private elementary or
5 secondary school, community college, college, or university.

6 "Day care center" means a public or private State certified
7 and licensed day care center as defined in Section 2.09 of the
8 Child Care Act of 1969 that displays a sign in plain view
9 stating that the property is a day care center.

10 "Intellectual disability" means significantly subaverage
11 intellectual functioning which exists concurrently with
12 impairment in adaptive behavior.

13 "Public transportation" means the transportation or
14 conveyance of persons by means available to the general public,
15 and includes paratransit services.

16 "Traffic control devices" means all signs, signals,
17 markings, and devices that conform to the Illinois Manual on
18 Uniform Traffic Control Devices, placed or erected by authority
19 of a public body or official having jurisdiction, for the
20 purpose of regulating, warning, or guiding traffic.

21 (b) The following factors, related to all felonies, may be
22 considered by the court as reasons to impose an extended term
23 sentence under Section 5-8-2 upon any offender:

24 (1) When a defendant is convicted of any felony, after
25 having been previously convicted in Illinois or any other
26 jurisdiction of the same or similar class felony or greater

1 class felony, when such conviction has occurred within 10
2 years after the previous conviction, excluding time spent
3 in custody, and such charges are separately brought and
4 tried and arise out of different series of acts; or

5 (2) When a defendant is convicted of any felony and the
6 court finds that the offense was accompanied by
7 exceptionally brutal or heinous behavior indicative of
8 wanton cruelty; or

9 (3) When a defendant is convicted of any felony
10 committed against:

11 (i) a person under 12 years of age at the time of
12 the offense or such person's property;

13 (ii) a person 60 years of age or older at the time
14 of the offense or such person's property; or

15 (iii) a person who had a physical disability at the
16 time of the offense or such person's property; or

17 (4) When a defendant is convicted of any felony and the
18 offense involved any of the following types of specific
19 misconduct committed as part of a ceremony, rite,
20 initiation, observance, performance, practice or activity
21 of any actual or ostensible religious, fraternal, or social
22 group:

23 (i) the brutalizing or torturing of humans or
24 animals;

25 (ii) the theft of human corpses;

26 (iii) the kidnapping of humans;

1 (iv) the desecration of any cemetery, religious,
2 fraternal, business, governmental, educational, or
3 other building or property; or

4 (v) ritualized abuse of a child; or

5 (5) When a defendant is convicted of a felony other
6 than conspiracy and the court finds that the felony was
7 committed under an agreement with 2 or more other persons
8 to commit that offense and the defendant, with respect to
9 the other individuals, occupied a position of organizer,
10 supervisor, financier, or any other position of management
11 or leadership, and the court further finds that the felony
12 committed was related to or in furtherance of the criminal
13 activities of an organized gang or was motivated by the
14 defendant's leadership in an organized gang; or

15 (6) When a defendant is convicted of an offense
16 committed while using a firearm with a laser sight attached
17 to it. For purposes of this paragraph, "laser sight" has
18 the meaning ascribed to it in Section 26-7 of the Criminal
19 Code of 2012; or

20 (7) When a defendant who was at least 17 years of age
21 at the time of the commission of the offense is convicted
22 of a felony and has been previously adjudicated a
23 delinquent minor under the Juvenile Court Act of 1987 for
24 an act that if committed by an adult would be a Class X or
25 Class 1 felony when the conviction has occurred within 10
26 years after the previous adjudication, excluding time

1 spent in custody; or

2 (8) When a defendant commits any felony and the
3 defendant used, possessed, exercised control over, or
4 otherwise directed an animal to assault a law enforcement
5 officer engaged in the execution of his or her official
6 duties or in furtherance of the criminal activities of an
7 organized gang in which the defendant is engaged; or

8 (9) When a defendant commits any felony and the
9 defendant knowingly video or audio records the offense with
10 the intent to disseminate the recording.

11 (c) The following factors may be considered by the court as
12 reasons to impose an extended term sentence under Section 5-8-2
13 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

14 (1) When a defendant is convicted of first degree
15 murder, after having been previously convicted in Illinois
16 of any offense listed under paragraph (c)(2) of Section
17 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
18 within 10 years after the previous conviction, excluding
19 time spent in custody, and the charges are separately
20 brought and tried and arise out of different series of
21 acts.

22 (1.5) When a defendant is convicted of first degree
23 murder, after having been previously convicted of domestic
24 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
25 (720 ILCS 5/12-3.3) committed on the same victim or after
26 having been previously convicted of violation of an order

1 of protection (720 ILCS 5/12-30) in which the same victim
2 was the protected person.

3 (2) When a defendant is convicted of voluntary
4 manslaughter, second degree murder, involuntary
5 manslaughter, or reckless homicide in which the defendant
6 has been convicted of causing the death of more than one
7 individual.

8 (3) When a defendant is convicted of aggravated
9 criminal sexual assault or criminal sexual assault, when
10 there is a finding that aggravated criminal sexual assault
11 or criminal sexual assault was also committed on the same
12 victim by one or more other individuals, and the defendant
13 voluntarily participated in the crime with the knowledge of
14 the participation of the others in the crime, and the
15 commission of the crime was part of a single course of
16 conduct during which there was no substantial change in the
17 nature of the criminal objective.

18 (4) If the victim was under 18 years of age at the time
19 of the commission of the offense, when a defendant is
20 convicted of aggravated criminal sexual assault or
21 predatory criminal sexual assault of a child under
22 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
23 of Section 12-14.1 of the Criminal Code of 1961 or the
24 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

25 (5) When a defendant is convicted of a felony violation
26 of Section 24-1 of the Criminal Code of 1961 or the

1 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
2 finding that the defendant is a member of an organized
3 gang.

4 (6) When a defendant was convicted of unlawful use of
5 weapons under Section 24-1 of the Criminal Code of 1961 or
6 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
7 a weapon that is not readily distinguishable as one of the
8 weapons enumerated in Section 24-1 of the Criminal Code of
9 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

10 (7) When a defendant is convicted of an offense
11 involving the illegal manufacture of a controlled
12 substance under Section 401 of the Illinois Controlled
13 Substances Act (720 ILCS 570/401), the illegal manufacture
14 of methamphetamine under Section 25 of the Methamphetamine
15 Control and Community Protection Act (720 ILCS 646/25), or
16 the illegal possession of explosives and an emergency
17 response officer in the performance of his or her duties is
18 killed or injured at the scene of the offense while
19 responding to the emergency caused by the commission of the
20 offense. In this paragraph, "emergency" means a situation
21 in which a person's life, health, or safety is in jeopardy;
22 and "emergency response officer" means a peace officer,
23 community policing volunteer, fireman, emergency medical
24 technician-ambulance, emergency medical
25 technician-intermediate, emergency medical
26 technician-paramedic, ambulance driver, other medical

1 assistance or first aid personnel, or hospital emergency
2 room personnel.

3 (8) When the defendant is convicted of attempted mob
4 action, solicitation to commit mob action, or conspiracy to
5 commit mob action under Section 8-1, 8-2, or 8-4 of the
6 Criminal Code of 2012, where the criminal object is a
7 violation of Section 25-1 of the Criminal Code of 2012, and
8 an electronic communication is used in the commission of
9 the offense. For the purposes of this paragraph (8),
10 "electronic communication" shall have the meaning provided
11 in Section 26.5-0.1 of the Criminal Code of 2012.

12 (d) For the purposes of this Section, "organized gang" has
13 the meaning ascribed to it in Section 10 of the Illinois
14 Streetgang Terrorism Omnibus Prevention Act.

15 (e) The court may impose an extended term sentence under
16 Article 4.5 of Chapter V upon an offender who has been
17 convicted of a felony violation of Section 11-1.20, 11-1.30,
18 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
19 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
20 when the victim of the offense is under 18 years of age at the
21 time of the commission of the offense and, during the
22 commission of the offense, the victim was under the influence
23 of alcohol, regardless of whether or not the alcohol was
24 supplied by the offender; and the offender, at the time of the
25 commission of the offense, knew or should have known that the
26 victim had consumed alcohol.

1 (Source: P.A. 99-77, eff. 1-1-16; 99-143, eff. 7-27-15; 99-180,
2 eff. 7-29-15; 99-283, eff. 1-1-16; 99-347, eff. 1-1-16; 99-642,
3 eff. 7-28-16; 100-1053, eff. 1-1-19.)".