



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB0838

Introduced 2/10/2021, by Rep. Michelle Mussman

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

Amends the Criminal Code of 2012 concerning the presence and residence of child sex offenders. Provides that for the purposes of the statute, "sex offense" includes, but is not limited to, the former offenses of soliciting for a juvenile prostitute, pandering, if the victim is under 18 years of age, keeping a place of juvenile prostitution, pimping, if the victim is under 18 years of age, juvenile pimping, or exploitation of a child. Clarifies that "sex offense" also includes patronizing a prostitute, if the victim is under 18 years of age or forcible detention, if the victim is under 18 years of age. Provides that the Act is declarative of existing law and not as a new enactment. Effective immediately.

LRB102 11893 KMF 17229 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 1. Declarative of existing law. The changes made  
5 to Section 11-9.3 of the Criminal Code of 2012 by this Act are  
6 intended to be declarative of existing law and not as a new  
7 enactment.

8 Section 5. The Criminal Code of 2012 is amended by  
9 changing Section 11-9.3 as follows:

10 (720 ILCS 5/11-9.3)

11 Sec. 11-9.3. Presence within school zone by child sex  
12 offenders prohibited; approaching, contacting, residing with,  
13 or communicating with a child within certain places by child  
14 sex offenders prohibited.

15 (a) It is unlawful for a child sex offender to knowingly be  
16 present in any school building, on real property comprising  
17 any school, or in any conveyance owned, leased, or contracted  
18 by a school to transport students to or from school or a school  
19 related activity when persons under the age of 18 are present  
20 in the building, on the grounds or in the conveyance, unless  
21 the offender is a parent or guardian of a student attending the  
22 school and the parent or guardian is: (i) attending a

1 conference at the school with school personnel to discuss the  
2 progress of his or her child academically or socially, (ii)  
3 participating in child review conferences in which evaluation  
4 and placement decisions may be made with respect to his or her  
5 child regarding special education services, or (iii) attending  
6 conferences to discuss other student issues concerning his or  
7 her child such as retention and promotion and notifies the  
8 principal of the school of his or her presence at the school or  
9 unless the offender has permission to be present from the  
10 superintendent or the school board or in the case of a private  
11 school from the principal. In the case of a public school, if  
12 permission is granted, the superintendent or school board  
13 president must inform the principal of the school where the  
14 sex offender will be present. Notification includes the nature  
15 of the sex offender's visit and the hours in which the sex  
16 offender will be present in the school. The sex offender is  
17 responsible for notifying the principal's office when he or  
18 she arrives on school property and when he or she departs from  
19 school property. If the sex offender is to be present in the  
20 vicinity of children, the sex offender has the duty to remain  
21 under the direct supervision of a school official.

22 (a-5) It is unlawful for a child sex offender to knowingly  
23 be present within 100 feet of a site posted as a pick-up or  
24 discharge stop for a conveyance owned, leased, or contracted  
25 by a school to transport students to or from school or a school  
26 related activity when one or more persons under the age of 18

1 are present at the site.

2 (a-10) It is unlawful for a child sex offender to  
3 knowingly be present in any public park building, a playground  
4 or recreation area within any publicly accessible privately  
5 owned building, or on real property comprising any public park  
6 when persons under the age of 18 are present in the building or  
7 on the grounds and to approach, contact, or communicate with a  
8 child under 18 years of age, unless the offender is a parent or  
9 guardian of a person under 18 years of age present in the  
10 building or on the grounds.

11 (b) It is unlawful for a child sex offender to knowingly  
12 loiter within 500 feet of a school building or real property  
13 comprising any school while persons under the age of 18 are  
14 present in the building or on the grounds, unless the offender  
15 is a parent or guardian of a student attending the school and  
16 the parent or guardian is: (i) attending a conference at the  
17 school with school personnel to discuss the progress of his or  
18 her child academically or socially, (ii) participating in  
19 child review conferences in which evaluation and placement  
20 decisions may be made with respect to his or her child  
21 regarding special education services, or (iii) attending  
22 conferences to discuss other student issues concerning his or  
23 her child such as retention and promotion and notifies the  
24 principal of the school of his or her presence at the school or  
25 has permission to be present from the superintendent or the  
26 school board or in the case of a private school from the

1 principal. In the case of a public school, if permission is  
2 granted, the superintendent or school board president must  
3 inform the principal of the school where the sex offender will  
4 be present. Notification includes the nature of the sex  
5 offender's visit and the hours in which the sex offender will  
6 be present in the school. The sex offender is responsible for  
7 notifying the principal's office when he or she arrives on  
8 school property and when he or she departs from school  
9 property. If the sex offender is to be present in the vicinity  
10 of children, the sex offender has the duty to remain under the  
11 direct supervision of a school official.

12 (b-2) It is unlawful for a child sex offender to knowingly  
13 loiter on a public way within 500 feet of a public park  
14 building or real property comprising any public park while  
15 persons under the age of 18 are present in the building or on  
16 the grounds and to approach, contact, or communicate with a  
17 child under 18 years of age, unless the offender is a parent or  
18 guardian of a person under 18 years of age present in the  
19 building or on the grounds.

20 (b-5) It is unlawful for a child sex offender to knowingly  
21 reside within 500 feet of a school building or the real  
22 property comprising any school that persons under the age of  
23 18 attend. Nothing in this subsection (b-5) prohibits a child  
24 sex offender from residing within 500 feet of a school  
25 building or the real property comprising any school that  
26 persons under 18 attend if the property is owned by the child

1 sex offender and was purchased before July 7, 2000 (the  
2 effective date of Public Act 91-911).

3 (b-10) It is unlawful for a child sex offender to  
4 knowingly reside within 500 feet of a playground, child care  
5 institution, day care center, part day child care facility,  
6 day care home, group day care home, or a facility providing  
7 programs or services exclusively directed toward persons under  
8 18 years of age. Nothing in this subsection (b-10) prohibits a  
9 child sex offender from residing within 500 feet of a  
10 playground or a facility providing programs or services  
11 exclusively directed toward persons under 18 years of age if  
12 the property is owned by the child sex offender and was  
13 purchased before July 7, 2000. Nothing in this subsection  
14 (b-10) prohibits a child sex offender from residing within 500  
15 feet of a child care institution, day care center, or part day  
16 child care facility if the property is owned by the child sex  
17 offender and was purchased before June 26, 2006. Nothing in  
18 this subsection (b-10) prohibits a child sex offender from  
19 residing within 500 feet of a day care home or group day care  
20 home if the property is owned by the child sex offender and was  
21 purchased before August 14, 2008 (the effective date of Public  
22 Act 95-821).

23 (b-15) It is unlawful for a child sex offender to  
24 knowingly reside within 500 feet of the victim of the sex  
25 offense. Nothing in this subsection (b-15) prohibits a child  
26 sex offender from residing within 500 feet of the victim if the

1 property in which the child sex offender resides is owned by  
2 the child sex offender and was purchased before August 22,  
3 2002.

4 This subsection (b-15) does not apply if the victim of the  
5 sex offense is 21 years of age or older.

6 (b-20) It is unlawful for a child sex offender to  
7 knowingly communicate, other than for a lawful purpose under  
8 Illinois law, using the Internet or any other digital media,  
9 with a person under 18 years of age or with a person whom he or  
10 she believes to be a person under 18 years of age, unless the  
11 offender is a parent or guardian of the person under 18 years  
12 of age.

13 (c) It is unlawful for a child sex offender to knowingly  
14 operate, manage, be employed by, volunteer at, be associated  
15 with, or knowingly be present at any: (i) facility providing  
16 programs or services exclusively directed toward persons under  
17 the age of 18; (ii) day care center; (iii) part day child care  
18 facility; (iv) child care institution; (v) school providing  
19 before and after school programs for children under 18 years  
20 of age; (vi) day care home; or (vii) group day care home. This  
21 does not prohibit a child sex offender from owning the real  
22 property upon which the programs or services are offered or  
23 upon which the day care center, part day child care facility,  
24 child care institution, or school providing before and after  
25 school programs for children under 18 years of age is located,  
26 provided the child sex offender refrains from being present on

1 the premises for the hours during which: (1) the programs or  
2 services are being offered or (2) the day care center, part day  
3 child care facility, child care institution, or school  
4 providing before and after school programs for children under  
5 18 years of age, day care home, or group day care home is  
6 operated.

7 (c-2) It is unlawful for a child sex offender to  
8 participate in a holiday event involving children under 18  
9 years of age, including but not limited to distributing candy  
10 or other items to children on Halloween, wearing a Santa Claus  
11 costume on or preceding Christmas, being employed as a  
12 department store Santa Claus, or wearing an Easter Bunny  
13 costume on or preceding Easter. For the purposes of this  
14 subsection, child sex offender has the meaning as defined in  
15 this Section, but does not include as a sex offense under  
16 paragraph (2) of subsection (d) of this Section, the offense  
17 under subsection (c) of Section 11-1.50 of this Code. This  
18 subsection does not apply to a child sex offender who is a  
19 parent or guardian of children under 18 years of age that are  
20 present in the home and other non-familial minors are not  
21 present.

22 (c-5) It is unlawful for a child sex offender to knowingly  
23 operate, manage, be employed by, or be associated with any  
24 county fair when persons under the age of 18 are present.

25 (c-6) It is unlawful for a child sex offender who owns and  
26 resides at residential real estate to knowingly rent any



1 residential unit within the same building in which he or she  
2 resides to a person who is the parent or guardian of a child or  
3 children under 18 years of age. This subsection shall apply  
4 only to leases or other rental arrangements entered into after  
5 January 1, 2009 (the effective date of Public Act 95-820).

6 (c-7) It is unlawful for a child sex offender to knowingly  
7 offer or provide any programs or services to persons under 18  
8 years of age in his or her residence or the residence of  
9 another or in any facility for the purpose of offering or  
10 providing such programs or services, whether such programs or  
11 services are offered or provided by contract, agreement,  
12 arrangement, or on a volunteer basis.

13 (c-8) It is unlawful for a child sex offender to knowingly  
14 operate, whether authorized to do so or not, any of the  
15 following vehicles: (1) a vehicle which is specifically  
16 designed, constructed or modified and equipped to be used for  
17 the retail sale of food or beverages, including but not  
18 limited to an ice cream truck; (2) an authorized emergency  
19 vehicle; or (3) a rescue vehicle.

20 (d) Definitions. In this Section:

21 (1) "Child sex offender" means any person who:

22 (i) has been charged under Illinois law, or any  
23 substantially similar federal law or law of another  
24 state, with a sex offense set forth in paragraph (2) of  
25 this subsection (d) or the attempt to commit an  
26 included sex offense, and the victim is a person under

1 18 years of age at the time of the offense; and:

2 (A) is convicted of such offense or an attempt  
3 to commit such offense; or

4 (B) is found not guilty by reason of insanity  
5 of such offense or an attempt to commit such  
6 offense; or

7 (C) is found not guilty by reason of insanity  
8 pursuant to subsection (c) of Section 104-25 of  
9 the Code of Criminal Procedure of 1963 of such  
10 offense or an attempt to commit such offense; or

11 (D) is the subject of a finding not resulting  
12 in an acquittal at a hearing conducted pursuant to  
13 subsection (a) of Section 104-25 of the Code of  
14 Criminal Procedure of 1963 for the alleged  
15 commission or attempted commission of such  
16 offense; or

17 (E) is found not guilty by reason of insanity  
18 following a hearing conducted pursuant to a  
19 federal law or the law of another state  
20 substantially similar to subsection (c) of Section  
21 104-25 of the Code of Criminal Procedure of 1963  
22 of such offense or of the attempted commission of  
23 such offense; or

24 (F) is the subject of a finding not resulting  
25 in an acquittal at a hearing conducted pursuant to  
26 a federal law or the law of another state

1 substantially similar to subsection (a) of Section  
2 104-25 of the Code of Criminal Procedure of 1963  
3 for the alleged violation or attempted commission  
4 of such offense; or

5 (ii) is certified as a sexually dangerous person  
6 pursuant to the Illinois Sexually Dangerous Persons  
7 Act, or any substantially similar federal law or the  
8 law of another state, when any conduct giving rise to  
9 such certification is committed or attempted against a  
10 person less than 18 years of age; or

11 (iii) is subject to the provisions of Section 2 of  
12 the Interstate Agreements on Sexually Dangerous  
13 Persons Act.

14 Convictions that result from or are connected with the  
15 same act, or result from offenses committed at the same  
16 time, shall be counted for the purpose of this Section as  
17 one conviction. Any conviction set aside pursuant to law  
18 is not a conviction for purposes of this Section.

19 (2) Except as otherwise provided in paragraph (2.5),  
20 "sex offense" means:

21 (i) A violation of any of the following Sections  
22 of the Criminal Code of 1961 or the Criminal Code of  
23 2012: 10-4 (forcible detention), 10-7 (aiding or  
24 abetting child abduction under Section 10-5(b)(10)),  
25 10-5(b)(10) (child luring), 11-1.40 (predatory  
26 criminal sexual assault of a child), 11-6 (indecent

1 solicitation of a child), 11-6.5 (indecent  
2 solicitation of an adult), 11-9.1 (sexual exploitation  
3 of a child), 11-9.2 (custodial sexual misconduct),  
4 11-9.5 (sexual misconduct with a person with a  
5 disability), 11-11 (sexual relations within families),  
6 11-14.3(a)(1) (promoting prostitution by advancing  
7 prostitution), 11-14.3(a)(2)(A) (promoting  
8 prostitution by profiting from prostitution by  
9 compelling a person to be a prostitute),  
10 11-14.3(a)(2)(C) (promoting prostitution by profiting  
11 from prostitution by means other than as described in  
12 subparagraphs (A) and (B) of paragraph (2) of  
13 subsection (a) of Section 11-14.3), 11-14.4 (promoting  
14 juvenile prostitution), 11-18.1 (patronizing a  
15 juvenile prostitute), 11-20.1 (child pornography),  
16 11-20.1B (aggravated child pornography), 11-21  
17 (harmful material), 11-25 (grooming), 11-26 (traveling  
18 to meet a minor or traveling to meet a child), 12-33  
19 (ritualized abuse of a child), 11-20 (obscenity) (when  
20 that offense was committed in any school, on real  
21 property comprising any school, in any conveyance  
22 owned, leased, or contracted by a school to transport  
23 students to or from school or a school related  
24 activity, or in a public park), 11-30 (public  
25 indecency) (when committed in a school, on real  
26 property comprising a school, in any conveyance owned,

1 leased, or contracted by a school to transport  
2 students to or from school or a school related  
3 activity, or in a public park). An attempt to commit  
4 any of these offenses.

5 (ii) A violation of any of the following Sections  
6 of the Criminal Code of 1961 or the Criminal Code of  
7 2012, when the victim is a person under 18 years of  
8 age: 11-1.20 (criminal sexual assault), 11-1.30  
9 (aggravated criminal sexual assault), 11-1.50  
10 (criminal sexual abuse), 11-1.60 (aggravated criminal  
11 sexual abuse). An attempt to commit any of these  
12 offenses.

13 (iii) A violation of any of the following Sections  
14 of the Criminal Code of 1961 or the Criminal Code of  
15 2012, when the victim is a person under 18 years of age  
16 and the defendant is not a parent of the victim:

17 10-1 (kidnapping),  
18 10-2 (aggravated kidnapping),  
19 10-3 (unlawful restraint),  
20 10-3.1 (aggravated unlawful restraint),  
21 11-9.1(A) (permitting sexual abuse of a child).

22 An attempt to commit any of these offenses.

23 (iv) A violation of any former law of this State  
24 substantially equivalent to any offense listed in  
25 clause (2)(i) or (2)(ii) of subsection (d) of this  
26 Section, including, but not limited to, these former

1 Sections of the Criminal Code of 1961 or the Criminal  
2 Code of 2012: 11-15.1 (soliciting for a juvenile  
3 prostitute), 11-16 (pandering, if the victim is under  
4 18 years of age), 11-17.1 (keeping a place of juvenile  
5 prostitution), 11-19 (pimping, if the victim is under  
6 18 years of age), 11-19.1 (juvenile pimping), or  
7 11-19.2 (exploitation of a child).

8 (v) A violation of these Sections of the Criminal  
9 Code of 1961 or the Criminal Code of 2012: 10-4  
10 (forcible detention, if the victim is under 18 years  
11 of age) or 11-18 (patronizing a prostitute, if the  
12 victim is under 18 years of age).

13 (2.5) For the purposes of subsections (b-5) and (b-10)  
14 only, a sex offense means:

15 (i) A violation of any of the following Sections  
16 of the Criminal Code of 1961 or the Criminal Code of  
17 2012:

18 10-5(b)(10) (child luring), 10-7 (aiding or  
19 abetting child abduction under Section 10-5(b)(10)),  
20 11-1.40 (predatory criminal sexual assault of a  
21 child), 11-6 (indecent solicitation of a child),  
22 11-6.5 (indecent solicitation of an adult), 11-9.2  
23 (custodial sexual misconduct), 11-9.5 (sexual  
24 misconduct with a person with a disability), 11-11  
25 (sexual relations within families), 11-14.3(a)(1)  
26 (promoting prostitution by advancing prostitution),

1 11-14.3(a)(2)(A) (promoting prostitution by profiting  
2 from prostitution by compelling a person to be a  
3 prostitute), 11-14.3(a)(2)(C) (promoting prostitution  
4 by profiting from prostitution by means other than as  
5 described in subparagraphs (A) and (B) of paragraph  
6 (2) of subsection (a) of Section 11-14.3), 11-14.4  
7 (promoting juvenile prostitution), 11-18.1  
8 (patronizing a juvenile prostitute), 11-20.1 (child  
9 pornography), 11-20.1B (aggravated child pornography),  
10 11-25 (grooming), 11-26 (traveling to meet a minor or  
11 traveling to meet a child), or 12-33 (ritualized abuse  
12 of a child). An attempt to commit any of these  
13 offenses.

14 (ii) A violation of any of the following Sections  
15 of the Criminal Code of 1961 or the Criminal Code of  
16 2012, when the victim is a person under 18 years of  
17 age: 11-1.20 (criminal sexual assault), 11-1.30  
18 (aggravated criminal sexual assault), 11-1.60  
19 (aggravated criminal sexual abuse), and subsection (a)  
20 of Section 11-1.50 (criminal sexual abuse). An attempt  
21 to commit any of these offenses.

22 (iii) A violation of any of the following Sections  
23 of the Criminal Code of 1961 or the Criminal Code of  
24 2012, when the victim is a person under 18 years of age  
25 and the defendant is not a parent of the victim:

26 10-1 (kidnapping),

1           10-2 (aggravated kidnapping),  
2           10-3 (unlawful restraint),  
3           10-3.1 (aggravated unlawful restraint),  
4           11-9.1(A) (permitting sexual abuse of a child).

5           An attempt to commit any of these offenses.

6           (iv) A violation of any former law of this State  
7           substantially equivalent to any offense listed in this  
8           paragraph (2.5) of this subsection, including, but not  
9           limited to, these former Sections of the Criminal Code  
10          of 1961 or the Criminal Code of 2012: 11-15.1  
11          (soliciting for a juvenile prostitute), 11-16  
12          (pandering, if the victim is under 18 years of age),  
13          11-17.1 (keeping a place of juvenile prostitution),  
14          11-19 (pimping, if the victim is under 18 years of  
15          age), 11-19.1 (juvenile pimping), or 11-19.2  
16          (exploitation of a child).

17          (v) A violation of these Sections of the Criminal  
18          Code of 1961 or the Criminal Code of 2012: 10-4  
19          (forcible detention, if the victim is under 18 years  
20          of age) or 11-18 (patronizing a prostitute, if the  
21          victim is under 18 years of age).

22          (3) A conviction for an offense of federal law or the  
23          law of another state that is substantially equivalent to  
24          any offense listed in paragraph (2) of subsection (d) of  
25          this Section shall constitute a conviction for the purpose  
26          of this Section. A finding or adjudication as a sexually



1 dangerous person under any federal law or law of another  
2 state that is substantially equivalent to the Sexually  
3 Dangerous Persons Act shall constitute an adjudication for  
4 the purposes of this Section.

5 (4) "Authorized emergency vehicle", "rescue vehicle",  
6 and "vehicle" have the meanings ascribed to them in  
7 Sections 1-105, 1-171.8 and 1-217, respectively, of the  
8 Illinois Vehicle Code.

9 (5) "Child care institution" has the meaning ascribed  
10 to it in Section 2.06 of the Child Care Act of 1969.

11 (6) "Day care center" has the meaning ascribed to it  
12 in Section 2.09 of the Child Care Act of 1969.

13 (7) "Day care home" has the meaning ascribed to it in  
14 Section 2.18 of the Child Care Act of 1969.

15 (8) "Facility providing programs or services directed  
16 towards persons under the age of 18" means any facility  
17 providing programs or services exclusively directed  
18 towards persons under the age of 18.

19 (9) "Group day care home" has the meaning ascribed to  
20 it in Section 2.20 of the Child Care Act of 1969.

21 (10) "Internet" has the meaning set forth in Section  
22 16-0.1 of this Code.

23 (11) "Loiter" means:

24 (i) Standing, sitting idly, whether or not the  
25 person is in a vehicle, or remaining in or around  
26 school or public park property.

1           (ii) Standing, sitting idly, whether or not the  
2 person is in a vehicle, or remaining in or around  
3 school or public park property, for the purpose of  
4 committing or attempting to commit a sex offense.

5           (iii) Entering or remaining in a building in or  
6 around school property, other than the offender's  
7 residence.

8           (12) "Part day child care facility" has the meaning  
9 ascribed to it in Section 2.10 of the Child Care Act of  
10 1969.

11           (13) "Playground" means a piece of land owned or  
12 controlled by a unit of local government that is  
13 designated by the unit of local government for use solely  
14 or primarily for children's recreation.

15           (14) "Public park" includes a park, forest preserve,  
16 bikeway, trail, or conservation area under the  
17 jurisdiction of the State or a unit of local government.

18           (15) "School" means a public or private preschool or  
19 elementary or secondary school.

20           (16) "School official" means the principal, a teacher,  
21 or any other certified employee of the school, the  
22 superintendent of schools or a member of the school board.

23           (e) For the purposes of this Section, the 500 feet  
24 distance shall be measured from: (1) the edge of the property  
25 of the school building or the real property comprising the  
26 school that is closest to the edge of the property of the child

1 sex offender's residence or where he or she is loitering, and  
2 (2) the edge of the property comprising the public park  
3 building or the real property comprising the public park,  
4 playground, child care institution, day care center, part day  
5 child care facility, or facility providing programs or  
6 services exclusively directed toward persons under 18 years of  
7 age, or a victim of the sex offense who is under 21 years of  
8 age, to the edge of the child sex offender's place of residence  
9 or place where he or she is loitering.

10 (f) Sentence. A person who violates this Section is guilty  
11 of a Class 4 felony.

12 (Source: P.A. 100-428, eff. 1-1-18.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.