



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1397

Introduced 1/31/2023, by Rep. Kelly M. Cassidy and Joyce Mason

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-0.1

720 ILCS 5/11-1.20

720 ILCS 5/11-1.50

was 720 ILCS 5/12-13

was 720 ILCS 5/12-15

Amends the Criminal Code of 2012. In the Sex Offenses Article of the Code, defines "coercive control" as direct or implied threat of danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act that otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. Provides that a person commits criminal sexual assault if that person commits an act of sexual penetration and uses coercive control. Provides that a person commits criminal sexual abuse if that person commits an act of sexual conduct by the use of coercive control.

LRB103 26032 RLC 52387 b

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
5 changing Sections 11-0.1, 11-1.20, and 11-1.50 as follows:

6 (720 ILCS 5/11-0.1)

7 Sec. 11-0.1. Definitions. In this Article, unless the
8 context clearly requires otherwise, the following terms are
9 defined as indicated:

10 "Accused" means a person accused of an offense prohibited
11 by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of
12 this Code or a person for whose conduct the accused is legally
13 responsible under Article 5 of this Code.

14 "Adult obscenity or child pornography Internet site". See
15 Section 11-23.

16 "Advance prostitution" means:

17 (1) Soliciting for a prostitute by performing any of
18 the following acts when acting other than as a prostitute
19 or a patron of a prostitute:

20 (A) Soliciting another for the purpose of
21 prostitution.

22 (B) Arranging or offering to arrange a meeting of
23 persons for the purpose of prostitution.

1 (C) Directing another to a place knowing the
2 direction is for the purpose of prostitution.

3 (2) Keeping a place of prostitution by controlling or
4 exercising control over the use of any place that could
5 offer seclusion or shelter for the practice of
6 prostitution and performing any of the following acts when
7 acting other than as a prostitute or a patron of a
8 prostitute:

9 (A) Knowingly granting or permitting the use of
10 the place for the purpose of prostitution.

11 (B) Granting or permitting the use of the place
12 under circumstances from which he or she could
13 reasonably know that the place is used or is to be used
14 for purposes of prostitution.

15 (C) Permitting the continued use of the place
16 after becoming aware of facts or circumstances from
17 which he or she should reasonably know that the place
18 is being used for purposes of prostitution.

19 "Agency". See Section 11-9.5.

20 "Arranges". See Section 11-6.5.

21 "Bodily harm" means physical harm, and includes, but is
22 not limited to, sexually transmitted disease, pregnancy, and
23 impotence.

24 "Care and custody". See Section 11-9.5.

25 "Child care institution". See Section 11-9.3.

26 "Child pornography". See Section 11-20.1.

1 "Child sex offender". See Section 11-9.3.

2 "Coercive control" means a direct or implied threat of
3 danger, or retribution sufficient to coerce a reasonable
4 person of ordinary susceptibilities to perform an act that
5 otherwise would not have been performed, or acquiesce in an
6 act to which one otherwise would not have submitted.

7 "Community agency". See Section 11-9.5.

8 "Conditional release". See Section 11-9.2.

9 "Consent" means a freely given agreement to the act of
10 sexual penetration or sexual conduct in question. Lack of
11 verbal or physical resistance or submission by the victim
12 resulting from the use of force or threat of force by the
13 accused shall not constitute consent. The manner of dress of
14 the victim at the time of the offense shall not constitute
15 consent.

16 "Custody". See Section 11-9.2.

17 "Day care center". See Section 11-9.3.

18 "Depict by computer". See Section 11-20.1.

19 "Depiction by computer". See Section 11-20.1.

20 "Disseminate". See Section 11-20.1.

21 "Distribute". See Section 11-21.

22 "Family member" means a parent, grandparent, child, aunt,
23 uncle, great-aunt, or great-uncle, whether by whole blood,
24 half-blood, or adoption, and includes a step-grandparent,
25 step-parent, or step-child. "Family member" also means, if the
26 victim is a child under 18 years of age, an accused who has

1 resided in the household with the child continuously for at
2 least 6 months.

3 "Force or threat of force" means the use of force or
4 violence or the threat of force or violence, including, but
5 not limited to, the following situations:

6 (1) when the accused threatens to use force or
7 violence on the victim or on any other person, and the
8 victim under the circumstances reasonably believes that
9 the accused has the ability to execute that threat; or

10 (2) when the accused overcomes the victim by use of
11 superior strength or size, physical restraint, or physical
12 confinement.

13 "Harmful to minors". See Section 11-21.

14 "Loiter". See Section 9.3.

15 "Material". See Section 11-21.

16 "Minor". See Section 11-21.

17 "Nudity". See Section 11-21.

18 "Obscene". See Section 11-20.

19 "Part day child care facility". See Section 11-9.3.

20 "Penal system". See Section 11-9.2.

21 "Person responsible for the child's welfare". See Section
22 11-9.1A.

23 "Person with a disability". See Section 11-9.5.

24 "Playground". See Section 11-9.3.

25 "Probation officer". See Section 11-9.2.

26 "Produce". See Section 11-20.1.

1 "Profit from prostitution" means, when acting other than
2 as a prostitute, to receive anything of value for personally
3 rendered prostitution services or to receive anything of value
4 from a prostitute, if the thing received is not for lawful
5 consideration and the person knows it was earned in whole or in
6 part from the practice of prostitution.

7 "Public park". See Section 11-9.3.

8 "Public place". See Section 11-30.

9 "Reproduce". See Section 11-20.1.

10 "Sado-masochistic abuse". See Section 11-21.

11 "School". See Section 11-9.3.

12 "School official". See Section 11-9.3.

13 "Sexual abuse". See Section 11-9.1A.

14 "Sexual act". See Section 11-9.1.

15 "Sexual conduct" means any knowing touching or fondling by
16 the victim or the accused, either directly or through
17 clothing, of the sex organs, anus, or breast of the victim or
18 the accused, or any part of the body of a child under 13 years
19 of age, or any transfer or transmission of semen by the accused
20 upon any part of the clothed or unclothed body of the victim,
21 for the purpose of sexual gratification or arousal of the
22 victim or the accused.

23 "Sexual excitement". See Section 11-21.

24 "Sexual penetration" means any contact, however slight,
25 between the sex organ or anus of one person and an object or
26 the sex organ, mouth, or anus of another person, or any

1 intrusion, however slight, of any part of the body of one
2 person or of any animal or object into the sex organ or anus of
3 another person, including, but not limited to, cunnilingus,
4 fellatio, or anal penetration. Evidence of emission of semen
5 is not required to prove sexual penetration.

6 "Solicit". See Section 11-6.

7 "State-operated facility". See Section 11-9.5.

8 "Supervising officer". See Section 11-9.2.

9 "Surveillance agent". See Section 11-9.2.

10 "Treatment and detention facility". See Section 11-9.2.

11 "Unable to give knowing consent" includes when the accused
12 administers any intoxicating or anesthetic substance, or any
13 controlled substance causing the victim to become unconscious
14 of the nature of the act and this condition was known, or
15 reasonably should have been known by the accused. "Unable to
16 give knowing consent" also includes when the victim has taken
17 an intoxicating substance or any controlled substance causing
18 the victim to become unconscious of the nature of the act, and
19 this condition was known or reasonably should have been known
20 by the accused, but the accused did not provide or administer
21 the intoxicating substance. As used in this paragraph,
22 "unconscious of the nature of the act" means incapable of
23 resisting because the victim meets any one of the following
24 conditions:

25 (1) was unconscious or asleep;

26 (2) was not aware, knowing, perceiving, or cognizant

1 that the act occurred;

2 (3) was not aware, knowing, perceiving, or cognizant
3 of the essential characteristics of the act due to the
4 perpetrator's fraud in fact; or

5 (4) was not aware, knowing, perceiving, or cognizant
6 of the essential characteristics of the act due to the
7 perpetrator's fraudulent representation that the sexual
8 penetration served a professional purpose when it served
9 no professional purpose.

10 A victim is presumed "unable to give knowing consent" when
11 the victim:

12 (1) is committed to the care and custody or
13 supervision of the Illinois Department of Corrections
14 (IDOC) and the accused is an employee or volunteer who is
15 not married to the victim who knows or reasonably should
16 know that the victim is committed to the care and custody
17 or supervision of such department;

18 (2) is committed to or placed with the Department of
19 Children and Family Services (DCFS) and in residential
20 care, and the accused employee is not married to the
21 victim, and knows or reasonably should know that the
22 victim is committed to or placed with DCFS and in
23 residential care;

24 (3) is a client or patient and the accused is a health
25 care provider or mental health care provider and the
26 sexual conduct or sexual penetration occurs during a

1 treatment session, consultation, interview, or
2 examination;

3 (4) is a resident or inpatient of a residential
4 facility and the accused is an employee of the facility
5 who is not married to such resident or inpatient who
6 provides direct care services, case management services,
7 medical or other clinical services, habilitative services
8 or direct supervision of the residents in the facility in
9 which the resident resides; or an officer or other
10 employee, consultant, contractor or volunteer of the
11 residential facility, who knows or reasonably should know
12 that the person is a resident of such facility; or

13 (5) is detained or otherwise in the custody of a
14 police officer, peace officer, or other law enforcement
15 official who: (i) is detaining or maintaining custody of
16 such person; or (ii) knows, or reasonably should know,
17 that at the time of the offense, such person was detained
18 or in custody and the police officer, peace officer, or
19 other law enforcement official is not married to such
20 detainee.

21 "Victim" means a person alleging to have been subjected to
22 an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40,
23 11-1.50, or 11-1.60 of this Code.

24 (Source: P.A. 102-567, eff. 1-1-22; 102-1096, eff. 1-1-23.)

25 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

1 Sec. 11-1.20. Criminal sexual assault.

2 (a) A person commits criminal sexual assault if that
3 person commits an act of sexual penetration and:

4 (1) uses force or threat of force;

5 (2) knows that the victim is unable to understand the
6 nature of the act or is unable to give knowing consent;

7 (3) is a family member of the victim, and the victim is
8 under 18 years of age; ~~or~~

9 (4) is 17 years of age or over and holds a position of
10 trust, authority, or supervision in relation to the
11 victim, and the victim is at least 13 years of age but
12 under 18 years of age; or

13 (5) uses coercive control.

14 (b) Sentence.

15 (1) Criminal sexual assault is a Class 1 felony,
16 except that:

17 (A) A person who is convicted of the offense of
18 criminal sexual assault as defined in paragraph (a)(1)
19 or (a)(2) after having previously been convicted of
20 the offense of criminal sexual assault or the offense
21 of exploitation of a child, or who is convicted of the
22 offense of criminal sexual assault as defined in
23 paragraph (a)(1) or (a)(2) after having previously
24 been convicted under the laws of this State or any
25 other state of an offense that is substantially
26 equivalent to the offense of criminal sexual assault

1 or to the offense of exploitation of a child, commits a
2 Class X felony for which the person shall be sentenced
3 to a term of imprisonment of not less than 30 years and
4 not more than 60 years, except that if the person is
5 under the age of 18 years at the time of the offense,
6 he or she shall be sentenced under Section 5-4.5-105
7 of the Unified Code of Corrections. The commission of
8 the second or subsequent offense is required to have
9 been after the initial conviction for this paragraph
10 (A) to apply.

11 (B) A person who has attained the age of 18 years
12 at the time of the commission of the offense and who is
13 convicted of the offense of criminal sexual assault as
14 defined in paragraph (a)(1) or (a)(2) after having
15 previously been convicted of the offense of aggravated
16 criminal sexual assault or the offense of predatory
17 criminal sexual assault of a child, or who is
18 convicted of the offense of criminal sexual assault as
19 defined in paragraph (a)(1) or (a)(2) after having
20 previously been convicted under the laws of this State
21 or any other state of an offense that is substantially
22 equivalent to the offense of aggravated criminal
23 sexual assault or the offense of predatory criminal
24 sexual assault of a child shall be sentenced to a term
25 of natural life imprisonment. The commission of the
26 second or subsequent offense is required to have been

1 after the initial conviction for this paragraph (B) to
2 apply. An offender under the age of 18 years at the
3 time of the commission of the offense covered by this
4 subparagraph (B) shall be sentenced under Section
5 5-4.5-105 of the Unified Code of Corrections.

6 (C) A second or subsequent conviction for a
7 violation of paragraph (a) (3) or (a) (4) or under any
8 similar statute of this State or any other state for
9 any offense involving criminal sexual assault that is
10 substantially equivalent to or more serious than the
11 sexual assault prohibited under paragraph (a) (3) or
12 (a) (4) is a Class X felony.

13 (Source: P.A. 99-69, eff. 1-1-16.)

14 (720 ILCS 5/11-1.50) (was 720 ILCS 5/12-15)

15 Sec. 11-1.50. Criminal sexual abuse.

16 (a) A person commits criminal sexual abuse if that person:

17 (1) commits an act of sexual conduct by the use of
18 force or threat of force; ~~or~~

19 (2) commits an act of sexual conduct and knows that
20 the victim is unable to understand the nature of the act or
21 is unable to give knowing consent; or

22 (3) commits an act of sexual conduct by the use of
23 coercive control.

24 (b) A person commits criminal sexual abuse if that person
25 is under 17 years of age and commits an act of sexual

1 penetration or sexual conduct with a victim who is at least 9
2 years of age but under 17 years of age.

3 (c) A person commits criminal sexual abuse if that person
4 commits an act of sexual penetration or sexual conduct with a
5 victim who is at least 13 years of age but under 17 years of
6 age and the person is less than 5 years older than the victim.

7 (d) Sentence. Criminal sexual abuse for a violation of
8 subsection (b) or (c) of this Section is a Class A misdemeanor.
9 Criminal sexual abuse for a violation of paragraph (1) or (2)
10 of subsection (a) of this Section is a Class 4 felony. A second
11 or subsequent conviction for a violation of subsection (a) of
12 this Section is a Class 2 felony. For purposes of this Section
13 it is a second or subsequent conviction if the accused has at
14 any time been convicted under this Section or under any
15 similar statute of this State or any other state for any
16 offense involving sexual abuse or sexual assault that is
17 substantially equivalent to or more serious than the sexual
18 abuse prohibited under this Section.

19 (Source: P.A. 96-1551, eff. 7-1-11.)