



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2891

Introduced 2/16/2023, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

720 ILCS 5/18-7 new
730 ILCS 5/5-5-3.2

Provides that the Act may be referred to as the Zingher-Cleary-Feitler Act. Amends the Criminal Code of 2012. Provides that a person commits forcible withdrawal from an electronic fund transfer terminal when the person uses force or threatens the use of force against another person to effect or to attempt to effect a withdrawal from an electronic fund transfer terminal located in the State. Provides that a violation is a Class 1 felony. Defines "electronic fund transfer terminal". Amends the Unified Code of Corrections. Provides that it is an aggravating factor in sentencing that the defendant committed the offense of first degree murder during the commission of forcible withdrawal from an electronic fund transfer terminal.

LRB103 04648 RLC 52533 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 1. This Act may be referred to as the
5 Zingher-Cleary-Feitler Act.

6 Section 5. The Criminal Code of 2012 is amended by adding
7 Section 18-7 as follows:

8 (720 ILCS 5/18-7 new)

9 Sec. 18-7. Forcible withdrawal from an electronic fund
10 transfer terminal.

11 (a) In this Section, "electronic fund transfer terminal"
12 has the meaning ascribed to it in Section 17-0.5 of this
13 Code.

14 (b) A person commits forcible withdrawal from an
15 electronic fund transfer terminal when the person uses force
16 or threatens the use of force against another person to effect
17 or to attempt to effect a withdrawal from an electronic fund
18 transfer terminal located in this State.

19 (c) Sentence. A violation of this Section is a Class 1
20 felony.

21 Section 10. The Unified Code of Corrections is amended by

1 changing Section 5-5-3.2 as follows:

2 (730 ILCS 5/5-5-3.2)

3 (Text of Section before amendment by P.A. 102-982)

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

6 (a) The following factors shall be accorded weight in
7 favor of imposing a term of imprisonment or may be considered
8 by the court as reasons to impose a more severe sentence under
9 Section 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
15 or criminal activity;

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

20 (5) the defendant held public office at the time of
21 the offense, and the offense related to the conduct of
22 that 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;
13 (ii) the person or property of a person who has an
14 association with, is married to, or has a friendship with
15 the other individual; or (iii) the person or property of a
16 relative (by blood or marriage) of a person described in
17 clause (i) or (ii). For the purposes of this Section,
18 "sexual orientation" has the meaning ascribed to it in
19 paragraph (0-1) of Section 1-103 of the Illinois Human
20 Rights Act;

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

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

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

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

25 (15) the defendant committed an offense related to the
26 activities of an organized gang. For the purposes of this

1 factor, "organized gang" has the meaning ascribed to it in
2 Section 10 of the Streetgang Terrorism Omnibus Prevention
3 Act;

4 (16) the defendant committed an offense in violation
5 of one of the following Sections while in a school,
6 regardless of the time of day or time of year; on any
7 conveyance owned, leased, or contracted by a school to
8 transport students to or from school or a school related
9 activity; on the real property of a school; or on a public
10 way within 1,000 feet of the real property comprising any
11 school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30,
12 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1,
13 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2,
14 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1,
15 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except
16 for subdivision (a) (4) or (g) (1), of the Criminal Code of
17 1961 or the Criminal Code of 2012;

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

1 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
2 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
3 18-2, or 33A-2, or Section 12-3.05 except for subdivision
4 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
5 Criminal Code of 2012;

6 (17) the defendant committed the offense by reason of
7 any person's activity as a community policing volunteer or
8 to prevent any person from engaging in activity as a
9 community policing volunteer. For the purpose of this
10 Section, "community policing volunteer" has the meaning
11 ascribed to it in Section 2-3.5 of the Criminal Code of
12 2012;

13 (18) the defendant committed the offense in a nursing
14 home or on the real property comprising a nursing home.
15 For the purposes of this paragraph (18), "nursing home"
16 means a skilled nursing or intermediate long term care
17 facility that is subject to license by the Illinois
18 Department of Public Health under the Nursing Home Care
19 Act, the Specialized Mental Health Rehabilitation Act of
20 2013, the ID/DD Community Care Act, or the MC/DD Act;

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

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

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

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

25 (23) the defendant committed the offense against a
26 person who was elderly or infirm or who was a person with a

1 disability by taking advantage of a family or fiduciary
2 relationship with the elderly or infirm person or person
3 with a disability;

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

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

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

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

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

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

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

1 defendant holds a position of trust, authority, or
2 supervision in relation to the victim;

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

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

20 (32) the defendant committed the offense of reckless
21 homicide while committing a violation of Section 11-907 of
22 the Illinois Vehicle Code;

23 (33) the defendant was found guilty of an
24 administrative infraction related to an act or acts of
25 public indecency or sexual misconduct in the penal
26 institution. In this paragraph (33), "penal institution"

1 has the same meaning as in Section 2-14 of the Criminal
2 Code of 2012; or

3 (34) the defendant committed the offense of leaving
4 the scene of an accident in violation of subsection (b) of
5 Section 11-401 of the Illinois Vehicle Code and the
6 accident resulted in the death of a person and at the time
7 of the offense, the defendant was: (i) driving under the
8 influence of alcohol, other drug or drugs, intoxicating
9 compound or compounds or any combination thereof as
10 defined by Section 11-501 of the Illinois Vehicle Code; or
11 (ii) operating the motor vehicle while using an electronic
12 communication device as defined in Section 12-610.2 of the
13 Illinois Vehicle Code.

14 For the purposes of this Section:

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

17 "Day care center" means a public or private State
18 certified and licensed day care center as defined in Section
19 2.09 of the Child Care Act of 1969 that displays a sign in
20 plain view stating that the property is a day care center.

21 "Intellectual disability" means significantly subaverage
22 intellectual functioning which exists concurrently with
23 impairment in adaptive behavior.

24 "Public transportation" means the transportation or
25 conveyance of persons by means available to the general
26 public, and includes paratransit services.

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

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

9 (1) When a defendant is convicted of any felony, after
10 having been previously convicted in Illinois or any other
11 jurisdiction of the same or similar class felony or
12 greater class felony, when such conviction has occurred
13 within 10 years after the previous conviction, excluding
14 time spent in custody, and such charges are separately
15 brought and tried and arise out of different series of
16 acts; or

17 (2) When a defendant is convicted of any felony and
18 the court finds that the offense was accompanied by
19 exceptionally brutal or heinous behavior indicative of
20 wanton cruelty; or

21 (3) When a defendant is convicted of any felony
22 committed against:

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

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

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

3 (4) When a defendant is convicted of any felony and
4 the offense involved any of the following types of
5 specific misconduct committed as part of a ceremony, rite,
6 initiation, observance, performance, practice or activity
7 of any actual or ostensible religious, fraternal, or
8 social group:

9 (i) the brutalizing or torturing of humans or
10 animals;

11 (ii) the theft of human corpses;

12 (iii) the kidnapping of humans;

13 (iv) the desecration of any cemetery, religious,
14 fraternal, business, governmental, educational, or
15 other building or property; or

16 (v) ritualized abuse of a child; or

17 (5) When a defendant is convicted of a felony other
18 than conspiracy and the court finds that the felony was
19 committed under an agreement with 2 or more other persons
20 to commit that offense and the defendant, with respect to
21 the other individuals, occupied a position of organizer,
22 supervisor, financier, or any other position of management
23 or leadership, and the court further finds that the felony
24 committed was related to or in furtherance of the criminal
25 activities of an organized gang or was motivated by the
26 defendant's leadership in an organized gang; or

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

6 (7) When a defendant who was at least 17 years of age
7 at the time of the commission of the offense is convicted
8 of a felony and has been previously adjudicated a
9 delinquent minor under the Juvenile Court Act of 1987 for
10 an act that if committed by an adult would be a Class X or
11 Class 1 felony when the conviction has occurred within 10
12 years after the previous adjudication, excluding time
13 spent in custody; or

14 (8) When a defendant commits any felony and the
15 defendant used, possessed, exercised control over, or
16 otherwise directed an animal to assault a law enforcement
17 officer engaged in the execution of his or her official
18 duties or in furtherance of the criminal activities of an
19 organized gang in which the defendant is engaged; or

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

23 (c) The following factors may be considered by the court
24 as reasons to impose an extended term sentence under Section
25 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed
26 offenses:

1 (1) When a defendant is convicted of first degree
2 murder, after having been previously convicted in Illinois
3 of any offense listed under paragraph (c)(2) of Section
4 5-5-3 (730 ILCS 5/5-5-3), when that conviction has
5 occurred within 10 years after the previous conviction,
6 excluding time spent in custody, and the charges are
7 separately brought and tried and arise out of different
8 series of acts.

9 (1.5) When a defendant is convicted of first degree
10 murder, after having been previously convicted of domestic
11 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
12 (720 ILCS 5/12-3.3) committed on the same victim or after
13 having been previously convicted of violation of an order
14 of protection (720 ILCS 5/12-30) in which the same victim
15 was the protected person.

16 (2) When a defendant is convicted of voluntary
17 manslaughter, second degree murder, involuntary
18 manslaughter, or reckless homicide in which the defendant
19 has been convicted of causing the death of more than one
20 individual.

21 (3) When a defendant is convicted of aggravated
22 criminal sexual assault or criminal sexual assault, when
23 there is a finding that aggravated criminal sexual assault
24 or criminal sexual assault was also committed on the same
25 victim by one or more other individuals, and the defendant
26 voluntarily participated in the crime with the knowledge

1 of the participation of the others in the crime, and the
2 commission of the crime was part of a single course of
3 conduct during which there was no substantial change in
4 the nature of the criminal objective.

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

12 (5) When a defendant is convicted of a felony
13 violation of Section 24-1 of the Criminal Code of 1961 or
14 the Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
15 finding that the defendant is a member of an organized
16 gang.

17 (6) When a defendant was convicted of unlawful use of
18 weapons under Section 24-1 of the Criminal Code of 1961 or
19 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
20 a weapon that is not readily distinguishable as one of the
21 weapons enumerated in Section 24-1 of the Criminal Code of
22 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

23 (7) When a defendant is convicted of an offense
24 involving the illegal manufacture of a controlled
25 substance under Section 401 of the Illinois Controlled
26 Substances Act (720 ILCS 570/401), the illegal manufacture

1 of methamphetamine under Section 25 of the Methamphetamine
2 Control and Community Protection Act (720 ILCS 646/25), or
3 the illegal possession of explosives and an emergency
4 response officer in the performance of his or her duties
5 is killed or injured at the scene of the offense while
6 responding to the emergency caused by the commission of
7 the offense. In this paragraph, "emergency" means a
8 situation in which a person's life, health, or safety is
9 in jeopardy; and "emergency response officer" means a
10 peace officer, community policing volunteer, fireman,
11 emergency medical technician-ambulance, emergency medical
12 technician-intermediate, emergency medical
13 technician-paramedic, ambulance driver, other medical
14 assistance or first aid personnel, or hospital emergency
15 room personnel.

16 (8) When the defendant is convicted of attempted mob
17 action, solicitation to commit mob action, or conspiracy
18 to commit mob action under Section 8-1, 8-2, or 8-4 of the
19 Criminal Code of 2012, where the criminal object is a
20 violation of Section 25-1 of the Criminal Code of 2012,
21 and an electronic communication is used in the commission
22 of the offense. For the purposes of this paragraph (8),
23 "electronic communication" shall have the meaning provided
24 in Section 26.5-0.1 of the Criminal Code of 2012.

25 (d) For the purposes of this Section, "organized gang" has
26 the meaning ascribed to it in Section 10 of the Illinois

1 Streetgang Terrorism Omnibus Prevention Act.

2 (e) The court may impose an extended term sentence under
3 Article 4.5 of Chapter V upon an offender who has been
4 convicted of a felony violation of Section 11-1.20, 11-1.30,
5 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
6 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
7 when the victim of the offense is under 18 years of age at the
8 time of the commission of the offense and, during the
9 commission of the offense, the victim was under the influence
10 of alcohol, regardless of whether or not the alcohol was
11 supplied by the offender; and the offender, at the time of the
12 commission of the offense, knew or should have known that the
13 victim had consumed alcohol.

14 (Source: P.A. 101-173, eff. 1-1-20; 101-401, eff. 1-1-20;
15 101-417, eff. 1-1-20; 101-652, eff. 1-1-23; 102-558, eff.
16 8-20-21.)

17 (Text of Section after amendment by P.A. 102-982)

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

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

24 (1) the defendant's conduct caused or threatened
25 serious harm;

1 (2) the defendant received compensation for committing
2 the offense;

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

5 (4) the defendant, by the duties of his office or by
6 his position, was obliged to prevent the particular
7 offense committed or to bring the offenders committing it
8 to justice;

9 (5) the defendant held public office at the time of
10 the offense, and the offense related to the conduct of
11 that office;

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

15 (7) the sentence is necessary to deter others from
16 committing the same crime;

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

19 (9) the defendant committed the offense against a
20 person who has a physical disability or such person's
21 property;

22 (10) by reason of another individual's actual or
23 perceived race, color, creed, religion, ancestry, gender,
24 sexual orientation, physical or mental disability, or
25 national origin, the defendant committed the offense
26 against (i) the person or property of that individual;

1 (ii) the person or property of a person who has an
2 association with, is married to, or has a friendship with
3 the other individual; or (iii) the person or property of a
4 relative (by blood or marriage) of a person described in
5 clause (i) or (ii). For the purposes of this Section,
6 "sexual orientation" has the meaning ascribed to it in
7 paragraph (O-1) of Section 1-103 of the Illinois Human
8 Rights Act;

9 (11) the offense took place in a place of worship or on
10 the grounds of a place of worship, immediately prior to,
11 during or immediately following worship services. For
12 purposes of this subparagraph, "place of worship" shall
13 mean any church, synagogue or other building, structure or
14 place used primarily for religious worship;

15 (12) the defendant was convicted of a felony committed
16 while he was on pretrial release or his own recognizance
17 pending trial for a prior felony and was convicted of such
18 prior felony, or the defendant was convicted of a felony
19 committed while he was serving a period of probation,
20 conditional discharge, or mandatory supervised release
21 under subsection (d) of Section 5-8-1 for a prior felony;

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

1 (14) the defendant held a position of trust or
2 supervision such as, but not limited to, family member as
3 defined in Section 11-0.1 of the Criminal Code of 2012,
4 teacher, scout leader, baby sitter, or day care worker, in
5 relation to a victim under 18 years of age, and the
6 defendant committed an offense in violation of Section
7 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
8 11-14.4 except for an offense that involves keeping a
9 place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
10 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
11 or 12-16 of the Criminal Code of 1961 or the Criminal Code
12 of 2012 against that victim;

13 (15) the defendant committed an offense related to the
14 activities of an organized gang. For the purposes of this
15 factor, "organized gang" has the meaning ascribed to it in
16 Section 10 of the Streetgang Terrorism Omnibus Prevention
17 Act;

18 (16) the defendant committed an offense in violation
19 of one of the following Sections while in a school,
20 regardless of the time of day or time of year; on any
21 conveyance owned, leased, or contracted by a school to
22 transport students to or from school or a school related
23 activity; on the real property of a school; or on a public
24 way within 1,000 feet of the real property comprising any
25 school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30,
26 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1,

1 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2,
2 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1,
3 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except
4 for subdivision (a)(4) or (g)(1), of the Criminal Code of
5 1961 or the Criminal Code of 2012;

6 (16.5) the defendant committed an offense in violation
7 of one of the following Sections while in a day care
8 center, regardless of the time of day or time of year; on
9 the real property of a day care center, regardless of the
10 time of day or time of year; or on a public way within
11 1,000 feet of the real property comprising any day care
12 center, regardless of the time of day or time of year:
13 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
14 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
15 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
16 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
17 18-2, or 33A-2, or Section 12-3.05 except for subdivision
18 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
19 Criminal Code of 2012;

20 (17) the defendant committed the offense by reason of
21 any person's activity as a community policing volunteer or
22 to prevent any person from engaging in activity as a
23 community policing volunteer. For the purpose of this
24 Section, "community policing volunteer" has the meaning
25 ascribed to it in Section 2-3.5 of the Criminal Code of
26 2012;

1 (18) the defendant committed the offense in a nursing
2 home or on the real property comprising a nursing home.
3 For the purposes of this paragraph (18), "nursing home"
4 means a skilled nursing or intermediate long term care
5 facility that is subject to license by the Illinois
6 Department of Public Health under the Nursing Home Care
7 Act, the Specialized Mental Health Rehabilitation Act of
8 2013, the ID/DD Community Care Act, or the MC/DD Act;

9 (19) the defendant was a federally licensed firearm
10 dealer and was previously convicted of a violation of
11 subsection (a) of Section 3 of the Firearm Owners
12 Identification Card Act and has now committed either a
13 felony violation of the Firearm Owners Identification Card
14 Act or an act of armed violence while armed with a firearm;

15 (20) the defendant (i) committed the offense of
16 reckless homicide under Section 9-3 of the Criminal Code
17 of 1961 or the Criminal Code of 2012 or the offense of
18 driving under the influence of alcohol, other drug or
19 drugs, intoxicating compound or compounds or any
20 combination thereof under Section 11-501 of the Illinois
21 Vehicle Code or a similar provision of a local ordinance
22 and (ii) was operating a motor vehicle in excess of 20
23 miles per hour over the posted speed limit as provided in
24 Article VI of Chapter 11 of the Illinois Vehicle Code;

25 (21) the defendant (i) committed the offense of
26 reckless driving or aggravated reckless driving under

1 Section 11-503 of the Illinois Vehicle Code and (ii) was
2 operating a motor vehicle in excess of 20 miles per hour
3 over the posted speed limit as provided in Article VI of
4 Chapter 11 of the Illinois Vehicle Code;

5 (22) the defendant committed the offense against a
6 person that the defendant knew, or reasonably should have
7 known, was a member of the Armed Forces of the United
8 States serving on active duty. For purposes of this clause
9 (22), the term "Armed Forces" means any of the Armed
10 Forces of the United States, including a member of any
11 reserve component thereof or National Guard unit called to
12 active duty;

13 (23) the defendant committed the offense against a
14 person who was elderly or infirm or who was a person with a
15 disability by taking advantage of a family or fiduciary
16 relationship with the elderly or infirm person or person
17 with a disability;

18 (24) the defendant committed any offense under Section
19 11-20.1 of the Criminal Code of 1961 or the Criminal Code
20 of 2012 and possessed 100 or more images;

21 (25) the defendant committed the offense while the
22 defendant or the victim was in a train, bus, or other
23 vehicle used for public transportation;

24 (26) the defendant committed the offense of child
25 pornography or aggravated child pornography, specifically
26 including paragraph (1), (2), (3), (4), (5), or (7) of

1 subsection (a) of Section 11-20.1 of the Criminal Code of
2 1961 or the Criminal Code of 2012 where a child engaged in,
3 solicited for, depicted in, or posed in any act of sexual
4 penetration or bound, fettered, or subject to sadistic,
5 masochistic, or sadomasochistic abuse in a sexual context
6 and specifically including paragraph (1), (2), (3), (4),
7 (5), or (7) of subsection (a) of Section 11-20.1B or
8 Section 11-20.3 of the Criminal Code of 1961 where a child
9 engaged in, solicited for, depicted in, or posed in any
10 act of sexual penetration or bound, fettered, or subject
11 to sadistic, masochistic, or sadomasochistic abuse in a
12 sexual context;

13 (27) the defendant committed the offense of first
14 degree murder, assault, aggravated assault, battery,
15 aggravated battery, robbery, armed robbery, or aggravated
16 robbery against a person who was a veteran and the
17 defendant knew, or reasonably should have known, that the
18 person was a veteran performing duties as a representative
19 of a veterans' organization. For the purposes of this
20 paragraph (27), "veteran" means an Illinois resident who
21 has served as a member of the United States Armed Forces, a
22 member of the Illinois National Guard, or a member of the
23 United States Reserve Forces; and "veterans' organization"
24 means an organization comprised of members of which
25 substantially all are individuals who are veterans or
26 spouses, widows, or widowers of veterans, the primary

1 purpose of which is to promote the welfare of its members
2 and to provide assistance to the general public in such a
3 way as to confer a public benefit;

4 (28) the defendant committed the offense of assault,
5 aggravated assault, battery, aggravated battery, robbery,
6 armed robbery, or aggravated robbery against a person that
7 the defendant knew or reasonably should have known was a
8 letter carrier or postal worker while that person was
9 performing his or her duties delivering mail for the
10 United States Postal Service;

11 (29) the defendant committed the offense of criminal
12 sexual assault, aggravated criminal sexual assault,
13 criminal sexual abuse, or aggravated criminal sexual abuse
14 against a victim with an intellectual disability, and the
15 defendant holds a position of trust, authority, or
16 supervision in relation to the victim;

17 (30) the defendant committed the offense of promoting
18 juvenile prostitution, patronizing a prostitute, or
19 patronizing a minor engaged in prostitution and at the
20 time of the commission of the offense knew that the
21 prostitute or minor engaged in prostitution was in the
22 custody or guardianship of the Department of Children and
23 Family Services;

24 (31) the defendant (i) committed the offense of
25 driving while under the influence of alcohol, other drug
26 or drugs, intoxicating compound or compounds or any

1 combination thereof in violation of Section 11-501 of the
2 Illinois Vehicle Code or a similar provision of a local
3 ordinance and (ii) the defendant during the commission of
4 the offense was driving his or her vehicle upon a roadway
5 designated for one-way traffic in the opposite direction
6 of the direction indicated by official traffic control
7 devices;

8 (32) the defendant committed the offense of reckless
9 homicide while committing a violation of Section 11-907 of
10 the Illinois Vehicle Code;

11 (33) the defendant was found guilty of an
12 administrative infraction related to an act or acts of
13 public indecency or sexual misconduct in the penal
14 institution. In this paragraph (33), "penal institution"
15 has the same meaning as in Section 2-14 of the Criminal
16 Code of 2012; ~~or~~

17 (34) the defendant committed the offense of leaving
18 the scene of a crash in violation of subsection (b) of
19 Section 11-401 of the Illinois Vehicle Code and the crash
20 resulted in the death of a person and at the time of the
21 offense, the defendant was: (i) driving under the
22 influence of alcohol, other drug or drugs, intoxicating
23 compound or compounds or any combination thereof as
24 defined by Section 11-501 of the Illinois Vehicle Code; or
25 (ii) operating the motor vehicle while using an electronic
26 communication device as defined in Section 12-610.2 of the

1 Illinois Vehicle Code; or -

2 (35) the defendant committed the offense of first
3 degree murder during the commission of a violation of
4 Section 18-7 of the Criminal Code of 2012.

5 For the purposes of this Section:

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

8 "Day care center" means a public or private State
9 certified and licensed day care center as defined in Section
10 2.09 of the Child Care Act of 1969 that displays a sign in
11 plain view stating that the property is a day care center.

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

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

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

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

26 (1) When a defendant is convicted of any felony, after

1 having been previously convicted in Illinois or any other
2 jurisdiction of the same or similar class felony or
3 greater class felony, when such conviction has occurred
4 within 10 years after the previous conviction, excluding
5 time spent in custody, and such charges are separately
6 brought and tried and arise out of different series of
7 acts; or

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

12 (3) When a defendant is convicted of any felony
13 committed against:

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

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

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

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

26 (i) the brutalizing or torturing of humans or

1 animals;

2 (ii) the theft of human corpses;

3 (iii) the kidnapping of humans;

4 (iv) the desecration of any cemetery, religious,
5 fraternal, business, governmental, educational, or
6 other building or property; or

7 (v) ritualized abuse of a child; or

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

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

23 (7) When a defendant who was at least 17 years of age
24 at the time of the commission of the offense is convicted
25 of a felony and has been previously adjudicated a
26 delinquent minor under the Juvenile Court Act of 1987 for

1 an act that if committed by an adult would be a Class X or
2 Class 1 felony when the conviction has occurred within 10
3 years after the previous adjudication, excluding time
4 spent in custody; or

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

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

14 (c) The following factors may be considered by the court
15 as reasons to impose an extended term sentence under Section
16 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed
17 offenses:

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

26 (1.5) When a defendant is convicted of first degree

1 murder, after having been previously convicted of domestic
2 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
3 (720 ILCS 5/12-3.3) committed on the same victim or after
4 having been previously convicted of violation of an order
5 of protection (720 ILCS 5/12-30) in which the same victim
6 was the protected person.

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

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

22 (4) If the victim was under 18 years of age at the time
23 of the commission of the offense, when a defendant is
24 convicted of aggravated criminal sexual assault or
25 predatory criminal sexual assault of a child under
26 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)

1 of Section 12-14.1 of the Criminal Code of 1961 or the
2 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

3 (5) When a defendant is convicted of a felony
4 violation of Section 24-1 of the Criminal Code of 1961 or
5 the Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
6 finding that the defendant is a member of an organized
7 gang.

8 (6) When a defendant was convicted of unlawful use of
9 weapons under Section 24-1 of the Criminal Code of 1961 or
10 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
11 a weapon that is not readily distinguishable as one of the
12 weapons enumerated in Section 24-1 of the Criminal Code of
13 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

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

1 peace officer, community policing volunteer, fireman,
2 emergency medical technician-ambulance, emergency medical
3 technician-intermediate, emergency medical
4 technician-paramedic, ambulance driver, other medical
5 assistance or first aid personnel, or hospital emergency
6 room personnel.

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

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

19 (e) The court may impose an extended term sentence under
20 Article 4.5 of Chapter V upon an offender who has been
21 convicted of a felony violation of Section 11-1.20, 11-1.30,
22 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
23 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
24 when the victim of the offense is under 18 years of age at the
25 time of the commission of the offense and, during the
26 commission of the offense, the victim was under the influence

1 of alcohol, regardless of whether or not the alcohol was
2 supplied by the offender; and the offender, at the time of the
3 commission of the offense, knew or should have known that the
4 victim had consumed alcohol.

5 (Source: P.A. 101-173, eff. 1-1-20; 101-401, eff. 1-1-20;
6 101-417, eff. 1-1-20; 101-652, eff. 1-1-23; 102-558, eff.
7 8-20-21; 102-982, eff. 7-1-23.)

8 Section 95. No acceleration or delay. Where this Act makes
9 changes in a statute that is represented in this Act by text
10 that is not yet or no longer in effect (for example, a Section
11 represented by multiple versions), the use of that text does
12 not accelerate or delay the taking effect of (i) the changes
13 made by this Act or (ii) provisions derived from any other
14 Public Act.