

1                                    AMENDMENT TO HOUSE BILL 1577

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1577 by replacing  
3 everything after the enacting clause with the following:

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

6            (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)  
7            Sec. 5-5-3.2. Factors in Aggravation.

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

12            (1) the defendant's conduct caused or threatened  
13 serious harm;

14            (2) the defendant received compensation for  
15 committing the offense;

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

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

22            (5) the defendant held public office at the time of

1 the offense, and the offense related to the conduct of  
2 that office;

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

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

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

12 (9) the defendant committed the offense against a  
13 person who is physically handicapped or such person's  
14 property;

15 (10) by reason of another individual's actual or  
16 perceived race, color, creed, religion, ancestry, gender,  
17 sexual orientation, physical or mental disability, or  
18 national origin, the defendant committed the offense  
19 against (i) the person or property of that individual;  
20 (ii) the person or property of a person who has an  
21 association with, is married to, or has a friendship with  
22 the other individual; or (iii) the person or property of  
23 a relative (by blood or marriage) of a person described  
24 in clause (i) or (ii). For the purposes of this Section,  
25 "sexual orientation" means heterosexuality,  
26 homosexuality, or bisexuality;

27 (11) the offense took place in a place of worship  
28 or on the grounds of a place of worship, immediately  
29 prior to, during or immediately following worship  
30 services. For purposes of this subparagraph, "place of  
31 worship" shall mean any church, synagogue or other  
32 building, structure or place used primarily for religious  
33 worship;

34 (12) the defendant was convicted of a felony

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

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

14 (14) the defendant held a position of trust or  
15 supervision such as, but not limited to, family member as  
16 defined in Section 12-12 of the Criminal Code of 1961,  
17 teacher, scout leader, baby sitter, or day care worker,  
18 in relation to a victim under 18 years of age, and the  
19 defendant committed an offense in violation of Section  
20 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
21 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of  
22 1961 against that victim;

23 (15) the defendant committed an offense related to  
24 the activities of an organized gang. For the purposes of  
25 this factor, "organized gang" has the meaning ascribed to  
26 it in Section 10 of the Streetgang Terrorism Omnibus  
27 Prevention Act;

28 (16) the defendant committed an offense in  
29 violation of one of the following Sections while in a  
30 school, regardless of the time of day or time of year; on  
31 any conveyance owned, leased, or contracted by a school  
32 to transport students to or from school or a school  
33 related activity; on the real property of a school; or on  
34 a public way within 1,000 feet of the real property

1 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,  
2 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,  
3 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,  
4 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of  
5 1961;

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

18 (17) the defendant committed the offense by reason  
19 of any person's activity as a community policing  
20 volunteer or to prevent any person from engaging in  
21 activity as a community policing volunteer. For the  
22 purpose of this Section, "community policing volunteer"  
23 has the meaning ascribed to it in Section 2-3.5 of the  
24 Criminal Code of 1961;

25 (18) the defendant committed the offense in a  
26 nursing home or on the real property comprising a nursing  
27 home. For the purposes of this paragraph (18), "nursing  
28 home" means a skilled nursing or intermediate long term  
29 care facility that is subject to license by the Illinois  
30 Department of Public Health under the Nursing Home Care  
31 Act; or

32 (19) the defendant was a federally licensed firearm  
33 dealer and was previously convicted of a violation of  
34 subsection (a) of Section 3 of the Firearm Owners

1 Identification Card Act and has now committed either a  
2 felony violation of the Firearm Owners Identification  
3 Card Act or an act of armed violence while armed with a  
4 firearm.

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 (b) The following factors may be considered by the court  
13 as reasons to impose an extended term sentence under Section  
14 5-8-2 upon any offender:

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

23 (2) When a defendant is convicted of any felony and  
24 the court finds that the offense was accompanied by  
25 exceptionally brutal or heinous behavior indicative of  
26 wanton cruelty; or

27 (3) When a defendant is convicted of voluntary  
28 manslaughter, second degree murder, involuntary  
29 manslaughter or reckless homicide in which the defendant  
30 has been convicted of causing the death of more than one  
31 individual; or

32 (4) When a defendant is convicted of any felony  
33 committed against:

34 (i) a person under 12 years of age at the time

1 of the offense or such person's property;

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

4 (iii) a person physically handicapped at the  
5 time of the offense or such person's property; or

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

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

27 (iv) the desecration of any cemetery,  
28 religious, fraternal, business, governmental,  
29 educational, or other building or property; or

30 (v) ritualized abuse of a child; or

31 (7) When a defendant is convicted of first degree  
32 murder, after having been previously convicted in  
33 Illinois of any offense listed under paragraph (c)(2) of  
34 Section 5-5-3, when such conviction has occurred within

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

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

15 (9) When a defendant is convicted of a felony  
16 violation of Section 24-1 of the Criminal Code of 1961  
17 and the court finds that the defendant is a member of an  
18 organized gang; or

19 (10) When a defendant committed the offense using a  
20 firearm with a laser sight attached to it. For purposes  
21 of this paragraph (10), "laser sight" has the meaning  
22 ascribed to it in Section 24.6-5 of the Criminal Code of  
23 1961; or

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

32 (12) When a defendant commits an offense involving  
33 the illegal manufacture of a controlled substance under  
34 Section 401 of the Illinois Controlled Substances Act or

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

14 (b-1) For the purposes of this Section, "organized gang"  
15 has the meaning ascribed to it in Section 10 of the Illinois  
16 Streetgang Terrorism Omnibus Prevention Act.

17 (c) The court may impose an extended term sentence under  
18 Section 5-8-2 upon any offender who was convicted of  
19 aggravated criminal sexual assault or predatory criminal  
20 sexual assault of a child under subsection (a)(1) of Section  
21 12-14.1 of the Criminal Code of 1961 where the victim was  
22 under 18 years of age at the time of the commission of the  
23 offense.

24 (d) The court may impose an extended term sentence under  
25 Section 5-8-2 upon any offender who was convicted of unlawful  
26 use of weapons under Section 24-1 of the Criminal Code of  
27 1961 for possessing a weapon that is not readily  
28 distinguishable as one of the weapons enumerated in Section  
29 24-1 of the Criminal Code of 1961.

30 (e) The court may impose an extended term sentence under  
31 Section 5-8-2 upon an offender who has been convicted of  
32 first degree murder when the offender has previously been  
33 convicted of domestic battery or aggravated domestic battery  
34 committed against the murdered individual or has previously

1 been convicted of violation of an order of protection in  
2 which the murdered individual was the protected person.

3 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;  
4 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff.  
5 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696,  
6 eff. 4-13-00; 92-266, eff. 1-1-02.)".