

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

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  
23 the offense, and the offense related to the conduct of  
24 that office;

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

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

31 (8) the defendant committed the offense against a

1 person 60 years of age or older or such person's  
2 property;

3 (9) the defendant committed the offense against a  
4 person who is physically handicapped or such person's  
5 property;

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

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

25 (12) the defendant was convicted of a felony  
26 committed while he was released on bail or his own  
27 recognizance pending trial for a prior felony and was  
28 convicted of such prior felony, or the defendant was  
29 convicted of a felony committed while he was serving a  
30 period of probation, conditional discharge, or mandatory  
31 supervised release under subsection (d) of Section 5-8-1  
32 for a prior felony;

33 (13) the defendant committed or attempted to commit  
34 a felony while he was wearing a bulletproof vest. For

1 the purposes of this paragraph (13), a bulletproof vest  
2 is any device which is designed for the purpose of  
3 protecting the wearer from bullets, shot or other lethal  
4 projectiles;

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

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

19 (16) the defendant committed an offense in  
20 violation of one of the following Sections while in a  
21 school, regardless of the time of day or time of year; on  
22 any conveyance owned, leased, or contracted by a school  
23 to transport students to or from school or a school  
24 related activity; on the real property of a school; or on  
25 a public way within 1,000 feet of the real property  
26 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,  
27 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,  
28 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,  
29 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of  
30 1961;

31 (16.5) the defendant committed an offense in  
32 violation of one of the following Sections while in a day  
33 care center, regardless of the time of day or time of  
34 year; on the real property of a day care center,

1           regardless of the time of day or time of year; or on a  
 2           public way within 1,000 feet of the real property  
 3           comprising any day care center, regardless of the time of  
 4           day or time of year: Section 10-1, 10-2, 10-5, 11-15.1,  
 5           11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,  
 6           12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,  
 7           12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of  
 8           1961;

9           (17) the defendant committed the offense by reason  
 10          of any person's activity as a community policing  
 11          volunteer or to prevent any person from engaging in  
 12          activity as a community policing volunteer. For the  
 13          purpose of this Section, "community policing volunteer"  
 14          has the meaning ascribed to it in Section 2-3.5 of the  
 15          Criminal Code of 1961;

16          (18) the defendant committed the offense in a  
 17          nursing home or on the real property comprising a nursing  
 18          home. For the purposes of this paragraph (18), "nursing  
 19          home" means a skilled nursing or intermediate long term  
 20          care facility that is subject to license by the Illinois  
 21          Department of Public Health under the Nursing Home Care  
 22          Act; or

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

30          For the purposes of this Section:

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

33          "Day care center" means a public or private State  
 34          certified and licensed day care center as defined in Section

1 2.09 of the Child Care Act of 1969 that displays a sign in  
2 plain view stating that the property is a day care center.

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

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

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

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

23 (4) When a defendant is convicted of any felony  
24 committed against:

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

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

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

31 (5) In the case of a defendant convicted of  
32 aggravated criminal sexual assault or criminal sexual  
33 assault, when the court finds that aggravated criminal  
34 sexual assault or criminal sexual assault was also

1 committed on the same victim by one or more other  
 2 individuals, and the defendant voluntarily participated  
 3 in the crime with the knowledge of the participation of  
 4 the others in the crime, and the commission of the crime  
 5 was part of a single course of conduct during which there  
 6 was no substantial change in the nature of the criminal  
 7 objective; or

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

14 (i) the brutalizing or torturing of humans or  
 15 animals;

16 (ii) the theft of human corpses;

17 (iii) the kidnapping of humans;

18 (iv) the desecration of any cemetery,  
 19 religious, fraternal, business, governmental,  
 20 educational, or other building or property; or

21 (v) ritualized abuse of a child; or

22 (7) When a defendant is convicted of first degree  
 23 murder, after having been previously convicted in  
 24 Illinois of any offense listed under paragraph (c)(2) of  
 25 Section 5-5-3, when such conviction has occurred within  
 26 10 years after the previous conviction, excluding time  
 27 spent in custody, and such charges are separately brought  
 28 and tried and arise out of different series of acts; or

29 (8) When a defendant is convicted of a felony other  
 30 than conspiracy and the court finds that the felony was  
 31 committed under an agreement with 2 or more other persons  
 32 to commit that offense and the defendant, with respect to  
 33 the other individuals, occupied a position of organizer,  
 34 supervisor, financier, or any other position of

1 management or leadership, and the court further finds  
2 that the felony committed was related to or in  
3 furtherance of the criminal activities of an organized  
4 gang or was motivated by the defendant's leadership in an  
5 organized gang; or

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

10 (10) When a defendant committed the offense using a  
11 firearm with a laser sight attached to it. For purposes  
12 of this paragraph (10), "laser sight" has the meaning  
13 ascribed to it in Section 24.6-5 of the Criminal Code of  
14 1961; or

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

23 (12) When a defendant commits an offense involving  
24 the illegal manufacture of a controlled substance under  
25 Section 401 of the Illinois Controlled Substances Act or  
26 the illegal possession of explosives and an emergency  
27 response officer in the performance of his or her duties  
28 is killed or injured at the scene of the offense while  
29 responding to the emergency caused by the commission of  
30 the offense. In this paragraph (12), "emergency" means a  
31 situation in which a person's life, health, or safety is  
32 in jeopardy; and "emergency response officer" means a  
33 peace officer, community policing volunteer, fireman,  
34 emergency medical technician-ambulance, emergency medical

1 technician-intermediate, emergency medical  
 2 technician-paramedic, ambulance driver, other medical  
 3 assistance or first aid personnel, or hospital emergency  
 4 room personnel.

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

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

15 (d) The court may impose an extended term sentence under  
 16 Section 5-8-2 upon any offender who was convicted of unlawful  
 17 use of weapons under Section 24-1 of the Criminal Code of  
 18 1961 for possessing a weapon that is not readily  
 19 distinguishable as one of the weapons enumerated in Section  
 20 24-1 of the Criminal Code of 1961.

21 (e) The court may impose an extended term sentence under  
 22 Section 5-8-2 upon any offender who was convicted of  
 23 aggravated criminal sexual assault or aggravated criminal  
 24 sexual abuse if the offense was committed while the victim  
 25 was under the influence of flunitrazepam (Rohypnol) or gamma  
 26 hydroxybutyric acid (GHB) or upon any offender who commits  
 27 the offense of aggravated battery under subsection (c) of  
 28 Section 12-4 of the Criminal Code of 1961 by administering  
 29 flunitrazepam or gamma hydroxybutyric acid to a person under  
 30 18 years of age who is the victim of the offense.

31 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;  
 32 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff.  
 33 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696,  
 34 eff. 4-13-00; 92-266, eff. 1-1-02.)