

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 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 favor  
9 of imposing a term of imprisonment or may be considered by the  
10 court as reasons to impose a more severe sentence under Section  
11 5-8-1:

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

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

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

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

22 (5) the defendant held public office at the time of the  
23 offense, and the offense related to the conduct of that  
24 office;

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

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

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

32 (9) the defendant committed the offense against a

1 person who is physically handicapped or such person's  
2 property;

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

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

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

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

33 (14) the defendant held a position of trust or  
34 supervision such as, but not limited to, family member as  
35 defined in Section 12-12 of the Criminal Code of 1961,  
36 teacher, scout leader, baby sitter, or day care worker, in

1 relation to a victim under 18 years of age, and the  
2 defendant committed an offense in violation of Section  
3 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
4 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
5 against that victim;

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

11 (16) the defendant committed an offense in violation of  
12 one of the following Sections while in a school, regardless  
13 of the time of day or time of year; on any conveyance  
14 owned, leased, or contracted by a school to transport  
15 students to or from school or a school related activity; on  
16 the real property of a school; or on a public way within  
17 1,000 feet of the real property comprising any school:  
18 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
20 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
21 33A-2 of the Criminal Code of 1961;

22 (16.5) the defendant committed an offense in violation  
23 of one of the following Sections while in a day care  
24 center, regardless of the time of day or time of year; on  
25 the real property of a day care center, regardless of the  
26 time of day or time of year; or on a public way within  
27 1,000 feet of the real property comprising any day care  
28 center, regardless of the time of day or time of year:  
29 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
30 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
31 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
32 33A-2 of the Criminal Code of 1961;

33 (17) the defendant committed the offense by reason of  
34 any person's activity as a community policing volunteer or  
35 to prevent any person from engaging in activity as a  
36 community policing volunteer. For the purpose of this

1 Section, "community policing volunteer" has the meaning  
2 ascribed to it in Section 2-3.5 of the Criminal Code of  
3 1961;

4 (18) the defendant committed the offense in a nursing  
5 home or on the real property comprising a nursing home. For  
6 the purposes of this paragraph (18), "nursing home" means a  
7 skilled nursing or intermediate long term care facility  
8 that is subject to license by the Illinois Department of  
9 Public Health under the Nursing Home Care Act; ~~or~~

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

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

27 For the purposes of this Section:

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

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

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

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

8           (2) When a defendant is convicted of any felony and the  
9           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 voluntary  
13          manslaughter, second degree murder, involuntary  
14          manslaughter or reckless homicide in which the defendant  
15          has been convicted of causing the death of more than one  
16          individual; or

17          (4) When a defendant is convicted of any felony  
18          committed against:

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

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

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

25          (5) In the case of a defendant convicted of aggravated  
26          criminal sexual assault or criminal sexual assault, when  
27          the court finds that aggravated criminal sexual assault or  
28          criminal sexual assault was also committed on the same  
29          victim by one or more other individuals, and the defendant  
30          voluntarily participated in the crime with the knowledge of  
31          the participation of the others in the crime, and the  
32          commission of the crime was part of a single course of  
33          conduct during which there was no substantial change in the  
34          nature of the criminal objective; or

35          (6) When a defendant is convicted of any felony and the  
36          offense involved any of the following types of specific

1 misconduct committed as part of a ceremony, rite,  
2 initiation, observance, performance, practice or activity  
3 of any actual or ostensible religious, fraternal, or social  
4 group:

5 (i) the brutalizing or torturing of humans or  
6 animals;

7 (ii) the theft of human corpses;

8 (iii) the kidnapping of humans;

9 (iv) the desecration of any cemetery, religious,  
10 fraternal, business, governmental, educational, or  
11 other building or property; or

12 (v) ritualized abuse of a child; or

13 (7) When a defendant is convicted of first degree  
14 murder, after having been previously convicted in Illinois  
15 of any offense listed under paragraph (c)(2) of Section  
16 5-5-3, when such conviction has occurred within 10 years  
17 after the previous conviction, excluding time spent in  
18 custody, and such charges are separately brought and tried  
19 and arise out of different series of acts; or

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

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

34 (10) When a defendant committed the offense using a  
35 firearm with a laser sight attached to it. For purposes of  
36 this paragraph (10), "laser sight" has the meaning ascribed

1 to it in Section 24.6-5 of the Criminal Code of 1961; or

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

10 (12) When a defendant commits an offense involving the  
11 illegal manufacture of a controlled substance under  
12 Section 401 of the Illinois Controlled Substances Act or  
13 the illegal possession of explosives and an emergency  
14 response officer in the performance of his or her duties is  
15 killed or injured at the scene of the offense while  
16 responding to the emergency caused by the commission of the  
17 offense. In this paragraph (12), "emergency" means a  
18 situation in which a person's life, health, or safety is in  
19 jeopardy; and "emergency response officer" means a peace  
20 officer, community policing volunteer, fireman, emergency  
21 medical technician-ambulance, emergency medical  
22 technician-intermediate, emergency medical  
23 technician-paramedic, ambulance driver, other medical  
24 assistance or first aid personnel, or hospital emergency  
25 room personnel.

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

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

35 (d) The court may impose an extended term sentence under  
36 Section 5-8-2 upon any offender who was convicted of unlawful

1 use of weapons under Section 24-1 of the Criminal Code of 1961  
2 for possessing a weapon that is not readily distinguishable as  
3 one of the weapons enumerated in Section 24-1 of the Criminal  
4 Code of 1961.

5 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;  
6 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00;  
7 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff.  
8 4-13-00; 92-266, eff. 1-1-02.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.