

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by adding  
5 Section 12-3.4 as follows:

6 (720 ILCS 5/12-3.4 new)

7 Sec. 12-3.4. Domestic assault.

8 (a) A person commits domestic assault when, without lawful  
9 authority, he or she knowingly or intentionally engages in  
10 conduct that places a family or household member, as defined in  
11 subsection (3) of Section 112A-3 of the Code of Criminal  
12 Procedure of 1963, in reasonable apprehension of receiving a  
13 battery. A peace officer may arrest a person for violation of  
14 this Section if the officer has probable cause to believe that  
15 there is imminent danger of physical harm to the non-aggressor.

16 (b) Sentence. Domestic assault is a Class B misdemeanor.  
17 Domestic assault is a Class A misdemeanor if the defendant has  
18 any prior conviction for domestic assault, aggravated domestic  
19 assault, domestic damage to property, domestic battery, or  
20 aggravated domestic battery.

21 (c) This Section does not apply to a parent or guardian  
22 while exercising parental discipline over a child under his or  
23 her custody.

1           Section 10. The Unified Code of Corrections is amended by  
2 changing Section 5-5-3.2 as follows:

3           (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

4           Sec. 5-5-3.2. Factors in Aggravation.

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

9           (1) the defendant's conduct caused or threatened  
10 serious harm;

11           (2) the defendant received compensation for committing  
12 the offense;

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

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

19           (5) the defendant held public office at the time of the  
20 offense, and the offense related to the conduct of that  
21 office;

22           (6) the defendant utilized his professional reputation  
23 or position in the community to commit the offense, or to  
24 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 is physically handicapped 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; (ii)  
13 the person or property of a person who has an association  
14 with, is married to, or has a friendship with the other  
15 individual; or (iii) the person or property of a relative  
16 (by blood or marriage) of a person described in clause (i)  
17 or (ii). For the purposes of this Section, "sexual  
18 orientation" means heterosexuality, homosexuality, or  
19 bisexuality;

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

26           (12) the defendant was convicted of a felony committed

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

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

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

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

26 (16) the defendant committed an offense in violation of

1 one of the following Sections while in a school, regardless  
2 of the time of day or time of year; on any conveyance  
3 owned, leased, or contracted by a school to transport  
4 students to or from school or a school related activity; on  
5 the real property of a school; or on a public way within  
6 1,000 feet of the real property comprising any school:  
7 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
9 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
10 33A-2 of the Criminal Code of 1961;

11 (16.5) the defendant committed an offense in violation  
12 of one of the following Sections while in a day care  
13 center, regardless of the time of day or time of year; on  
14 the real property of a day care center, regardless of the  
15 time of day or time of year; or on a public way within  
16 1,000 feet of the real property comprising any day care  
17 center, regardless of the time of day or time of year:  
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 (17) the defendant committed the offense by reason of  
23 any person's activity as a community policing volunteer or  
24 to prevent any person from engaging in activity as a  
25 community policing volunteer. For the purpose of this  
26 Section, "community policing volunteer" has the meaning

1 ascribed to it in Section 2-3.5 of the Criminal Code of  
2 1961;

3 (18) the defendant committed the offense in a nursing  
4 home or on the real property comprising a nursing home. For  
5 the purposes of this paragraph (18), "nursing home" means a  
6 skilled nursing or intermediate long term care facility  
7 that is subject to license by the Illinois Department of  
8 Public Health under the Nursing Home Care 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 of  
17 1961 or the offense of driving under the influence of  
18 alcohol, other drug or drugs, intoxicating compound or  
19 compounds or any combination thereof under Section 11-501  
20 of the Illinois Vehicle Code or a similar provision of a  
21 local ordinance and (ii) was operating a motor vehicle in  
22 excess of 20 miles per hour over the posted speed limit as  
23 provided in Article VI of Chapter 11 of the Illinois  
24 Vehicle Code; ~~or~~

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; or -

5 (22) the defendant committed domestic assault and has a  
6 prior conviction for domestic assault, aggravated domestic  
7 assault, domestic damage to property, domestic battery, or  
8 aggravated domestic battery.

9 For the purposes of this Section:

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

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

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

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

26 (2) When a defendant is convicted of any felony and the

1 court finds that the offense was accompanied by  
2 exceptionally brutal or heinous behavior indicative of  
3 wanton cruelty; or

4 (3) When a defendant is convicted of voluntary  
5 manslaughter, second degree murder, involuntary  
6 manslaughter or reckless homicide in which the defendant  
7 has been convicted of causing the death of more than one  
8 individual; or

9 (4) When a defendant is convicted of any felony  
10 committed against:

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

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

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

17 (5) In the case of a defendant convicted of aggravated  
18 criminal sexual assault or criminal sexual assault, when  
19 the court finds that aggravated criminal sexual assault or  
20 criminal sexual assault was also committed on the same  
21 victim by one or more other individuals, and the defendant  
22 voluntarily participated in the crime with the knowledge of  
23 the participation of the others in the crime, and the  
24 commission of the crime was part of a single course of  
25 conduct during which there was no substantial change in the  
26 nature of the criminal objective; or



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

7           (i) the brutalizing or torturing of humans or  
8 animals;

9           (ii) the theft of human corpses;

10          (iii) the kidnapping of humans;

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

14          (v) ritualized abuse of a child; or

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

22           (8) When a defendant is convicted of a felony other  
23 than conspiracy and the court finds that the felony was  
24 committed under an agreement with 2 or more other persons  
25 to commit that offense and the defendant, with respect to  
26 the other individuals, occupied a position of organizer,

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

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

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

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

22 (12) When a defendant commits an offense involving the  
23 illegal manufacture of a controlled substance under  
24 Section 401 of the Illinois Controlled Substances Act, the  
25 illegal manufacture of methamphetamine under Section 25 of  
26 the Methamphetamine Control and Community Protection Act,

1 or the illegal possession of explosives and an emergency  
2 response officer in the performance of his or her duties is  
3 killed or injured at the scene of the offense while  
4 responding to the emergency caused by the commission of the  
5 offense. In this paragraph (12), "emergency" means a  
6 situation in which a person's life, health, or safety is in  
7 jeopardy; and "emergency response officer" means a peace  
8 officer, community policing volunteer, fireman, emergency  
9 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; or

14 (13) 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.

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

23 (c) The court may impose an extended term sentence under  
24 Section 5-8-2 upon any offender who was convicted of aggravated  
25 criminal sexual assault or predatory criminal sexual assault of  
26 a child under subsection (a)(1) of Section 12-14.1 of the

1 Criminal Code of 1961 where the victim was under 18 years of  
2 age at the time of the commission of the offense.

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

9 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,  
10 eff. 9-11-05; 94-819, eff. 5-31-06.)