

HB0040



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0040

Introduced 1/19/2007, by Rep. Tom Cross - Joe Dunn - Brent Hassert - James H. Meyer - Ed Sullivan, Jr., et al.

SYNOPSIS AS INTRODUCED:

730 ILCS 150/2

from Ch. 38, par. 222

Amends the Sex Offender Registration Act. Includes, in the definition of "sex offense", distributing harmful material to a minor.

LRB095 03733 RLC 23760 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sex Offender Registration Act is amended by
5 changing Section 2 as follows:

6 (730 ILCS 150/2) (from Ch. 38, par. 222)

7 Sec. 2. Definitions.

8 (A) As used in this Article, "sex offender" means any
9 person who is:

10 (1) charged pursuant to Illinois law, or any
11 substantially similar federal, Uniform Code of Military
12 Justice, sister state, or foreign country law, with a sex
13 offense set forth in subsection (B) of this Section or the
14 attempt to commit an included sex offense, and:

15 (a) is convicted of such offense or an attempt to
16 commit such offense; or

17 (b) is found not guilty by reason of insanity of
18 such offense or an attempt to commit such offense; or

19 (c) is found not guilty by reason of insanity
20 pursuant to Section 104-25(c) of the Code of Criminal
21 Procedure of 1963 of such offense or an attempt to
22 commit such offense; or

23 (d) is the subject of a finding not resulting in an

1 acquittal at a hearing conducted pursuant to Section
2 104-25(a) of the Code of Criminal Procedure of 1963 for
3 the alleged commission or attempted commission of such
4 offense; or

5 (e) is found not guilty by reason of insanity
6 following a hearing conducted pursuant to a federal,
7 Uniform Code of Military Justice, sister state, or
8 foreign country law substantially similar to Section
9 104-25(c) of the Code of Criminal Procedure of 1963 of
10 such offense or of the attempted commission of such
11 offense; or

12 (f) is the subject of a finding not resulting in an
13 acquittal at a hearing conducted pursuant to a federal,
14 Uniform Code of Military Justice, sister state, or
15 foreign country law substantially similar to Section
16 104-25(a) of the Code of Criminal Procedure of 1963 for
17 the alleged violation or attempted commission of such
18 offense; or

19 (2) certified as a sexually dangerous person pursuant
20 to the Illinois Sexually Dangerous Persons Act, or any
21 substantially similar federal, Uniform Code of Military
22 Justice, sister state, or foreign country law; or

23 (3) subject to the provisions of Section 2 of the
24 Interstate Agreements on Sexually Dangerous Persons Act;
25 or

26 (4) found to be a sexually violent person pursuant to

1 the Sexually Violent Persons Commitment Act or any
2 substantially similar federal, Uniform Code of Military
3 Justice, sister state, or foreign country law; or

4 (5) adjudicated a juvenile delinquent as the result of
5 committing or attempting to commit an act which, if
6 committed by an adult, would constitute any of the offenses
7 specified in item (B), (C), or (C-5) of this Section or a
8 violation of any substantially similar federal, Uniform
9 Code of Military Justice, sister state, or foreign country
10 law, or found guilty under Article V of the Juvenile Court
11 Act of 1987 of committing or attempting to commit an act
12 which, if committed by an adult, would constitute any of
13 the offenses specified in item (B), (C), or (C-5) of this
14 Section or a violation of any substantially similar
15 federal, Uniform Code of Military Justice, sister state, or
16 foreign country law.

17 Convictions that result from or are connected with the same
18 act, or result from offenses committed at the same time, shall
19 be counted for the purpose of this Article as one conviction.
20 Any conviction set aside pursuant to law is not a conviction
21 for purposes of this Article.

22 For purposes of this Section, "convicted" shall have the
23 same meaning as "adjudicated". For the purposes of this
24 Article, a person who is defined as a sex offender as a result
25 of being adjudicated a juvenile delinquent under paragraph (5)
26 of this subsection (A) upon attaining 17 years of age shall be

1 considered as having committed the sex offense on or after the
2 sex offender's 17th birthday. Registration of juveniles upon
3 attaining 17 years of age shall not extend the original
4 registration of 10 years from the date of conviction.

5 (B) As used in this Article, "sex offense" means:

6 (1) A violation of any of the following Sections of the
7 Criminal Code of 1961:

8 11-20.1 (child pornography),

9 11-6 (indecent solicitation of a child),

10 11-9.1 (sexual exploitation of a child),

11 11-9.2 (custodial sexual misconduct),

12 11-9.5 (sexual misconduct with a person with a
13 disability),

14 11-15.1 (soliciting for a juvenile prostitute),

15 11-18.1 (patronizing a juvenile prostitute),

16 11-17.1 (keeping a place of juvenile
17 prostitution),

18 11-19.1 (juvenile pimping),

19 11-19.2 (exploitation of a child),

20 11-21 (distributing harmful material to a minor),

21 12-13 (criminal sexual assault),

22 12-14 (aggravated criminal sexual assault),

23 12-14.1 (predatory criminal sexual assault of a
24 child),

25 12-15 (criminal sexual abuse),

26 12-16 (aggravated criminal sexual abuse),

1 12-33 (ritualized abuse of a child).

2 An attempt to commit any of these offenses.

3 (1.5) A violation of any of the following Sections of
4 the Criminal Code of 1961, when the victim is a person
5 under 18 years of age, the defendant is not a parent of the
6 victim, the offense was sexually motivated as defined in
7 Section 10 of the Sex Offender Management Board Act, and
8 the offense was committed on or after January 1, 1996:

9 10-1 (kidnapping),

10 10-2 (aggravated kidnapping),

11 10-3 (unlawful restraint),

12 10-3.1 (aggravated unlawful restraint).

13 (1.6) First degree murder under Section 9-1 of the
14 Criminal Code of 1961, when the victim was a person under
15 18 years of age and the defendant was at least 17 years of
16 age at the time of the commission of the offense, provided
17 the offense was sexually motivated as defined in Section 10
18 of the Sex Offender Management Board Act.

19 (1.7) (Blank).

20 (1.8) A violation or attempted violation of Section
21 11-11 (sexual relations within families) of the Criminal
22 Code of 1961, and the offense was committed on or after
23 June 1, 1997.

24 (1.9) Child abduction under paragraph (10) of
25 subsection (b) of Section 10-5 of the Criminal Code of 1961
26 committed by luring or attempting to lure a child under the

1 age of 16 into a motor vehicle, building, house trailer, or
2 dwelling place without the consent of the parent or lawful
3 custodian of the child for other than a lawful purpose and
4 the offense was committed on or after January 1, 1998,
5 provided the offense was sexually motivated as defined in
6 Section 10 of the Sex Offender Management Board Act.

7 (1.10) A violation or attempted violation of any of the
8 following Sections of the Criminal Code of 1961 when the
9 offense was committed on or after July 1, 1999:

10 10-4 (forcible detention, if the victim is under 18
11 years of age), provided the offense was sexually
12 motivated as defined in Section 10 of the Sex Offender
13 Management Board Act,

14 11-6.5 (indecent solicitation of an adult),

15 11-15 (soliciting for a prostitute, if the victim
16 is under 18 years of age),

17 11-16 (pandering, if the victim is under 18 years
18 of age),

19 11-18 (patronizing a prostitute, if the victim is
20 under 18 years of age),

21 11-19 (pimping, if the victim is under 18 years of
22 age).

23 (1.11) A violation or attempted violation of any of the
24 following Sections of the Criminal Code of 1961 when the
25 offense was committed on or after August 22, 2002:

26 11-9 (public indecency for a third or subsequent

1 conviction).

2 (1.12) A violation or attempted violation of Section
3 5.1 of the Wrongs to Children Act (permitting sexual abuse)
4 when the offense was committed on or after August 22, 2002.

5 (2) A violation of any former law of this State
6 substantially equivalent to any offense listed in
7 subsection (B) of this Section.

8 (C) A conviction for an offense of federal law, Uniform
9 Code of Military Justice, or the law of another state or a
10 foreign country that is substantially equivalent to any offense
11 listed in subsections (B), (C), and (E) of this Section shall
12 constitute a conviction for the purpose of this Article. A
13 finding or adjudication as a sexually dangerous person or a
14 sexually violent person under any federal law, Uniform Code of
15 Military Justice, or the law of another state or foreign
16 country that is substantially equivalent to the Sexually
17 Dangerous Persons Act or the Sexually Violent Persons
18 Commitment Act shall constitute an adjudication for the
19 purposes of this Article.

20 (C-5) A person at least 17 years of age at the time of the
21 commission of the offense who is convicted of first degree
22 murder under Section 9-1 of the Criminal Code of 1961, against
23 a person under 18 years of age, shall be required to register
24 for natural life. A conviction for an offense of federal,
25 Uniform Code of Military Justice, sister state, or foreign
26 country law that is substantially equivalent to any offense

1 listed in subsection (C-5) of this Section shall constitute a
2 conviction for the purpose of this Article. This subsection
3 (C-5) applies to a person who committed the offense before June
4 1, 1996 only if the person is incarcerated in an Illinois
5 Department of Corrections facility on August 20, 2004 (the
6 effective date of Public Act 93-977).

7 (D) As used in this Article, "law enforcement agency having
8 jurisdiction" means the Chief of Police in each of the
9 municipalities in which the sex offender expects to reside,
10 work, or attend school (1) upon his or her discharge, parole or
11 release or (2) during the service of his or her sentence of
12 probation or conditional discharge, or the Sheriff of the
13 county, in the event no Police Chief exists or if the offender
14 intends to reside, work, or attend school in an unincorporated
15 area. "Law enforcement agency having jurisdiction" includes
16 the location where out-of-state students attend school and
17 where out-of-state employees are employed or are otherwise
18 required to register.

19 (D-1) As used in this Article, "supervising officer" means
20 the assigned Illinois Department of Corrections parole agent or
21 county probation officer.

22 (E) As used in this Article, "sexual predator" means any
23 person who, after July 1, 1999, is:

- 24 (1) Convicted for an offense of federal, Uniform Code
25 of Military Justice, sister state, or foreign country law
26 that is substantially equivalent to any offense listed in

1 subsection (E) of this Section shall constitute a
2 conviction for the purpose of this Article. Convicted of a
3 violation or attempted violation of any of the following
4 Sections of the Criminal Code of 1961, if the conviction
5 occurred after July 1, 1999:

6 11-17.1 (keeping a place of juvenile
7 prostitution),

8 11-19.1 (juvenile pimping),

9 11-19.2 (exploitation of a child),

10 11-20.1 (child pornography),

11 12-13 (criminal sexual assault),

12 12-14 (aggravated criminal sexual assault),

13 12-14.1 (predatory criminal sexual assault of a
14 child),

15 12-16 (aggravated criminal sexual abuse),

16 12-33 (ritualized abuse of a child); or

17 (2) (blank); or

18 (3) certified as a sexually dangerous person pursuant
19 to the Sexually Dangerous Persons Act or any substantially
20 similar federal, Uniform Code of Military Justice, sister
21 state, or foreign country law; or

22 (4) found to be a sexually violent person pursuant to
23 the Sexually Violent Persons Commitment Act or any
24 substantially similar federal, Uniform Code of Military
25 Justice, sister state, or foreign country law; or

26 (5) convicted of a second or subsequent offense which

1 requires registration pursuant to this Act. The conviction
2 for the second or subsequent offense must have occurred
3 after July 1, 1999. For purposes of this paragraph (5),
4 "convicted" shall include a conviction under any
5 substantially similar Illinois, federal, Uniform Code of
6 Military Justice, sister state, or foreign country law.

7 (F) As used in this Article, "out-of-state student" means
8 any sex offender, as defined in this Section, or sexual
9 predator who is enrolled in Illinois, on a full-time or
10 part-time basis, in any public or private educational
11 institution, including, but not limited to, any secondary
12 school, trade or professional institution, or institution of
13 higher learning.

14 (G) As used in this Article, "out-of-state employee" means
15 any sex offender, as defined in this Section, or sexual
16 predator who works in Illinois, regardless of whether the
17 individual receives payment for services performed, for a
18 period of time of 10 or more days or for an aggregate period of
19 time of 30 or more days during any calendar year. Persons who
20 operate motor vehicles in the State accrue one day of
21 employment time for any portion of a day spent in Illinois.

22 (H) As used in this Article, "school" means any public or
23 private educational institution, including, but not limited
24 to, any elementary or secondary school, trade or professional
25 institution, or institution of higher education.

26 (I) As used in this Article, "fixed residence" means any

1 and all places that a sex offender resides for an aggregate
2 period of time of 5 or more days in a calendar year.

3 (Source: P.A. 93-977, eff. 8-20-04; 93-979, eff. 8-20-04;
4 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-945, eff. 6-27-06;
5 94-1053, eff. 7-24-06; revised 8-3-06.)