



Rep. Sandra M. Pihos

Filed: 3/27/2007

09500HB1289ham001

LRB095 03583 RLC 34550 a

1 AMENDMENT TO HOUSE BILL 1289

2 AMENDMENT NO. _____. Amend House Bill 1289 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 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

1 criminal activity;

2 (4) the defendant, by the duties of his office or by
3 his position, was obliged to prevent the particular offense
4 committed or to bring the offenders committing it to
5 justice;

6 (5) the defendant held public office at the time of the
7 offense, and the offense related to the conduct of that
8 office;

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

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

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

16 (9) the defendant committed the offense against a
17 person who is physically handicapped or such person's
18 property;

19 (10) by reason of another individual's actual or
20 perceived race, color, creed, religion, ancestry, gender,
21 sexual orientation, physical or mental disability, or
22 national origin, the defendant committed the offense
23 against (i) the person or property of that individual; (ii)
24 the person or property of a person who has an association
25 with, is married to, or has a friendship with the other
26 individual; or (iii) the person or property of a relative

1 (by blood or marriage) of a person described in clause (i)
2 or (ii). For the purposes of this Section, "sexual
3 orientation" means heterosexuality, homosexuality, or
4 bisexuality;

5 (11) the offense took place in a place of worship or on
6 the grounds of a place of worship, immediately prior to,
7 during or immediately following worship services. For
8 purposes of this subparagraph, "place of worship" shall
9 mean any church, synagogue or other building, structure or
10 place used primarily for religious worship;

11 (12) the defendant was convicted of a felony committed
12 while he was released on bail or his own recognizance
13 pending trial for a prior felony and was convicted of such
14 prior felony, or the defendant was convicted of a felony
15 committed while he was serving a period of probation,
16 conditional discharge, or mandatory supervised release
17 under subsection (d) of Section 5-8-1 for a prior felony;

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

23 (14) the defendant held a position of trust or
24 supervision such as, but not limited to, family member as
25 defined in Section 12-12 of the Criminal Code of 1961,
26 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

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

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

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

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

26 (20) the defendant (i) committed the offense of

1 reckless homicide under Section 9-3 of the Criminal Code of
2 1961 or the offense of driving under the influence of
3 alcohol, other drug or drugs, intoxicating compound or
4 compounds or any combination thereof under Section 11-501
5 of the Illinois Vehicle Code or a similar provision of a
6 local ordinance and (ii) was operating a motor vehicle in
7 excess of 20 miles per hour over the posted speed limit as
8 provided in Article VI of Chapter 11 of the Illinois
9 Vehicle Code; ~~or~~

10 (21) the defendant (i) committed the offense of
11 reckless driving or aggravated reckless driving under
12 Section 11-503 of the Illinois Vehicle Code and (ii) was
13 operating a motor vehicle in excess of 20 miles per hour
14 over the posted speed limit as provided in Article VI of
15 Chapter 11 of the Illinois Vehicle Code; or -

16 (22) the defendant committed the offense of financial
17 exploitation of an elderly person or a person with a
18 disability under Section 16-1.3 of the Criminal Code of
19 1961.

20 For the purposes of this Section:

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

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

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

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

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

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

20 (4) When a defendant is convicted of any felony
21 committed against:

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

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

26 (iii) a person physically handicapped at the time

1 of the offense or such person's property; or

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

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

18 (i) the brutalizing or torturing of humans or
19 animals;

20 (ii) the theft of human corpses;

21 (iii) the kidnapping of humans;

22 (iv) the desecration of any cemetery, religious,
23 fraternal, business, governmental, educational, or
24 other building or property; or

25 (v) ritualized abuse of a child; or

26 (7) When a defendant is convicted of first degree

1 murder, after having been previously convicted in Illinois
2 of any offense listed under paragraph (c)(2) of Section
3 5-5-3, when such conviction has occurred within 10 years
4 after the previous conviction, excluding time spent in
5 custody, and such charges are separately brought and tried
6 and arise out of different series of acts; or

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

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

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

25 (11) When a defendant who was at least 17 years of age
26 at the time of the commission of the offense is convicted

1 of a felony and has been previously adjudicated a
2 delinquent minor under the Juvenile Court Act of 1987 for
3 an act that if committed by an adult would be a Class X or
4 Class 1 felony when the conviction has occurred within 10
5 years after the previous adjudication, excluding time
6 spent in custody; or

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

25 (13) When a defendant commits any felony and the
26 defendant used, possessed, exercised control over, or

1 otherwise directed an animal to assault a law enforcement
2 officer engaged in the execution of his or her official
3 duties or in furtherance of the criminal activities of an
4 organized gang in which the defendant is engaged.

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 aggravated
10 criminal sexual assault or predatory criminal sexual assault of
11 a child under subsection (a)(1) of Section 12-14.1 of the
12 Criminal Code of 1961 where the victim was under 18 years of
13 age at the time of the commission of the offense.

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

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