

HB3399



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3399

Introduced 2/26/2007, by Rep. Michael K. Smith

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

720 ILCS 5/11-9.4

Amends the Criminal Code of 1961. In provisions that a child sex offender may not reside or loiter within 500 feet of a school, park, daycare center or other child facility, provides that the 500 feet is measured from the edge of the property of the school, park, daycare center, or other child facility property to the edge of the property of the sex offender's residence or where he or she is loitering.

LRB095 09791 RLC 32201 b

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 Criminal Code of 1961 is amended by changing
5 Sections 11-9.3 and 11-9.4 as follows:

6 (720 ILCS 5/11-9.3)

7 Sec. 11-9.3. Presence within school zone by child sex
8 offenders prohibited.

9 (a) It is unlawful for a child sex offender to knowingly be
10 present in any school building, on real property comprising any
11 school, or in any conveyance owned, leased, or contracted by a
12 school to transport students to or from school or a school
13 related activity when persons under the age of 18 are present
14 in the building, on the grounds or in the conveyance, unless
15 the offender is a parent or guardian of a student attending the
16 school and the parent or guardian is: (i) attending a
17 conference at the school with school personnel to discuss the
18 progress of his or her child academically or socially, (ii)
19 participating in child review conferences in which evaluation
20 and placement decisions may be made with respect to his or her
21 child regarding special education services, or (iii) attending
22 conferences to discuss other student issues concerning his or
23 her child such as retention and promotion and notifies the

1 principal of the school of his or her presence at the school or
2 unless the offender has permission to be present from the
3 superintendent or the school board or in the case of a private
4 school from the principal. In the case of a public school, if
5 permission is granted, the superintendent or school board
6 president must inform the principal of the school where the sex
7 offender will be present. Notification includes the nature of
8 the sex offender's visit and the hours in which the sex
9 offender will be present in the school. The sex offender is
10 responsible for notifying the principal's office when he or she
11 arrives on school property and when he or she departs from
12 school property. If the sex offender is to be present in the
13 vicinity of children, the sex offender has the duty to remain
14 under the direct supervision of a school official. A child sex
15 offender who violates this provision is guilty of a Class 4
16 felony.

17 Nothing in this Section shall be construed to infringe upon
18 the constitutional right of a child sex offender to be present
19 in a school building that is used as a polling place for the
20 purpose of voting.

21 ~~(1) (Blank; or)~~

22 ~~(2) (Blank.)~~

23 (b) It is unlawful for a child sex offender to knowingly
24 loiter within 500 feet of a school building or real property
25 comprising any school while persons under the age of 18 are
26 present in the building or on the grounds, unless the offender

1 is a parent or guardian of a student attending the school and
2 the parent or guardian is: (i) attending a conference at the
3 school with school personnel to discuss the progress of his or
4 her child academically or socially, (ii) participating in child
5 review conferences in which evaluation and placement decisions
6 may be made with respect to his or her child regarding special
7 education services, or (iii) attending conferences to discuss
8 other student issues concerning his or her child such as
9 retention and promotion and notifies the principal of the
10 school of his or her presence at the school or has permission
11 to be present from the superintendent or the school board or in
12 the case of a private school from the principal. In the case of
13 a public school, if permission is granted, the superintendent
14 or school board president must inform the principal of the
15 school where the sex offender will be present. Notification
16 includes the nature of the sex offender's visit and the hours
17 in which the sex offender will be present in the school. The
18 sex offender is responsible for notifying the principal's
19 office when he or she arrives on school property and when he or
20 she departs from school property. If the sex offender is to be
21 present in the vicinity of children, the sex offender has the
22 duty to remain under the direct supervision of a school
23 official. A child sex offender who violates this provision is
24 guilty of a Class 4 felony.

25 ~~(1) (Blank; or)~~

26 ~~(2) (Blank.)~~

1 (b-5) It is unlawful for a child sex offender to knowingly
2 reside within 500 feet of a school building or the real
3 property comprising any school that persons under the age of 18
4 attend. Nothing in this subsection (b-5) prohibits a child sex
5 offender from residing within 500 feet of a school building or
6 the real property comprising any school that persons under 18
7 attend if the property is owned by the child sex offender and
8 was purchased before the effective date of this amendatory Act
9 of the 91st General Assembly.

10 (c) Definitions. In this Section:

11 (1) "Child sex offender" means any person who:

12 (i) has been charged under Illinois law, or any
13 substantially similar federal law or law of another
14 state, with a sex offense set forth in paragraph (2) of
15 this subsection (c) or the attempt to commit an
16 included sex offense, and:

17 (A) is convicted of such offense or an attempt
18 to commit such offense; or

19 (B) is found not guilty by reason of insanity
20 of such offense or an attempt to commit such
21 offense; or

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

26 (D) is the subject of a finding not resulting

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

6 (E) is found not guilty by reason of insanity
7 following a hearing conducted pursuant to a
8 federal law or the law of another state
9 substantially similar to subsection (c) of Section
10 104-25 of the Code of Criminal Procedure of 1963 of
11 such offense or of the attempted commission of such
12 offense; or

13 (F) is the subject of a finding not resulting
14 in an acquittal at a hearing conducted pursuant to
15 a federal law or the law of another state
16 substantially similar to subsection (a) of Section
17 104-25 of the Code of Criminal Procedure of 1963
18 for the alleged violation or attempted commission
19 of such offense; or

20 (ii) is certified as a sexually dangerous person
21 pursuant to the Illinois Sexually Dangerous Persons
22 Act, or any substantially similar federal law or the
23 law of another state, when any conduct giving rise to
24 such certification is committed or attempted against a
25 person less than 18 years of age; or

26 (iii) is subject to the provisions of Section 2 of

1 the Interstate Agreements on Sexually Dangerous
2 Persons Act.

3 Convictions that result from or are connected with the
4 same act, or result from offenses committed at the same
5 time, shall be counted for the purpose of this Section as
6 one conviction. Any conviction set aside pursuant to law is
7 not a conviction for purposes of this Section.

8 (2) Except as otherwise provided in paragraph (2.5),
9 "sex offense" means:

10 (i) A violation of any of the following Sections of
11 the Criminal Code of 1961: 10-7 (aiding and abetting
12 child abduction under Section 10-5(b)(10)),
13 10-5(b)(10) (child luring), 11-6 (indecent
14 solicitation of a child), 11-6.5 (indecent
15 solicitation of an adult), 11-9 (public indecency when
16 committed in a school, on the real property comprising
17 a school, or on a conveyance, owned, leased, or
18 contracted by a school to transport students to or from
19 school or a school related activity), 11-9.1 (sexual
20 exploitation of a child), 11-15.1 (soliciting for a
21 juvenile prostitute), 11-17.1 (keeping a place of
22 juvenile prostitution), 11-18.1 (patronizing a
23 juvenile prostitute), 11-19.1 (juvenile pimping),
24 11-19.2 (exploitation of a child), 11-20.1 (child
25 pornography), 11-21 (harmful material), 12-14.1
26 (predatory criminal sexual assault of a child), 12-33

1 (ritualized abuse of a child), 11-20 (obscenity) (when
2 that offense was committed in any school, on real
3 property comprising any school, in any conveyance
4 owned, leased, or contracted by a school to transport
5 students to or from school or a school related
6 activity). An attempt to commit any of these offenses.

7 (ii) A violation of any of the following Sections
8 of the Criminal Code of 1961, when the victim is a
9 person under 18 years of age: 12-13 (criminal sexual
10 assault), 12-14 (aggravated criminal sexual assault),
11 12-15 (criminal sexual abuse), 12-16 (aggravated
12 criminal sexual abuse). An attempt to commit any of
13 these offenses.

14 (iii) A violation of any of the following Sections
15 of the Criminal Code of 1961, when the victim is a
16 person under 18 years of age and the defendant is not a
17 parent of the victim:

18 10-1 (kidnapping),
19 10-2 (aggravated kidnapping),
20 10-3 (unlawful restraint),
21 10-3.1 (aggravated unlawful restraint).

22 An attempt to commit any of these offenses.

23 (iv) A violation of any former law of this State
24 substantially equivalent to any offense listed in
25 clause (2)(i) of subsection (c) of this Section.

26 (2.5) For the purposes of subsection (b-5) only, a sex

1 offense means:

2 (i) A violation of any of the following Sections of
3 the Criminal Code of 1961:

4 10-5(b)(10) (child luring), 10-7 (aiding and
5 abetting child abduction under Section
6 10-5(b)(10)), 11-6 (indecent solicitation of a
7 child), 11-6.5 (indecent solicitation of an
8 adult), 11-15.1 (soliciting for a juvenile
9 prostitute), 11-17.1 (keeping a place of juvenile
10 prostitution), 11-18.1 (patronizing a juvenile
11 prostitute), 11-19.1 (juvenile pimping), 11-19.2
12 (exploitation of a child), 11-20.1 (child
13 pornography), 12-14.1 (predatory criminal sexual
14 assault of a child), or 12-33 (ritualized abuse of
15 a child). An attempt to commit any of these
16 offenses.

17 (ii) A violation of any of the following Sections
18 of the Criminal Code of 1961, when the victim is a
19 person under 18 years of age: 12-13 (criminal sexual
20 assault), 12-14 (aggravated criminal sexual assault),
21 12-16 (aggravated criminal sexual abuse), and
22 subsection (a) of Section 12-15 (criminal sexual
23 abuse). An attempt to commit any of these offenses.

24 (iii) A violation of any of the following Sections
25 of the Criminal Code of 1961, when the victim is a
26 person under 18 years of age and the defendant is not a

1 parent of the victim:

2 10-1 (kidnapping),

3 10-2 (aggravated kidnapping),

4 10-3 (unlawful restraint),

5 10-3.1 (aggravated unlawful restraint).

6 An attempt to commit any of these offenses.

7 (iv) A violation of any former law of this State
8 substantially equivalent to any offense listed in this
9 paragraph (2.5) of this subsection.

10 (3) A conviction for an offense of federal law or the
11 law of another state that is substantially equivalent to
12 any offense listed in paragraph (2) of subsection (c) of
13 this Section shall constitute a conviction for the purpose
14 of this Article. A finding or adjudication as a sexually
15 dangerous person under any federal law or law of another
16 state that is substantially equivalent to the Sexually
17 Dangerous Persons Act shall constitute an adjudication for
18 the purposes of this Section.

19 (4) "School" means a public or private pre-school,
20 elementary, or secondary school.

21 (5) "Loiter" means:

22 (i) Standing, sitting idly, whether or not the
23 person is in a vehicle or remaining in or around school
24 property.

25 (ii) Standing, sitting idly, whether or not the
26 person is in a vehicle or remaining in or around school

1 property, for the purpose of committing or attempting
2 to commit a sex offense.

3 (iii) Entering or remaining in a building in or
4 around school property, other than the offender's
5 residence.

6 (6) "School official" means the principal, a teacher,
7 or any other certified employee of the school, the
8 superintendent of schools or a member of the school board.

9 (c-5) For the purposes of this Section, the 500 feet
10 distance shall be measured from the edge of the property of the
11 school building or the real property comprising the school that
12 is closest to the edge of the property of the child sex
13 offender's residence or where he or she is loitering.

14 (d) Sentence. A person who violates this Section is guilty
15 of a Class 4 felony.

16 (Source: P.A. 94-158, eff. 7-11-05; 94-164, eff. 1-1-06;
17 94-170, eff. 7-11-05; revised 9-15-06.)

18 (720 ILCS 5/11-9.4)

19 Sec. 11-9.4. Approaching, contacting, residing, or
20 communicating with a child within certain places by child sex
21 offenders prohibited.

22 (a) It is unlawful for a child sex offender to knowingly be
23 present in any public park building or on real property
24 comprising any public park when persons under the age of 18 are
25 present in the building or on the grounds and to approach,

1 contact, or communicate with a child under 18 years of age,
2 unless the offender is a parent or guardian of a person under
3 18 years of age present in the building or on the grounds.

4 (b) It is unlawful for a child sex offender to knowingly
5 loiter on a public way within 500 feet of a public park
6 building or real property comprising any public park while
7 persons under the age of 18 are present in the building or on
8 the grounds and to approach, contact, or communicate with a
9 child under 18 years of age, unless the offender is a parent or
10 guardian of a person under 18 years of age present in the
11 building or on the grounds.

12 (b-5) It is unlawful for a child sex offender to knowingly
13 reside within 500 feet of a playground, child care institution,
14 day care center, part day child care facility, or a facility
15 providing programs or services exclusively directed toward
16 persons under 18 years of age. Nothing in this subsection (b-5)
17 prohibits a child sex offender from residing within 500 feet of
18 a playground or a facility providing programs or services
19 exclusively directed toward persons under 18 years of age if
20 the property is owned by the child sex offender and was
21 purchased before the effective date of this amendatory Act of
22 the 91st General Assembly. Nothing in this subsection (b-5)
23 prohibits a child sex offender from residing within 500 feet of
24 a child care institution, day care center, or part day child
25 care facility if the property is owned by the child sex
26 offender and was purchased before the effective date of this

1 amendatory Act of the 94th General Assembly.

2 (b-6) It is unlawful for a child sex offender to knowingly
3 reside within 500 feet of the victim of the sex offense.
4 Nothing in this subsection (b-6) prohibits a child sex offender
5 from residing within 500 feet of the victim if the property in
6 which the child sex offender resides is owned by the child sex
7 offender and was purchased before the effective date of this
8 amendatory Act of the 92nd General Assembly.

9 This subsection (b-6) does not apply if the victim of the
10 sex offense is 21 years of age or older.

11 (c) It is unlawful for a child sex offender to knowingly
12 operate, manage, be employed by, volunteer at, be associated
13 with, or knowingly be present at any: (i) facility providing
14 programs or services exclusively directed towards persons
15 under the age of 18; (ii) day care center; (iii) part day child
16 care facility; (iv) child care institution, or (v) school
17 providing before and after school programs for children under
18 18 years of age. This does not prohibit a child sex offender
19 from owning the real property upon which the programs or
20 services are offered or upon which the day care center, part
21 day child care facility, child care institution, or school
22 providing before and after school programs for children under
23 18 years of age is located, provided the child sex offender
24 refrains from being present on the premises for the hours
25 during which: (1) the programs or services are being offered or
26 (2) the day care center, part day child care facility, child

1 care institution, or school providing before and after school
2 programs for children under 18 years of age is operated.

3 (d) Definitions. In this Section:

4 (1) "Child sex offender" means any person who:

5 (i) has been charged under Illinois law, or any
6 substantially similar federal law or law of another
7 state, with a sex offense set forth in paragraph (2) of
8 this subsection (d) or the attempt to commit an
9 included sex offense, and:

10 (A) is convicted of such offense or an attempt
11 to commit such offense; or

12 (B) is found not guilty by reason of insanity
13 of such offense or an attempt to commit such
14 offense; or

15 (C) is found not guilty by reason of insanity
16 pursuant to subsection (c) of Section 104-25 of the
17 Code of Criminal Procedure of 1963 of such offense
18 or an attempt to commit such offense; or

19 (D) is the subject of a finding not resulting
20 in an acquittal at a hearing conducted pursuant to
21 subsection (a) of Section 104-25 of the Code of
22 Criminal Procedure of 1963 for the alleged
23 commission or attempted commission of such
24 offense; or

25 (E) is found not guilty by reason of insanity
26 following a hearing conducted pursuant to a

1 federal law or the law of another state
2 substantially similar to subsection (c) of Section
3 104-25 of the Code of Criminal Procedure of 1963 of
4 such offense or of the attempted commission of such
5 offense; or

6 (F) is the subject of a finding not resulting
7 in an acquittal at a hearing conducted pursuant to
8 a federal law or the law of another state
9 substantially similar to subsection (a) of Section
10 104-25 of the Code of Criminal Procedure of 1963
11 for the alleged violation or attempted commission
12 of such offense; or

13 (ii) is certified as a sexually dangerous person
14 pursuant to the Illinois Sexually Dangerous Persons
15 Act, or any substantially similar federal law or the
16 law of another state, when any conduct giving rise to
17 such certification is committed or attempted against a
18 person less than 18 years of age; or

19 (iii) is subject to the provisions of Section 2 of
20 the Interstate Agreements on Sexually Dangerous
21 Persons Act.

22 Convictions that result from or are connected with the
23 same act, or result from offenses committed at the same
24 time, shall be counted for the purpose of this Section as
25 one conviction. Any conviction set aside pursuant to law is
26 not a conviction for purposes of this Section.

1 (2) Except as otherwise provided in paragraph (2.5),

2 "sex offense" means:

3 (i) A violation of any of the following Sections of
4 the Criminal Code of 1961: 10-7 (aiding and abetting
5 child abduction under Section 10-5(b)(10)),
6 10-5(b)(10) (child luring), 11-6 (indecent
7 solicitation of a child), 11-6.5 (indecent
8 solicitation of an adult), 11-9 (public indecency when
9 committed in a school, on the real property comprising
10 a school, on a conveyance owned, leased, or contracted
11 by a school to transport students to or from school or
12 a school related activity, or in a public park), 11-9.1
13 (sexual exploitation of a child), 11-15.1 (soliciting
14 for a juvenile prostitute), 11-17.1 (keeping a place of
15 juvenile prostitution), 11-18.1 (patronizing a
16 juvenile prostitute), 11-19.1 (juvenile pimping),
17 11-19.2 (exploitation of a child), 11-20.1 (child
18 pornography), 11-21 (harmful material), 12-14.1
19 (predatory criminal sexual assault of a child), 12-33
20 (ritualized abuse of a child), 11-20 (obscenity) (when
21 that offense was committed in any school, on real
22 property comprising any school, on any conveyance
23 owned, leased, or contracted by a school to transport
24 students to or from school or a school related
25 activity, or in a public park). An attempt to commit
26 any of these offenses.

1 (ii) A violation of any of the following Sections
2 of the Criminal Code of 1961, when the victim is a
3 person under 18 years of age: 12-13 (criminal sexual
4 assault), 12-14 (aggravated criminal sexual assault),
5 12-15 (criminal sexual abuse), 12-16 (aggravated
6 criminal sexual abuse). An attempt to commit any of
7 these offenses.

8 (iii) A violation of any of the following Sections
9 of the Criminal Code of 1961, when the victim is a
10 person under 18 years of age and the defendant is not a
11 parent of the victim:

12 10-1 (kidnapping),

13 10-2 (aggravated kidnapping),

14 10-3 (unlawful restraint),

15 10-3.1 (aggravated unlawful restraint).

16 An attempt to commit any of these offenses.

17 (iv) A violation of any former law of this State
18 substantially equivalent to any offense listed in
19 clause (2) (i) of this subsection (d).

20 (2.5) For the purposes of subsection (b-5) only, a sex
21 offense means:

22 (i) A violation of any of the following Sections of
23 the Criminal Code of 1961:

24 10-5(b)(10) (child luring), 10-7 (aiding and
25 abetting child abduction under Section
26 10-5(b)(10)), 11-6 (indecent solicitation of a

1 child), 11-6.5 (indecent solicitation of an
2 adult), 11-15.1 (soliciting for a juvenile
3 prostitute), 11-17.1 (keeping a place of juvenile
4 prostitution), 11-18.1 (patronizing a juvenile
5 prostitute), 11-19.1 (juvenile pimping), 11-19.2
6 (exploitation of a child), 11-20.1 (child
7 pornography), 12-14.1 (predatory criminal sexual
8 assault of a child), or 12-33 (ritualized abuse of
9 a child). An attempt to commit any of these
10 offenses.

11 (ii) A violation of any of the following Sections
12 of the Criminal Code of 1961, when the victim is a
13 person under 18 years of age: 12-13 (criminal sexual
14 assault), 12-14 (aggravated criminal sexual assault),
15 12-16 (aggravated criminal sexual abuse), and
16 subsection (a) of Section 12-15 (criminal sexual
17 abuse). An attempt to commit any of these offenses.

18 (iii) A violation of any of the following Sections
19 of the Criminal Code of 1961, when the victim is a
20 person under 18 years of age and the defendant is not a
21 parent of the victim:

22 10-1 (kidnapping),
23 10-2 (aggravated kidnapping),
24 10-3 (unlawful restraint),
25 10-3.1 (aggravated unlawful restraint).

26 An attempt to commit any of these offenses.

1 (iv) A violation of any former law of this State
2 substantially equivalent to any offense listed in this
3 paragraph (2.5) of this subsection.

4 (3) A conviction for an offense of federal law or the
5 law of another state that is substantially equivalent to
6 any offense listed in paragraph (2) of this subsection (d)
7 shall constitute a conviction for the purpose of this
8 Section. A finding or adjudication as a sexually dangerous
9 person under any federal law or law of another state that
10 is substantially equivalent to the Sexually Dangerous
11 Persons Act shall constitute an adjudication for the
12 purposes of this Section.

13 (4) "Public park" includes a park, forest preserve, or
14 conservation area under the jurisdiction of the State or a
15 unit of local government.

16 (5) "Facility providing programs or services directed
17 towards persons under the age of 18" means any facility
18 providing programs or services exclusively directed
19 towards persons under the age of 18.

20 (6) "Loiter" means:

21 (i) Standing, sitting idly, whether or not the
22 person is in a vehicle or remaining in or around public
23 park property.

24 (ii) Standing, sitting idly, whether or not the
25 person is in a vehicle or remaining in or around public
26 park property, for the purpose of committing or

1 attempting to commit a sex offense.

2 (7) "Playground" means a piece of land owned or
3 controlled by a unit of local government that is designated
4 by the unit of local government for use solely or primarily
5 for children's recreation.

6 (8) "Child care institution" has the meaning ascribed
7 to it in Section 2.06 of the Child Care Act of 1969.

8 (9) "Day care center" has the meaning ascribed to it in
9 Section 2.09 of the Child Care Act of 1969.

10 (10) "Part day child care facility" has the meaning
11 ascribed to it in Section 2.10 of the Child Care Act of
12 1969.

13 (d-5) For the purposes of this Section, the 500 feet
14 distance shall be measured from the edge of the property
15 comprising the public park building or the real property
16 comprising the public park, playground, child care
17 institution, day care center, part day child care facility, or
18 a facility providing programs or services exclusively directed
19 toward persons under 18 years of age, or a victim of the sex
20 offense who is under 21 years of age to the edge of the child
21 sex offender's place of residence or where he or she is
22 loitering.

23 (e) Sentence. A person who violates this Section is guilty
24 of a Class 4 felony.

25 (Source: P.A. 94-925, eff. 6-26-06.)