



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB3477

Introduced 2/28/2007, by Rep. Fred Crespo

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of State Police Law of the Civil Administrative Code of Illinois. Creates in the Department of State Police the Internet Crimes Enforcement Unit to investigate criminal offenses committed by use of the Internet. Provides that the Department of State Police shall establish a toll-free hotline for members of the public to report alleged Internet crimes to be investigated by the Internet Crimes Enforcement Unit. Amends the State Finance Act. Creates the Internet Predator Investigation and Prosecution Fund in the State treasury. Amends the Criminal Code of 1961. Extends the prohibition of posting identifying information on an adult obscenity or child pornography site without the consent of the person to all Internet sites. Prohibits the use of encryption to commit or assist in committing a criminal offense. Prohibits contacting a child under 16 years of age by means of the Internet and the contact involves explicit verbal descriptions or narrative accounts of a sexual nature. Amends the Harassing and Obscene Communications Act and the Unified Code of Corrections. Provides enhanced penalties for harassment by electronic communications and child pornography. Provides that a defendant who commits a crime using the Internet shall be assessed an additional \$200 fine which shall be deposited into the Internet Predator Investigation and Prosecution Fund and shall be used by the Illinois Child Exploitation Task Force to assist in the training, investigation, and prosecution of Internet crime.

LRB095 09074 RLC 29266 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 Department of State Police Law of the Civil  
5 Administrative Code of Illinois is amended by adding Section  
6 2605-560 as follows:

7 (20 ILCS 2605/2605-560 new)

8 Sec. 2605-560. Internet Crimes Enforcement Unit.

9 (a) There is created in the Department the Internet Crimes  
10 Enforcement Unit to investigate criminal offenses committed by  
11 use of the Internet. The Department shall establish a toll-free  
12 hotline for members of the public to report alleged Internet  
13 crimes to be investigated by the Internet Crimes Enforcement  
14 Unit. Upon receiving a credible report of an alleged Internet  
15 crime, the Unit shall inform the local law enforcement agency  
16 where the alleged crime occurred of the alleged Internet crime  
17 and direct the local law enforcement agency to investigate the  
18 crime or to investigate the crime in conjunction with the  
19 Department. The Department or the local law enforcement agency  
20 may obtain a warrant to search the computer hard drive of any  
21 person suspected of committing an Internet crime.

22 (b) The Department shall establish a hyperlink on its home  
23 web page to NetSmartz for the purpose of reporting Internet

1 crimes against children. Such reports shall be forwarded to the  
2 Attorney General's Office and to local State's Attorneys in  
3 cooperation with the United States Department of Justice's  
4 Internet Crimes Against Children Task Force Program.

5 (c) The Department shall train at least one police officer  
6 per State Police Zone to provide NetSmartz training in that  
7 zone to schools and other interested parties.

8 Section 10. The State Finance Act is amended by adding  
9 Section 5.675 as follows:

10 (30 ILCS 105/5.675 new)

11 Sec. 5.675. The Internet Predator Investigation and  
12 Prosecution Fund.

13 Section 15. The Criminal Code of 1961 is amended by  
14 changing and renumbering Section 11-23 and by adding Sections  
15 11-25, 16D-5.5, and 16D-5.6 as follows:

16 (720 ILCS 5/11-25 new)

17 Sec. 11-25. Computer pornography.

18 (a) As used in this Section:

19 "Child" means any person under 16 years of age.

20 "Identifiable child" means a person: (1) who was a  
21 child at the time the visual depiction was created,  
22 adapted, or modified or whose image as a child was used in

1 creating, adapting, or modifying the visual depiction; and  
2 (2) who is recognizable as an actual person by the person's  
3 face, likeness, or other distinguishing characteristic,  
4 such as a unique birthmark or other recognizable feature or  
5 by electronic or scientific means as may be available. The  
6 term shall not be construed to require proof of the actual  
7 identity of the child.

8 "Sadomasochistic abuse" "Sadomasochistic abuse" means  
9 flagellation or torture by or upon a person who is nude or  
10 clad in undergarments or in revealing or bizarre costume or  
11 the condition of being fettered, bound, or otherwise  
12 physically restrained on the part of one so clothed.

13 "Sexual conduct" and "sexual penetration" have the same  
14 meaning as provided in Section 12-12 of this Code.

15 "Sexual excitement" means the condition of human male  
16 or female genitals or the breasts of the female when in a  
17 state of sexual stimulation.

18 "Sexually explicit nudity" means a state of undress so  
19 as to expose the human male or female genitals, pubic area,  
20 or buttocks with less than a full opaque covering, or the  
21 showing of the female breast with less than a fully opaque  
22 covering of any portion thereof below the top of the  
23 nipple, or the depiction of covered or uncovered male  
24 genitals in a discernibly turgid state.

25 "Visual depiction" means any image and includes  
26 undeveloped film and video tape and data stored on computer

1 disk or by electronic means which is capable of conversion  
2 into a visual image or which has been created, adapted, or  
3 modified to show an identifiable child engaged in sexually  
4 explicit conduct.

5 (b) A person commits the offense of computer pornography if  
6 he or she intentionally or knowingly for the purpose of  
7 offering or soliciting sexual conduct or sexual penetration of  
8 or with an identifiable child or the visual depiction of such  
9 conduct or penetration:

10 (1) compiles, enters into, or transmits by means of  
11 computer;

12 (2) makes, prints, publishes, or reproduces by other  
13 computerized means;

14 (3) causes or allows to be entered into or transmitted  
15 by means of computer; or

16 (4) buys, sells, receives, exchanges, or disseminates  
17 any notice, statement, or advertisement, or any child's  
18 name, telephone number, place of residence, physical  
19 characteristics, or other descriptive or identifying  
20 information.

21 (c) It is unlawful for any owner or operator of a computer  
22 on-line service, Internet service, or local bulletin board  
23 service intentionally or knowingly to permit a subscriber to  
24 utilize the service to commit a violation of this Section,  
25 knowing that such person intended to utilize such service to  
26 violate this Section. No owner or operator of a public computer

1 on-line service, Internet service, or local bulletin board  
2 service shall be held liable on account of any action taken in  
3 good faith in providing the aforementioned services.

4 (d) (1) Except as otherwise provided in paragraph (2) of  
5 this subsection (d), a person convicted of violating subsection  
6 (b) of this Section is guilty of a Class 1 felony.

7 (2) If at the time of the offense the victim was 14 or 15  
8 years of age and the defendant was no more than 3 years older  
9 than the victim, then the defendant is guilty of a Class A  
10 misdemeanor.

11 (3) A person who commits a violation of subsection (c) of  
12 this Section is guilty of a Class A misdemeanor.

13 (e) The sole fact that an undercover operative or law  
14 enforcement officer was involved in the detection and  
15 investigation of an offense under this Section does not  
16 constitute a defense to prosecution under this Section.

17 (f) A person is subject to prosecution in this State for  
18 any conduct made unlawful by this Section that the person  
19 engages in while either within or outside of this State if, by  
20 such conduct, the person commits a violation of this Section  
21 which involves a child who resides in this State or another  
22 person believed by such person to be a child residing in this  
23 State.

24 (g) Each violation of this Section constitutes a separate  
25 offense.

1 (720 ILCS 5/16D-5.4) was (720 ILCS 5/11-23)  
2 Sec. 16D-5.4 ~~11-23~~. Posting of identifying information on  
3 an ~~a pornographic~~ Internet site.

4 (a) A person at least 17 years of age who discloses on an  
5 ~~adult obscenity or child pornography~~ Internet site the name,  
6 address, telephone number, or e-mail address of a person under  
7 17 years of age at the time of the commission of the offense or  
8 of a person at least 17 years of age without the consent of the  
9 person at least 17 years of age is guilty of the offense of  
10 posting of identifying information on an ~~a pornographic~~  
11 Internet site.

12 (b) Sentence. A person who violates this Section is guilty  
13 of a Class 4 felony if the victim is at least 17 years of age at  
14 the time of the offense and a Class 3 felony if the victim is  
15 under 17 years of age at the time of the offense.

16 (c) Definitions. For purposes of this Section:

17 (1) (Blank) ~~"Adult obscenity or child pornography~~  
18 ~~Internet site"~~ means ~~a site on the Internet that contains~~  
19 ~~material that is obscene as defined in Section 11-20 of~~  
20 ~~this Code or that is child pornography as defined in~~  
21 ~~Section 11-20.1 of this Code.~~

22 (2) "Internet" includes the World Wide Web, electronic  
23 mail, a news group posting, or Internet file transfer.

24 (Source: P.A. 91-222, eff. 7-22-99.)

25 (720 ILCS 5/16D-5.5 new)

1       Sec. 16D-5.5. Unlawful use of encryption.

2       (a) For the purposes of this Section:

3           "Access" means to intercept, instruct, communicate  
4       with, store data in, retrieve from or otherwise make use of  
5       any resources of a computer, network, or data.

6           "Computer" means an electronic device which performs  
7       logical, arithmetic, and memory functions by manipulations  
8       of electronic or magnetic impulses and includes all  
9       equipment related to the computer in a system or network.

10          "Computer contaminant" means any data, information,  
11       image, program, signal, or sound that is designed or has  
12       the capability to: (1) contaminate, corrupt, consume,  
13       damage, destroy, disrupt, modify, record, or transmit; or  
14       (2) cause to be contaminated, corrupted, consumed,  
15       damaged, destroyed, disrupted, modified, recorded, or  
16       transmitted, any other data, information, image, program,  
17       signal or sound contained in a computer, system, or network  
18       without the knowledge or consent of the person who owns the  
19       other data, information, image, program, signal or sound or  
20       the computer, system or network. "Computer contaminant"  
21       includes, without limitation: (1) a virus, worm or Trojan  
22       horse; (2) spyware that tracks computer activity and is  
23       capable of recording and transmitting such information to  
24       third parties; or (3) any other similar data, information,  
25       image, program, signal, or sound that is designed or has  
26       the capability to prevent, impede, delay, or disrupt the



1 normal operation or use of any component, device,  
2 equipment, system or network.

3 "Data" means a representation in any form of  
4 information, knowledge, facts, concepts or instructions  
5 which is being prepared or has been formally prepared and  
6 is intended to be processed, is being processed or has been  
7 processed in a system or network.

8 "Encryption" means the use of any protective or  
9 disruptive measure, including, without limitation,  
10 cryptology, enciphering, encoding, or a computer  
11 contaminant, to: (1) prevent, impede, delay or disrupt  
12 access to any data, information, image, program, signal, or  
13 sound; (2) cause or make any data, information, image,  
14 program, signal, or sound unintelligible or unusable; or  
15 (3) prevent, impede, delay, or disrupt the normal operation  
16 or use of any component, device, equipment, system, or  
17 network.

18 "Network" means a set of related, remotely connected  
19 devices and facilities, including more than one system,  
20 with the capability to transmit data among any of the  
21 devices and facilities. The term includes, without  
22 limitation, a local, regional, or global computer network.

23 "Program" means an ordered set of data representing  
24 coded instructions or statements which can be executed by a  
25 computer and cause the computer to perform one or more  
26 tasks.

1           "System" means a set of related equipment, whether or  
2           not connected, which is used with or for a computer.

3           (b) A person shall not knowingly use or attempt to use  
4           encryption, directly or indirectly, to:

5                 (1) commit, facilitate, further, or promote any  
6                 criminal offense;

7                 (2) aid, assist, or encourage another person to commit  
8                 any criminal offense;

9                 (3) conceal the commission of any criminal offense;

10                (4) conceal or protect the identity of a person who has  
11                committed any criminal offense; or

12                (5) Delay, hinder, or obstruct the administration of  
13                the law.

14           (c) Sentence. A person who violates this Section is guilty  
15           of a Class A misdemeanor, unless the encryption was used or  
16           attempted to be used to commit an offense for which a greater  
17           penalty is provided by law. If the encryption was used or  
18           attempted to be used to commit an offense for which a greater  
19           penalty is provided by law, the person shall be punished as  
20           prescribed by law for that offense.

21           (d) A person who violates this Section commits a criminal  
22           offense that is separate and distinct from any other criminal  
23           offense and may be prosecuted and convicted under this Section  
24           whether or not the person or any other person is or has been  
25           prosecuted or convicted for any other criminal offense arising  
26           out of the same facts as the violation of this Section.

1 (720 ILCS 5/16D-5.6 new)

2 Sec. 16D-5.6. Enticing child by means of the Internet.

3 (a) For the purposes of this Section, "child", "sexually  
4 explicit nudity", "sexual conduct", "sexual penetration",  
5 "sexual excitement", and "sodomasochistic abuse" have the  
6 meanings ascribed to them in Section 11-25 of this Code.

7 (b) It is unlawful for any person intentionally or  
8 knowingly to utilize a computer on-line service or Internet  
9 service, including but not limited to a local bulletin board  
10 service, Internet chat room, e-mail, or on-line messaging  
11 service to seduce, solicit, lure, or entice, or attempt to  
12 seduce, solicit, lure, or entice a child or another person  
13 believed by such person to be a child to commit any illegal act  
14 described in Section 11-6, 11-9, 12-13, 12-14, 12-14.1, 12-15,  
15 or 12-16 of this Code.

16 (c) It is unlawful for any person to intentionally or  
17 knowingly contact someone he or she knows to be a child or  
18 someone he or she believes to be a child via a computer on-line  
19 service or Internet service, including but not limited to a  
20 local bulletin board service, Internet chat room, e-mail, or  
21 on-line messaging service, and the contact involves any matter  
22 containing explicit verbal descriptions or narrative accounts  
23 of sexually explicit nudity, sexual conduct, sexual  
24 excitement, or sodomasochistic abuse that is intended to arouse  
25 or satisfy the sexual desire of either the child or the person,

1 provided that no conviction shall be had for a violation of  
2 this subsection (c) on the unsupported testimony of a child.

3 (d) Sentence. (1) Except as otherwise provided in paragraph  
4 (2) of this subsection (d), a violation of this Section is a  
5 Class 1 felony.

6 (2) If at the time of the offense the victim was 14 or 15  
7 years of age and the defendant was no more than 3 years older  
8 than the victim, then the defendant is guilty of a Class A  
9 misdemeanor.

10 (e) The sole fact that an undercover operative or law  
11 enforcement officer was involved in the detection and  
12 investigation of an offense under this Section does not  
13 constitute a defense to prosecution under this Section.

14 (f) A person is subject to prosecution in this State for  
15 any conduct made unlawful by this Section that the person  
16 engages in while either within or outside of this State if, by  
17 such conduct, the person commits a violation of this Section  
18 which involves a child who resides in this State or another  
19 person believed by such person to be a child residing in this  
20 State.

21 (g) Each violation of this Section constitutes a separate  
22 offense.

23 Section 20. The Harassing and Obscene Communications Act is  
24 amended by changing Section 2 as follows:

1 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

2 Sec. 2. Sentence.

3 (a) Except as provided in subsection (b), a person who  
4 violates any of the provisions of Section 1 or ~~1-1, or 1-2~~ of  
5 this Act is guilty of a Class B misdemeanor. Except as provided  
6 in subsection (b), a second or subsequent violation of Section  
7 1 or ~~1-1, or 1-2~~ of this Act is a Class A misdemeanor, for  
8 which the court shall impose a minimum of 14 days in jail or,  
9 if public or community service is established in the county in  
10 which the offender was convicted, 240 hours of public or  
11 community service. Except as provided in subsection (b), a  
12 person who violates any of the provisions of Section 1-2 of  
13 this Act is guilty of a Class A misdemeanor for which the court  
14 shall impose a minimum of 15 days in jail and a maximum of 30  
15 days in jail. A second or subsequent violation of Section 1-2  
16 is a Class 4 felony.

17 (b) In any of the following circumstances, a person who  
18 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of  
19 a Class 4 felony:

20 (1) The person has 3 or more prior violations in the  
21 last 10 years of harassment by telephone under Section 1-1  
22 of this Act, harassment through electronic communications  
23 under Section 1-2 of this Act, or any similar offense of  
24 any state;

25 (2) The person has previously violated the harassment  
26 by telephone provisions of Section 1-1 of this Act or the

1 harassment through electronic communications provisions of  
2 Section 1-2 of this Act or committed any similar offense in  
3 any state with the same victim or a member of the victim's  
4 family or household;

5 (3) At the time of the offense, the offender was under  
6 conditions of bail, probation, mandatory supervised  
7 release or was the subject of an order of protection, in  
8 this or any other state, prohibiting contact with the  
9 victim or any member of the victim's family or household;

10 (4) In the course of the offense, the offender  
11 threatened to kill the victim or any member of the victim's  
12 family or household;

13 (5) The person has been convicted in the last 10 years  
14 of a forcible felony as defined in Section 2-8 of the  
15 Criminal Code of 1961; or

16 (6) The person violates paragraph (4.1) of Section 1-1  
17 or paragraph (3.1) of subsection (a) of Section 1-2.

18 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)

19 Section 25. The Unified Code of Corrections is amended by  
20 changing Sections 5-5-3 and 5-5-3.2 as follows:

21 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
22 Sec. 5-5-3. Disposition.

23 (a) Except as provided in Section 11-501 of the Illinois  
24 Vehicle Code, every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate  
3 dispositions, alone or in combination, for all felonies and  
4 misdemeanors other than those identified in subsection (c) of  
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

10 (5) An order directing the offender to clean up and  
11 repair the damage, if the offender was convicted under  
12 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
13 (now repealed).

14 (6) A fine.

15 (7) An order directing the offender to make restitution  
16 to the victim under Section 5-5-6 of this Code.

17 (8) A sentence of participation in a county impact  
18 incarceration program under Section 5-8-1.2 of this Code.

19 (9) A term of imprisonment in combination with a term  
20 of probation when the offender has been admitted into a  
21 drug court program under Section 20 of the Drug Court  
22 Treatment Act.

23 Neither a fine nor restitution shall be the sole  
24 disposition for a felony and either or both may be imposed only  
25 in conjunction with another disposition.

26 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of imprisonment  
2 under Section 5-8-1 of this Code, or where appropriate seek  
3 a sentence of death under Section 9-1 of the Criminal Code  
4 of 1961.

5 (2) A period of probation, a term of periodic  
6 imprisonment or conditional discharge shall not be imposed  
7 for the following offenses. The court shall sentence the  
8 offender to not less than the minimum term of imprisonment  
9 set forth in this Code for the following offenses, and may  
10 order a fine or restitution or both in conjunction with  
11 such term of imprisonment:

12 (A) First degree murder where the death penalty is  
13 not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

16 (D) A violation of Section 401.1 or 407 of the  
17 Illinois Controlled Substances Act, or a violation of  
18 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
19 which relates to more than 5 grams of a substance  
20 containing heroin or cocaine or an analog thereof.

21 (E) A violation of Section 5.1 or 9 of the Cannabis  
22 Control Act.

23 (F) A Class 2 or greater felony if the offender had  
24 been convicted of a Class 2 or greater felony within 10  
25 years of the date on which the offender committed the  
26 offense for which he or she is being sentenced, except



1 as otherwise provided in Section 40-10 of the  
2 Alcoholism and Other Drug Abuse and Dependency Act.

3 (F-5) A violation of Section 24-1, 24-1.1, or  
4 24-1.6 of the Criminal Code of 1961 for which  
5 imprisonment is prescribed in those Sections.

6 (G) Residential burglary, except as otherwise  
7 provided in Section 40-10 of the Alcoholism and Other  
8 Drug Abuse and Dependency Act.

9 (H) Criminal sexual assault.

10 (I) Aggravated battery of a senior citizen.

11 (J) A forcible felony if the offense was related to  
12 the activities of an organized gang.

13 Before July 1, 1994, for the purposes of this  
14 paragraph, "organized gang" means an association of 5  
15 or more persons, with an established hierarchy, that  
16 encourages members of the association to perpetrate  
17 crimes or provides support to the members of the  
18 association who do commit crimes.

19 Beginning July 1, 1994, for the purposes of this  
20 paragraph, "organized gang" has the meaning ascribed  
21 to it in Section 10 of the Illinois Streetgang  
22 Terrorism Omnibus Prevention Act.

23 (K) Vehicular hijacking.

24 (L) A second or subsequent conviction for the  
25 offense of hate crime when the underlying offense upon  
26 which the hate crime is based is felony aggravated

1 assault or felony mob action.

2 (M) A second or subsequent conviction for the  
3 offense of institutional vandalism if the damage to the  
4 property exceeds \$300.

5 (N) A Class 3 felony violation of paragraph (1) of  
6 subsection (a) of Section 2 of the Firearm Owners  
7 Identification Card Act.

8 (O) A violation of Section 12-6.1 of the Criminal  
9 Code of 1961.

10 (P) A violation of paragraph (1), (2), (3), (4),  
11 (5), or (7) of subsection (a) of Section 11-20.1 of the  
12 Criminal Code of 1961.

13 (Q) A violation of Section 20-1.2 or 20-1.3 of the  
14 Criminal Code of 1961.

15 (R) A violation of Section 24-3A of the Criminal  
16 Code of 1961.

17 (S) (Blank).

18 (T) A second or subsequent violation of the  
19 Methamphetamine Control and Community Protection Act.

20 (3) (Blank).

21 (4) A minimum term of imprisonment of not less than 10  
22 consecutive days or 30 days of community service shall be  
23 imposed for a violation of paragraph (c) of Section 6-303  
24 of the Illinois Vehicle Code.

25 (4.1) (Blank).

26 (4.2) Except as provided in paragraph (4.3) of this

1 subsection (c), a minimum of 100 hours of community service  
2 shall be imposed for a second violation of Section 6-303 of  
3 the Illinois Vehicle Code.

4 (4.3) A minimum term of imprisonment of 30 days or 300  
5 hours of community service, as determined by the court,  
6 shall be imposed for a second violation of subsection (c)  
7 of Section 6-303 of the Illinois Vehicle Code.

8 (4.4) Except as provided in paragraph (4.5) and  
9 paragraph (4.6) of this subsection (c), a minimum term of  
10 imprisonment of 30 days or 300 hours of community service,  
11 as determined by the court, shall be imposed for a third or  
12 subsequent violation of Section 6-303 of the Illinois  
13 Vehicle Code.

14 (4.5) A minimum term of imprisonment of 30 days shall  
15 be imposed for a third violation of subsection (c) of  
16 Section 6-303 of the Illinois Vehicle Code.

17 (4.6) A minimum term of imprisonment of 180 days shall  
18 be imposed for a fourth or subsequent violation of  
19 subsection (c) of Section 6-303 of the Illinois Vehicle  
20 Code.

21 (5) The court may sentence an offender convicted of a  
22 business offense or a petty offense or a corporation or  
23 unincorporated association convicted of any offense to:

24 (A) a period of conditional discharge;

25 (B) a fine;

26 (C) make restitution to the victim under Section

1           5-5-6 of this Code.

2           (5.1) In addition to any penalties imposed under  
3 paragraph (5) of this subsection (c), and except as  
4 provided in paragraph (5.2) or (5.3), a person convicted of  
5 violating subsection (c) of Section 11-907 of the Illinois  
6 Vehicle Code shall have his or her driver's license,  
7 permit, or privileges suspended for at least 90 days but  
8 not more than one year, if the violation resulted in damage  
9 to the property of another person.

10          (5.2) In addition to any penalties imposed under  
11 paragraph (5) of this subsection (c), and except as  
12 provided in paragraph (5.3), a person convicted of  
13 violating subsection (c) of Section 11-907 of the Illinois  
14 Vehicle Code shall have his or her driver's license,  
15 permit, or privileges suspended for at least 180 days but  
16 not more than 2 years, if the violation resulted in injury  
17 to another person.

18          (5.3) In addition to any penalties imposed under  
19 paragraph (5) of this subsection (c), a person convicted of  
20 violating subsection (c) of Section 11-907 of the Illinois  
21 Vehicle Code shall have his or her driver's license,  
22 permit, or privileges suspended for 2 years, if the  
23 violation resulted in the death of another person.

24          (5.4) In addition to any penalties imposed under  
25 paragraph (5) of this subsection (c), a person convicted of  
26 violating Section 3-707 of the Illinois Vehicle Code shall

1 have his or her driver's license, permit, or privileges  
2 suspended for 3 months and until he or she has paid a  
3 reinstatement fee of \$100.

4 (5.5) In addition to any penalties imposed under  
5 paragraph (5) of this subsection (c), a person convicted of  
6 violating Section 3-707 of the Illinois Vehicle Code during  
7 a period in which his or her driver's license, permit, or  
8 privileges were suspended for a previous violation of that  
9 Section shall have his or her driver's license, permit, or  
10 privileges suspended for an additional 6 months after the  
11 expiration of the original 3-month suspension and until he  
12 or she has paid a reinstatement fee of \$100.

13 (6) In no case shall an offender be eligible for a  
14 disposition of probation or conditional discharge for a  
15 Class 1 felony committed while he was serving a term of  
16 probation or conditional discharge for a felony.

17 (7) When a defendant is adjudged a habitual criminal  
18 under Article 33B of the Criminal Code of 1961, the court  
19 shall sentence the defendant to a term of natural life  
20 imprisonment.

21 (8) When a defendant, over the age of 21 years, is  
22 convicted of a Class 1 or Class 2 felony, after having  
23 twice been convicted in any state or federal court of an  
24 offense that contains the same elements as an offense now  
25 classified in Illinois as a Class 2 or greater Class felony  
26 and such charges are separately brought and tried and arise

1 out of different series of acts, such defendant shall be  
2 sentenced as a Class X offender. This paragraph shall not  
3 apply unless (1) the first felony was committed after the  
4 effective date of this amendatory Act of 1977; and (2) the  
5 second felony was committed after conviction on the first;  
6 and (3) the third felony was committed after conviction on  
7 the second. A person sentenced as a Class X offender under  
8 this paragraph is not eligible to apply for treatment as a  
9 condition of probation as provided by Section 40-10 of the  
10 Alcoholism and Other Drug Abuse and Dependency Act.

11 (9) A defendant convicted of a second or subsequent  
12 offense of ritualized abuse of a child may be sentenced to  
13 a term of natural life imprisonment.

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000  
16 for a first offense and \$2,000 for a second or subsequent  
17 offense upon a person convicted of or placed on supervision  
18 for battery when the individual harmed was a sports  
19 official or coach at any level of competition and the act  
20 causing harm to the sports official or coach occurred  
21 within an athletic facility or within the immediate  
22 vicinity of the athletic facility at which the sports  
23 official or coach was an active participant of the athletic  
24 contest held at the athletic facility. For the purposes of  
25 this paragraph (11), "sports official" means a person at an  
26 athletic contest who enforces the rules of the contest,

1           such as an umpire or referee; "athletic facility" means an  
2           indoor or outdoor playing field or recreational area where  
3           sports activities are conducted; and "coach" means a person  
4           recognized as a coach by the sanctioning authority that  
5           conducted the sporting event.

6           (12) A person may not receive a disposition of court  
7           supervision for a violation of Section 5-16 of the Boat  
8           Registration and Safety Act if that person has previously  
9           received a disposition of court supervision for a violation  
10          of that Section.

11          (d) In any case in which a sentence originally imposed is  
12          vacated, the case shall be remanded to the trial court. The  
13          trial court shall hold a hearing under Section 5-4-1 of the  
14          Unified Code of Corrections which may include evidence of the  
15          defendant's life, moral character and occupation during the  
16          time since the original sentence was passed. The trial court  
17          shall then impose sentence upon the defendant. The trial court  
18          may impose any sentence which could have been imposed at the  
19          original trial subject to Section 5-5-4 of the Unified Code of  
20          Corrections. If a sentence is vacated on appeal or on  
21          collateral attack due to the failure of the trier of fact at  
22          trial to determine beyond a reasonable doubt the existence of a  
23          fact (other than a prior conviction) necessary to increase the  
24          punishment for the offense beyond the statutory maximum  
25          otherwise applicable, either the defendant may be re-sentenced  
26          to a term within the range otherwise provided or, if the State

1 files notice of its intention to again seek the extended  
2 sentence, the defendant shall be afforded a new trial.

3 (e) In cases where prosecution for aggravated criminal  
4 sexual abuse under Section 12-16 of the Criminal Code of 1961  
5 results in conviction of a defendant who was a family member of  
6 the victim at the time of the commission of the offense, the  
7 court shall consider the safety and welfare of the victim and  
8 may impose a sentence of probation only where:

9 (1) the court finds (A) or (B) or both are appropriate:

10 (A) the defendant is willing to undergo a court  
11 approved counseling program for a minimum duration of 2  
12 years; or

13 (B) the defendant is willing to participate in a  
14 court approved plan including but not limited to the  
15 defendant's:

16 (i) removal from the household;

17 (ii) restricted contact with the victim;

18 (iii) continued financial support of the  
19 family;

20 (iv) restitution for harm done to the victim;

21 and

22 (v) compliance with any other measures that  
23 the court may deem appropriate; and

24 (2) the court orders the defendant to pay for the  
25 victim's counseling services, to the extent that the court  
26 finds, after considering the defendant's income and



1 assets, that the defendant is financially capable of paying  
2 for such services, if the victim was under 18 years of age  
3 at the time the offense was committed and requires  
4 counseling as a result of the offense.

5 Probation may be revoked or modified pursuant to Section  
6 5-6-4; except where the court determines at the hearing that  
7 the defendant violated a condition of his or her probation  
8 restricting contact with the victim or other family members or  
9 commits another offense with the victim or other family  
10 members, the court shall revoke the defendant's probation and  
11 impose a term of imprisonment.

12 For the purposes of this Section, "family member" and  
13 "victim" shall have the meanings ascribed to them in Section  
14 12-12 of the Criminal Code of 1961.

15 (f) This Article shall not deprive a court in other  
16 proceedings to order a forfeiture of property, to suspend or  
17 cancel a license, to remove a person from office, or to impose  
18 any other civil penalty.

19 (g) Whenever a defendant is convicted of an offense under  
20 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
21 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
22 of the Criminal Code of 1961, the defendant shall undergo  
23 medical testing to determine whether the defendant has any  
24 sexually transmissible disease, including a test for infection  
25 with human immunodeficiency virus (HIV) or any other identified  
26 causative agent of acquired immunodeficiency syndrome (AIDS).

1 Any such medical test shall be performed only by appropriately  
2 licensed medical practitioners and may include an analysis of  
3 any bodily fluids as well as an examination of the defendant's  
4 person. Except as otherwise provided by law, the results of  
5 such test shall be kept strictly confidential by all medical  
6 personnel involved in the testing and must be personally  
7 delivered in a sealed envelope to the judge of the court in  
8 which the conviction was entered for the judge's inspection in  
9 camera. Acting in accordance with the best interests of the  
10 victim and the public, the judge shall have the discretion to  
11 determine to whom, if anyone, the results of the testing may be  
12 revealed. The court shall notify the defendant of the test  
13 results. The court shall also notify the victim if requested by  
14 the victim, and if the victim is under the age of 15 and if  
15 requested by the victim's parents or legal guardian, the court  
16 shall notify the victim's parents or legal guardian of the test  
17 results. The court shall provide information on the  
18 availability of HIV testing and counseling at Department of  
19 Public Health facilities to all parties to whom the results of  
20 the testing are revealed and shall direct the State's Attorney  
21 to provide the information to the victim when possible. A  
22 State's Attorney may petition the court to obtain the results  
23 of any HIV test administered under this Section, and the court  
24 shall grant the disclosure if the State's Attorney shows it is  
25 relevant in order to prosecute a charge of criminal  
26 transmission of HIV under Section 12-16.2 of the Criminal Code

1 of 1961 against the defendant. The court shall order that the  
2 cost of any such test shall be paid by the county and may be  
3 taxed as costs against the convicted defendant.

4 (g-5) When an inmate is tested for an airborne communicable  
5 disease, as determined by the Illinois Department of Public  
6 Health including but not limited to tuberculosis, the results  
7 of the test shall be personally delivered by the warden or his  
8 or her designee in a sealed envelope to the judge of the court  
9 in which the inmate must appear for the judge's inspection in  
10 camera if requested by the judge. Acting in accordance with the  
11 best interests of those in the courtroom, the judge shall have  
12 the discretion to determine what if any precautions need to be  
13 taken to prevent transmission of the disease in the courtroom.

14 (h) Whenever a defendant is convicted of an offense under  
15 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
16 defendant shall undergo medical testing to determine whether  
17 the defendant has been exposed to human immunodeficiency virus  
18 (HIV) or any other identified causative agent of acquired  
19 immunodeficiency syndrome (AIDS). Except as otherwise provided  
20 by law, the results of such test shall be kept strictly  
21 confidential by all medical personnel involved in the testing  
22 and must be personally delivered in a sealed envelope to the  
23 judge of the court in which the conviction was entered for the  
24 judge's inspection in camera. Acting in accordance with the  
25 best interests of the public, the judge shall have the  
26 discretion to determine to whom, if anyone, the results of the

1 testing may be revealed. The court shall notify the defendant  
2 of a positive test showing an infection with the human  
3 immunodeficiency virus (HIV). The court shall provide  
4 information on the availability of HIV testing and counseling  
5 at Department of Public Health facilities to all parties to  
6 whom the results of the testing are revealed and shall direct  
7 the State's Attorney to provide the information to the victim  
8 when possible. A State's Attorney may petition the court to  
9 obtain the results of any HIV test administered under this  
10 Section, and the court shall grant the disclosure if the  
11 State's Attorney shows it is relevant in order to prosecute a  
12 charge of criminal transmission of HIV under Section 12-16.2 of  
13 the Criminal Code of 1961 against the defendant. The court  
14 shall order that the cost of any such test shall be paid by the  
15 county and may be taxed as costs against the convicted  
16 defendant.

17 (i) All fines and penalties imposed under this Section for  
18 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
19 Vehicle Code, or a similar provision of a local ordinance, and  
20 any violation of the Child Passenger Protection Act, or a  
21 similar provision of a local ordinance, shall be collected and  
22 disbursed by the circuit clerk as provided under Section 27.5  
23 of the Clerks of Courts Act.

24 (j) In cases when prosecution for any violation of Section  
25 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
26 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,

1 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
2 Code of 1961, any violation of the Illinois Controlled  
3 Substances Act, any violation of the Cannabis Control Act, or  
4 any violation of the Methamphetamine Control and Community  
5 Protection Act results in conviction, a disposition of court  
6 supervision, or an order of probation granted under Section 10  
7 of the Cannabis Control Act, Section 410 of the Illinois  
8 Controlled Substance Act, or Section 70 of the Methamphetamine  
9 Control and Community Protection Act of a defendant, the court  
10 shall determine whether the defendant is employed by a facility  
11 or center as defined under the Child Care Act of 1969, a public  
12 or private elementary or secondary school, or otherwise works  
13 with children under 18 years of age on a daily basis. When a  
14 defendant is so employed, the court shall order the Clerk of  
15 the Court to send a copy of the judgment of conviction or order  
16 of supervision or probation to the defendant's employer by  
17 certified mail. If the employer of the defendant is a school,  
18 the Clerk of the Court shall direct the mailing of a copy of  
19 the judgment of conviction or order of supervision or probation  
20 to the appropriate regional superintendent of schools. The  
21 regional superintendent of schools shall notify the State Board  
22 of Education of any notification under this subsection.

23 (j-5) A defendant at least 17 years of age who is convicted  
24 of a felony and who has not been previously convicted of a  
25 misdemeanor or felony and who is sentenced to a term of  
26 imprisonment in the Illinois Department of Corrections shall as

1 a condition of his or her sentence be required by the court to  
2 attend educational courses designed to prepare the defendant  
3 for a high school diploma and to work toward a high school  
4 diploma or to work toward passing the high school level Test of  
5 General Educational Development (GED) or to work toward  
6 completing a vocational training program offered by the  
7 Department of Corrections. If a defendant fails to complete the  
8 educational training required by his or her sentence during the  
9 term of incarceration, the Prisoner Review Board shall, as a  
10 condition of mandatory supervised release, require the  
11 defendant, at his or her own expense, to pursue a course of  
12 study toward a high school diploma or passage of the GED test.  
13 The Prisoner Review Board shall revoke the mandatory supervised  
14 release of a defendant who wilfully fails to comply with this  
15 subsection (j-5) upon his or her release from confinement in a  
16 penal institution while serving a mandatory supervised release  
17 term; however, the inability of the defendant after making a  
18 good faith effort to obtain financial aid or pay for the  
19 educational training shall not be deemed a wilful failure to  
20 comply. The Prisoner Review Board shall recommit the defendant  
21 whose mandatory supervised release term has been revoked under  
22 this subsection (j-5) as provided in Section 3-3-9. This  
23 subsection (j-5) does not apply to a defendant who has a high  
24 school diploma or has successfully passed the GED test. This  
25 subsection (j-5) does not apply to a defendant who is  
26 determined by the court to be developmentally disabled or

1 otherwise mentally incapable of completing the educational or  
2 vocational program.

3 (k) A court may not impose a sentence or disposition for a  
4 felony or misdemeanor that requires the defendant to be  
5 implanted or injected with or to use any form of birth control.

6 (l) (A) Except as provided in paragraph (C) of subsection  
7 (l), whenever a defendant, who is an alien as defined by  
8 the Immigration and Nationality Act, is convicted of any  
9 felony or misdemeanor offense, the court after sentencing  
10 the defendant may, upon motion of the State's Attorney,  
11 hold sentence in abeyance and remand the defendant to the  
12 custody of the Attorney General of the United States or his  
13 or her designated agent to be deported when:

14 (1) a final order of deportation has been issued  
15 against the defendant pursuant to proceedings under  
16 the Immigration and Nationality Act, and

17 (2) the deportation of the defendant would not  
18 deprecate the seriousness of the defendant's conduct  
19 and would not be inconsistent with the ends of justice.

20 Otherwise, the defendant shall be sentenced as  
21 provided in this Chapter V.

22 (B) If the defendant has already been sentenced for a  
23 felony or misdemeanor offense, or has been placed on  
24 probation under Section 10 of the Cannabis Control Act,  
25 Section 410 of the Illinois Controlled Substances Act, or  
26 Section 70 of the Methamphetamine Control and Community

1 Protection Act, the court may, upon motion of the State's  
2 Attorney to suspend the sentence imposed, commit the  
3 defendant to the custody of the Attorney General of the  
4 United States or his or her designated agent when:

5 (1) a final order of deportation has been issued  
6 against the defendant pursuant to proceedings under  
7 the Immigration and Nationality Act, and

8 (2) the deportation of the defendant would not  
9 deprecate the seriousness of the defendant's conduct  
10 and would not be inconsistent with the ends of justice.

11 (C) This subsection (1) does not apply to offenders who  
12 are subject to the provisions of paragraph (2) of  
13 subsection (a) of Section 3-6-3.

14 (D) Upon motion of the State's Attorney, if a defendant  
15 sentenced under this Section returns to the jurisdiction of  
16 the United States, the defendant shall be recommitted to  
17 the custody of the county from which he or she was  
18 sentenced. Thereafter, the defendant shall be brought  
19 before the sentencing court, which may impose any sentence  
20 that was available under Section 5-5-3 at the time of  
21 initial sentencing. In addition, the defendant shall not be  
22 eligible for additional good conduct credit for  
23 meritorious service as provided under Section 3-6-6.

24 (m) A person convicted of criminal defacement of property  
25 under Section 21-1.3 of the Criminal Code of 1961, in which the  
26 property damage exceeds \$300 and the property damaged is a



1 school building, shall be ordered to perform community service  
2 that may include cleanup, removal, or painting over the  
3 defacement.

4 (n) The court may sentence a person convicted of a  
5 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
6 Code of 1961 (i) to an impact incarceration program if the  
7 person is otherwise eligible for that program under Section  
8 5-8-1.1, (ii) to community service, or (iii) if the person is  
9 an addict or alcoholic, as defined in the Alcoholism and Other  
10 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
11 program licensed under that Act.

12 (o) Whenever a person is convicted of a sex offense as  
13 defined in Section 2 of the Sex Offender Registration Act, the  
14 defendant's driver's license or permit shall be subject to  
15 renewal on an annual basis in accordance with the provisions of  
16 license renewal established by the Secretary of State.

17 (p) Any person convicted of an aggravated offense under  
18 paragraph (22) of Section 5-5-3.2 of this Code, in addition to  
19 any other disposition, penalty, or fine imposed shall pay an  
20 additional fine of \$200.

21 (1) The Internet Predator Investigation and  
22 Prosecution Fund is hereby created as a special fund in the  
23 State treasury.

24 (2) All fees collected by the clerk of the court under  
25 this Section shall be forwarded to the Internet Predator  
26 Investigation and Prosecution Fund for deposit. The clerk

1 of the circuit court may retain \$10 from each collected  
2 fine to offset administrative costs incurred in carrying  
3 out the clerk's responsibilities under this paragraph (p).

4 (3) Fees deposited into the Internet Predator  
5 Investigation and Prosecution Fund shall be used by the  
6 Illinois Child Exploitation Task Force to assist in the  
7 training, investigation, and prosecution of Internet  
8 crime.

9 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
10 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
11 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
12 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
13 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;  
14 revised 8-28-06.)

15 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

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

17 (a) The following factors shall be accorded weight in favor  
18 of imposing a term of imprisonment or may be considered by the  
19 court as reasons to impose a more severe sentence under Section  
20 5-8-1:

21 (1) the defendant's conduct caused or threatened  
22 serious harm;

23 (2) the defendant received compensation for committing  
24 the offense;

25 (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 used electronic communications to  
17 persuade, induce, entice, or coerce any individual, to  
18 engage in criminal activity or lured him or her to or away  
19 from a location with the intent to commit any offense in  
20 which the person being lured became a victim as a result.  
21 For the purposes of this paragraph (22), "electronic  
22 communication" means any transfer of signs, signals,  
23 writings, sounds, data, or intelligence of any nature  
24 transmitted in whole or in part by a wire, radio,  
25 electromagnetic, photoelectric, or photo-optical system;  
26 and "electronic communication" includes transmissions by a

1 computer through the Internet to another computer;

2 (23) the defendant committed an offense under  
3 paragraph (a)(1)(i) or (a)(1)(vi) of Section 11-20.1 of  
4 the Criminal Code of 1961; or

5 (24) the defendant committed any offense under Section  
6 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
7 more images.

8 For the purposes of this Section:

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

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

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

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

25 (2) When a defendant is convicted of any felony and the  
26 court finds that the offense was accompanied by



1           exceptionally brutal or heinous behavior indicative of  
2           wanton cruelty; or

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

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

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

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

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

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

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

1 offense involved any of the following types of specific  
2 misconduct committed as part of a ceremony, rite,  
3 initiation, observance, performance, practice or activity  
4 of any actual or ostensible religious, fraternal, or social  
5 group:

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

8 (ii) the theft of human corpses;

9 (iii) the kidnapping of humans;

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

13 (v) ritualized abuse of a child; or

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

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

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

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

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

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

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

1 response officer in the performance of his or her duties is  
2 killed or injured at the scene of the offense while  
3 responding to the emergency caused by the commission of the  
4 offense. In this paragraph (12), "emergency" means a  
5 situation in which a person's life, health, or safety is in  
6 jeopardy; and "emergency response officer" means a peace  
7 officer, community policing volunteer, fireman, emergency  
8 medical technician-ambulance, emergency medical  
9 technician-intermediate, emergency medical  
10 technician-paramedic, ambulance driver, other medical  
11 assistance or first aid personnel, or hospital emergency  
12 room personnel; or

13 (13) When a defendant commits any felony and the  
14 defendant used, possessed, exercised control over, or  
15 otherwise directed an animal to assault a law enforcement  
16 officer engaged in the execution of his or her official  
17 duties or in furtherance of the criminal activities of an  
18 organized gang in which the defendant is engaged.

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

22 (c) The court may impose an extended term sentence under  
23 Section 5-8-2 upon any offender who was convicted of aggravated  
24 criminal sexual assault or predatory criminal sexual assault of  
25 a child under subsection (a)(1) of Section 12-14.1 of the  
26 Criminal Code of 1961 where the victim was under 18 years of

1 age at the time of the commission of the offense.

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

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

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 2605/2605-560 new	
4	30 ILCS 105/5.675 new	
5	720 ILCS 5/11-25 new	
6	720 ILCS 5/16D-5.4 was 720	
7	ILCS 5/11-23	
8	720 ILCS 5/16D-5.5 new	
9	720 ILCS 5/16D-5.6 new	
10	720 ILCS 135/2	from Ch. 134, par. 16.5
11	730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3
12	730 ILCS 5/5-5-3.2	from Ch. 38, par. 1005-5-3.2