

HB5665



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5665

by Rep. Carolyn H. Krause

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.4

Amends the Criminal Code of 1961. Provides that it is a Class 4 felony for a child sex offender to knowingly provide programs or services exclusively directed towards persons under the age of 18 in the child sex offender's residence.

LRB095 15336 RLC 41324 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 11-9.4 as follows:

6 (720 ILCS 5/11-9.4)

7 (Text of Section after amendment by P.A. 95-640)

8 Sec. 11-9.4. Approaching, contacting, residing, or
9 communicating with a child within certain places by child sex
10 offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be
12 present in any public park building or on real property
13 comprising any public park when persons under the age of 18 are
14 present in the building or on the grounds and to approach,
15 contact, or communicate with a child under 18 years of age,
16 unless the offender is a parent or guardian of a person under
17 18 years of age present in the building or on the grounds.

18 (b) It is unlawful for a child sex offender to knowingly
19 loiter on a public way within 500 feet of a public park
20 building or real property comprising any public park while
21 persons under the age of 18 are present in the building or on
22 the grounds and to approach, contact, or communicate with a
23 child under 18 years of age, unless the offender is a parent or

1 guardian of a person under 18 years of age present in the
2 building or on the grounds.

3 (b-5) It is unlawful for a child sex offender to knowingly
4 reside within 500 feet of a playground, child care institution,
5 day care center, part day child care facility, or a facility
6 providing programs or services exclusively directed toward
7 persons under 18 years of age. Nothing in this subsection (b-5)
8 prohibits a child sex offender from residing within 500 feet of
9 a playground or a facility providing programs or services
10 exclusively directed toward persons under 18 years of age if
11 the property is owned by the child sex offender and was
12 purchased before the effective date of this amendatory Act of
13 the 91st General Assembly. Nothing in this subsection (b-5)
14 prohibits a child sex offender from residing within 500 feet of
15 a child care institution, day care center, or part day child
16 care facility if the property is owned by the child sex
17 offender and was purchased before the effective date of this
18 amendatory Act of the 94th General Assembly.

19 (b-6) It is unlawful for a child sex offender to knowingly
20 reside within 500 feet of the victim of the sex offense.
21 Nothing in this subsection (b-6) prohibits a child sex offender
22 from residing within 500 feet of the victim if the property in
23 which the child sex offender resides is owned by the child sex
24 offender and was purchased before the effective date of this
25 amendatory Act of the 92nd General Assembly.

26 This subsection (b-6) does not apply if the victim of the

1 sex offense is 21 years of age or older.

2 (c) It is unlawful for a child sex offender to knowingly
3 operate, manage, be employed by, volunteer at, be associated
4 with, or knowingly be present at any: (i) facility providing
5 programs or services exclusively directed towards persons
6 under the age of 18; (ii) day care center; (iii) part day child
7 care facility; (iv) child care institution, or (v) school
8 providing before and after school programs for children under
9 18 years of age. This does not prohibit a child sex offender
10 from owning the real property upon which the programs or
11 services are offered or upon which the day care center, part
12 day child care facility, child care institution, or school
13 providing before and after school programs for children under
14 18 years of age is located, provided the child sex offender
15 refrains from being present on the premises for the hours
16 during which: (1) the programs or services are being offered or
17 (2) the day care center, part day child care facility, child
18 care institution, or school providing before and after school
19 programs for children under 18 years of age is operated.

20 (c-1) It is unlawful for a child sex offender to knowingly
21 provide programs or services exclusively directed towards
22 persons under the age of 18 in the child sex offender's
23 residence including any of the services described in subsection
24 (c).

25 (c-5) It is unlawful for a child sex offender to knowingly
26 operate, manage, be employed by, or be associated with any

1 county fair when persons under the age of 18 are present.

2 (d) Definitions. In this Section:

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

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

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

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

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

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

24 (E) is found not guilty by reason of insanity
25 following a hearing conducted pursuant to a
26 federal law or the law of another state

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

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

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

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

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

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

1 "sex offense" means:

2 (i) A violation of any of the following Sections of
3 the Criminal Code of 1961: 10-7 (aiding and abetting
4 child abduction under Section 10-5(b)(10)),
5 10-5(b)(10) (child luring), 11-6 (indecent
6 solicitation of a child), 11-6.5 (indecent
7 solicitation of an adult), 11-9 (public indecency when
8 committed in a school, on the real property comprising
9 a school, on a conveyance owned, leased, or contracted
10 by a school to transport students to or from school or
11 a school related activity, or in a public park), 11-9.1
12 (sexual exploitation of a child), 11-15.1 (soliciting
13 for a juvenile prostitute), 11-17.1 (keeping a place of
14 juvenile prostitution), 11-18.1 (patronizing a
15 juvenile prostitute), 11-19.1 (juvenile pimping),
16 11-19.2 (exploitation of a child), 11-20.1 (child
17 pornography), 11-20.3 (aggravated child pornography),
18 11-21 (harmful material), 12-14.1 (predatory criminal
19 sexual assault of a child), 12-33 (ritualized abuse of
20 a child), 11-20 (obscenity) (when that offense was
21 committed in any school, on real property comprising
22 any school, on any conveyance owned, leased, or
23 contracted by a school to transport students to or from
24 school or a school related activity, or in a public
25 park). An attempt to commit any of these offenses.

26 (ii) A violation of any of the following Sections

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

7 (iii) 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 and the defendant is not a
10 parent of the victim:

11 10-1 (kidnapping),

12 10-2 (aggravated kidnapping),

13 10-3 (unlawful restraint),

14 10-3.1 (aggravated unlawful restraint).

15 An attempt to commit any of these offenses.

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

19 (2.5) For the purposes of subsection (b-5) only, a sex
20 offense means:

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

23 10-5(b)(10) (child luring), 10-7 (aiding and
24 abetting child abduction under Section
25 10-5(b)(10)), 11-6 (indecent solicitation of a
26 child), 11-6.5 (indecent solicitation of an

1 adult), 11-15.1 (soliciting for a juvenile
2 prostitute), 11-17.1 (keeping a place of juvenile
3 prostitution), 11-18.1 (patronizing a juvenile
4 prostitute), 11-19.1 (juvenile pimping), 11-19.2
5 (exploitation of a child), 11-20.1 (child
6 pornography), 11-20.3 (aggravated 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 (e) Sentence. A person who violates this Section is guilty
14 of a Class 4 felony.

15 (Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640,
16 eff. 6-1-08; revised 10-30-07.)