

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 Unified Code of Corrections is amended by
5 changing Section 5-5-3.2 as follows:

6 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

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

8 (a) The following factors shall be accorded weight in favor
9 of imposing a term of imprisonment or may be considered by the
10 court as reasons to impose a more severe sentence under Section
11 5-8-1:

12 (1) the defendant's conduct caused or threatened
13 serious harm;

14 (2) the defendant received compensation for committing
15 the offense;

16 (3) the defendant has a history of prior delinquency or
17 criminal activity;

18 (4) the defendant, by the duties of his office or by
19 his position, was obliged to prevent the particular offense
20 committed or to bring the offenders committing it to
21 justice;

22 (5) the defendant held public office at the time of the
23 offense, and the offense related to the conduct of that

1 office;

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

5 (7) the sentence is necessary to deter others from
6 committing the same crime;

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

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

12 (10) by reason of another individual's actual or
13 perceived race, color, creed, religion, ancestry, gender,
14 sexual orientation, physical or mental disability, or
15 national origin, the defendant committed the offense
16 against (i) the person or property of that individual; (ii)
17 the person or property of a person who has an association
18 with, is married to, or has a friendship with the other
19 individual; or (iii) the person or property of a relative
20 (by blood or marriage) of a person described in clause (i)
21 or (ii). For the purposes of this Section, "sexual
22 orientation" means heterosexuality, homosexuality, or
23 bisexuality;

24 (11) the offense took place in a place of worship or on
25 the grounds of a place of worship, immediately prior to,
26 during or immediately following worship services. For

1 purposes of this subparagraph, "place of worship" shall
2 mean any church, synagogue or other building, structure or
3 place used primarily for religious worship;

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

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

16 (14) the defendant held a position of trust or
17 supervision such as, but not limited to, family member as
18 defined in Section 12-12 of the Criminal Code of 1961,
19 teacher, scout leader, baby sitter, or day care worker, in
20 relation to a victim under 18 years of age, and the
21 defendant committed an offense in violation of Section
22 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
23 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
24 against that victim;

25 (15) the defendant committed an offense related to the
26 activities of an organized gang. For the purposes of this

1 factor, "organized gang" has the meaning ascribed to it in
2 Section 10 of the Streetgang Terrorism Omnibus Prevention
3 Act;

4 (16) the defendant committed an offense in violation of
5 one of the following Sections while in a school, regardless
6 of the time of day or time of year; on any conveyance
7 owned, leased, or contracted by a school to transport
8 students to or from school or a school related activity; on
9 the real property of a school; or on a public way within
10 1,000 feet of the real property comprising any school:
11 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
12 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
13 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
14 33A-2 of the Criminal Code of 1961;

15 (16.5) the defendant committed an offense in violation
16 of one of the following Sections while in a day care
17 center, regardless of the time of day or time of year; on
18 the real property of a day care center, regardless of the
19 time of day or time of year; or on a public way within
20 1,000 feet of the real property comprising any day care
21 center, regardless of the time of day or time of year:
22 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
23 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
24 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
25 33A-2 of the Criminal Code of 1961;

26 (17) the defendant committed the offense by reason of

1 any person's activity as a community policing volunteer or
2 to prevent any person from engaging in activity as a
3 community policing volunteer. For the purpose of this
4 Section, "community policing volunteer" has the meaning
5 ascribed to it in Section 2-3.5 of the Criminal Code of
6 1961;

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

13 (19) the defendant was a federally licensed firearm
14 dealer and was previously convicted of a violation of
15 subsection (a) of Section 3 of the Firearm Owners
16 Identification Card Act and has now committed either a
17 felony violation of the Firearm Owners Identification Card
18 Act or an act of armed violence while armed with a firearm;

19 (20) the defendant (i) committed the offense of
20 reckless homicide under Section 9-3 of the Criminal Code of
21 1961 or the offense of driving under the influence of
22 alcohol, other drug or drugs, intoxicating compound or
23 compounds or any combination thereof under Section 11-501
24 of the Illinois Vehicle Code or a similar provision of a
25 local ordinance and (ii) was operating a motor vehicle in
26 excess of 20 miles per hour over the posted speed limit as

1 provided in Article VI of Chapter 11 of the Illinois
2 Vehicle Code; ~~or~~

3 (21) the defendant (i) committed the offense of
4 reckless driving or aggravated reckless driving under
5 Section 11-503 of the Illinois Vehicle Code and (ii) was
6 operating a motor vehicle in excess of 20 miles per hour
7 over the posted speed limit as provided in Article VI of
8 Chapter 11 of the Illinois Vehicle Code; or.

9 (22) the defendant committed the offense against a
10 person that the defendant knew, or reasonably should have
11 known, was a member of the Armed Forces of the United States
12 serving on active duty. For purposes of this clause (22),
13 the term "Armed Forces" means any of the Armed Forces of
14 the United States, including a member of any reserve
15 component thereof or National Guard unit called to active
16 duty.

17 For the purposes of this Section:

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

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

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

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

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

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

17 (4) When a defendant is convicted of any felony
18 committed against:

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

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

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

25 (5) In the case of a defendant convicted of aggravated
26 criminal sexual assault or criminal sexual assault, when

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

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

15 (i) the brutalizing or torturing of humans or
16 animals;

17 (ii) the theft of human corpses;

18 (iii) the kidnapping of humans;

19 (iv) the desecration of any cemetery, religious,
20 fraternal, business, governmental, educational, or
21 other building or property; or

22 (v) ritualized abuse of a child; or

23 (7) When a defendant is convicted of first degree
24 murder, after having been previously convicted in Illinois
25 of any offense listed under paragraph (c)(2) of Section
26 5-5-3, when such conviction has occurred within 10 years

1 after the previous conviction, excluding time spent in
2 custody, and such charges are separately brought and tried
3 and arise out of different series of acts; or

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

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

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

22 (11) When a defendant who was at least 17 years of age
23 at the time of the commission of the offense is convicted
24 of a felony and has been previously adjudicated a
25 delinquent minor under the Juvenile Court Act of 1987 for
26 an act that if committed by an adult would be a Class X or

1 Class 1 felony when the conviction has occurred within 10
2 years after the previous adjudication, excluding time
3 spent in custody; or

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

22 (13) When a defendant commits any felony and the
23 defendant used, possessed, exercised control over, or
24 otherwise directed an animal to assault a law enforcement
25 officer engaged in the execution of his or her official
26 duties or in furtherance of the criminal activities of an

1 organized gang in which the defendant is engaged.

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

5 (c) The court may impose an extended term sentence under
6 Section 5-8-2 upon any offender who was convicted of aggravated
7 criminal sexual assault or predatory criminal sexual assault of
8 a child under subsection (a)(1) of Section 12-14.1 of the
9 Criminal Code of 1961 where the victim was under 18 years of
10 age at the time of the commission of the offense.

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

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