



Sen. Jacqueline Y. Collins

**Filed: 3/9/2007**

09500SB0115sam001

LRB095 06266 RLC 32525 a

1 AMENDMENT TO SENATE BILL 115

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 115 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-5-3.2 as follows:

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

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

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

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

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

16 (3) the defendant has a history of prior delinquency or

1 criminal activity;

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

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

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

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

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

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

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

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

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

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

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

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

1 relation to a victim under 18 years of age, and the  
2 defendant committed an offense in violation of Section  
3 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
4 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
5 against that victim;

6 (15) the defendant committed an offense related to the  
7 activities of an organized gang. For the purposes of this  
8 factor, "organized gang" has the meaning ascribed to it in  
9 Section 10 of the Streetgang Terrorism Omnibus Prevention  
10 Act;

11 (16) the defendant committed an offense in violation of  
12 one of the following Sections while in a school, regardless  
13 of the time of day or time of year; on any conveyance  
14 owned, leased, or contracted by a school to transport  
15 students to or from school or a school related activity; on  
16 the real property of a school; or on a public way within  
17 1,000 feet of the real property comprising any school:  
18 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
20 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
21 33A-2 of the Criminal Code of 1961;

22 (16.5) the defendant committed an offense in violation  
23 of one of the following Sections while in a day care  
24 center, regardless of the time of day or time of year; on  
25 the real property of a day care center, regardless of the  
26 time of day or time of year; or on a public way within

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

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

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

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

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

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

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

16 (22) the defendant committed the offense against a  
17 member of the Armed Forces of the United States serving on  
18 active duty. For purposes of this clause (22), the term  
19 "Armed Forces" means any of the Armed Forces of the United  
20 States, including a member of any reserve component thereof  
21 or National Guard unit called to active duty.

22 For the purposes of this Section:

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

25 "Day care center" means a public or private State certified  
26 and licensed day care center as defined in Section 2.09 of the

1 Child Care Act of 1969 that displays a sign in plain view  
2 stating that the property is a day care center.

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

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

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

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

22 (4) When a defendant is convicted of any felony  
23 committed against:

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

26 (ii) a person 60 years of age or older at the time

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

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

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

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

20 (i) the brutalizing or torturing of humans or  
21 animals;

22 (ii) the theft of human corpses;

23 (iii) the kidnapping of humans;

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



1 (v) ritualized abuse of a child; or

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

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

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

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

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

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

1           (13) When a defendant commits any felony and the  
2 defendant used, possessed, exercised control over, or  
3 otherwise directed an animal to assault a law enforcement  
4 officer engaged in the execution of his or her official  
5 duties or in furtherance of the criminal activities of an  
6 organized gang in which the defendant is engaged.

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

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

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

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