



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4764

Introduced 1/11/2010, by

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. In the predatory criminal sexual assault of a child statute, makes additional changes in the sentencing provisions for that offense. Provides that the court shall impose an additional 11 year sentence upon a person convicted of criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse if the victim of the criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse was under 18 years of age at the time of the commission of the offense. Amends the Rights of Crime Victims and Witnesses Act. Provides that the office of the State's Attorney shall provide an alleged victim of a sexual assault with a statement of the rights guaranteed by the Act and the Bill of Rights for Children and an explanation of those rights. Amends the Unified Code of Corrections. Provides that the court shall impose an extended term sentence upon any offender who has been convicted of a felony violation of the statutes concerning criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse if the victim of the criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission or attempted commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the accused.

LRB096 16295 RLC 32033 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 Criminal Code of 1961 is amended by changing
5 Sections 12-13, 12-14, 12-14.1, and 12-16 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 Sec. 12-13. Criminal Sexual Assault.

8 (a) The accused commits criminal sexual assault if he or
9 she:

10 (1) commits an act of sexual penetration by the use of
11 force or threat of force; or

12 (2) commits an act of sexual penetration and the
13 accused knew that the victim was unable to understand the
14 nature of the act or was unable to give knowing consent; or

15 (3) commits an act of sexual penetration with a victim
16 who was under 18 years of age when the act was committed
17 and the accused was a family member; or

18 (4) commits an act of sexual penetration with a victim
19 who was at least 13 years of age but under 18 years of age
20 when the act was committed and the accused was 17 years of
21 age or over and held a position of trust, authority or
22 supervision in relation to the victim.

23 (b) Sentence.

1 (1) Criminal sexual assault is a Class 1 felony.

2 (2) A person who is convicted of the offense of
3 criminal sexual assault as defined in paragraph (a)(1) or
4 (a)(2) after having previously been convicted of the
5 offense of criminal sexual assault or the offense of
6 exploitation of a child, or who is convicted of the offense
7 of criminal sexual assault as defined in paragraph (a)(1)
8 or (a)(2) after having previously been convicted under the
9 laws of this State or any other state of an offense that is
10 substantially equivalent to the offense of criminal sexual
11 assault or to the offense of exploitation of a child,
12 commits a Class X felony for which the person shall be
13 sentenced to a term of imprisonment of not less than 30
14 years and not more than 60 years. The commission of the
15 second or subsequent offense is required to have been after
16 the initial conviction for this paragraph (2) to apply.

17 (3) A person who is convicted of the offense of
18 criminal sexual assault as defined in paragraph (a)(1) or
19 (a)(2) after having previously been convicted of the
20 offense of aggravated criminal sexual assault or the
21 offense of predatory criminal sexual assault of a child, or
22 who is convicted of the offense of criminal sexual assault
23 as defined in paragraph (a)(1) or (a)(2) after having
24 previously been convicted under the laws of this State or
25 any other state of an offense that is substantially
26 equivalent to the offense of aggravated criminal sexual

1 assault or the offense of criminal predatory sexual assault
2 shall be sentenced to a term of natural life imprisonment.
3 The commission of the second or subsequent offense is
4 required to have been after the initial conviction for this
5 paragraph (3) to apply.

6 (3.5) A person who is convicted of the offense of
7 criminal sexual assault as defined in paragraph (a)(4)
8 commits a Class 1 felony for which 11 years shall be added
9 to the term of imprisonment imposed by the court.

10 (4) A second or subsequent conviction for a violation
11 of paragraph (a)(3) or (a)(4) or under any similar statute
12 of this State or any other state for any offense involving
13 criminal sexual assault that is substantially equivalent
14 to or more serious than the sexual assault prohibited under
15 paragraph (a)(3) or (a)(4) is a Class X felony.

16 (5) When a person has any such prior conviction, the
17 information or indictment charging that person shall state
18 such prior conviction so as to give notice of the State's
19 intention to treat the charge as a Class X felony. The fact
20 of such prior conviction is not an element of the offense
21 and may not be disclosed to the jury during trial unless
22 otherwise permitted by issues properly raised during such
23 trial.

24 (Source: P.A. 95-640, eff. 6-1-08.)

25 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

1 Sec. 12-14. Aggravated Criminal Sexual Assault.

2 (a) The accused commits aggravated criminal sexual assault
3 if he or she commits criminal sexual assault and any of the
4 following aggravating circumstances existed during, or for the
5 purposes of paragraph (7) of this subsection (a) as part of the
6 same course of conduct as, the commission of the offense:

7 (1) the accused displayed, threatened to use, or used a
8 dangerous weapon, other than a firearm, or any object
9 fashioned or utilized in such a manner as to lead the
10 victim under the circumstances reasonably to believe it to
11 be a dangerous weapon; or

12 (2) the accused caused bodily harm, except as provided
13 in subsection (a) (10), to the victim; or

14 (3) the accused acted in such a manner as to threaten
15 or endanger the life of the victim or any other person; or

16 (4) the criminal sexual assault was perpetrated during
17 the course of the commission or attempted commission of any
18 other felony by the accused; or

19 (5) the victim was 60 years of age or over when the
20 offense was committed; or

21 (6) the victim was a physically handicapped person; or

22 (7) the accused delivered (by injection, inhalation,
23 ingestion, transfer of possession, or any other means) to
24 the victim without his or her consent, or by threat or
25 deception, and for other than medical purposes, any
26 controlled substance; or

1 (8) the accused was armed with a firearm; or

2 (9) the accused personally discharged a firearm during
3 the commission of the offense; or

4 (10) the accused, during the commission of the offense,
5 personally discharged a firearm that proximately caused
6 great bodily harm, permanent disability, permanent
7 disfigurement, or death to another person.

8 (b) The accused commits aggravated criminal sexual assault
9 if the accused was under 17 years of age and (i) commits an act
10 of sexual penetration with a victim who was under 9 years of
11 age when the act was committed; or (ii) commits an act of
12 sexual penetration with a victim who was at least 9 years of
13 age but under 13 years of age when the act was committed and
14 the accused used force or threat of force to commit the act.

15 (c) The accused commits aggravated criminal sexual assault
16 if he or she commits an act of sexual penetration with a victim
17 who was a severely or profoundly mentally retarded person at
18 the time the act was committed.

19 (d) Sentence.

20 (1) Aggravated criminal sexual assault in violation of
21 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)
22 or in violation of subsection ~~(b) or~~ (c) is a Class X
23 felony. Aggravated criminal sexual assault in violation of
24 subsection (b) is a Class X felony for which 11 years shall
25 be added to the term of imprisonment imposed by the court.

26 A violation of subsection (a)(1) is a Class X felony for

1 which 10 years shall be added to the term of imprisonment
2 imposed by the court. A violation of subsection (a)(8) is a
3 Class X felony for which 15 years shall be added to the
4 term of imprisonment imposed by the court. A violation of
5 subsection (a)(9) is a Class X felony for which 20 years
6 shall be added to the term of imprisonment imposed by the
7 court. A violation of subsection (a)(10) is a Class X
8 felony for which 25 years or up to a term of natural life
9 imprisonment shall be added to the term of imprisonment
10 imposed by the court.

11 (2) A person who is convicted of a second or subsequent
12 offense of aggravated criminal sexual assault, or who is
13 convicted of the offense of aggravated criminal sexual
14 assault after having previously been convicted of the
15 offense of criminal sexual assault or the offense of
16 predatory criminal sexual assault of a child, or who is
17 convicted of the offense of aggravated criminal sexual
18 assault after having previously been convicted under the
19 laws of this or any other state of an offense that is
20 substantially equivalent to the offense of criminal sexual
21 assault, the offense of aggravated criminal sexual assault
22 or the offense of predatory criminal sexual assault of a
23 child, shall be sentenced to a term of natural life
24 imprisonment. The commission of the second or subsequent
25 offense is required to have been after the initial
26 conviction for this paragraph (2) to apply.

1 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502,
2 eff. 12-19-01; 92-721, eff. 1-1-03.)

3 (720 ILCS 5/12-14.1)

4 Sec. 12-14.1. Predatory criminal sexual assault of a child.

5 (a) The accused commits predatory criminal sexual assault
6 of a child if:

7 (1) the accused was 17 years of age or over and commits
8 an act of sexual penetration with a victim who was under 13
9 years of age when the act was committed; or

10 (1.1) the accused was 17 years of age or over and,
11 while armed with a firearm, commits an act of sexual
12 penetration with a victim who was under 13 years of age
13 when the act was committed; or

14 (1.2) the accused was 17 years of age or over and
15 commits an act of sexual penetration with a victim who was
16 under 13 years of age when the act was committed and,
17 during the commission of the offense, the accused
18 personally discharged a firearm; or

19 (2) the accused was 17 years of age or over and commits
20 an act of sexual penetration with a victim who was under 13
21 years of age when the act was committed and the accused
22 caused great bodily harm to the victim that:

23 (A) resulted in permanent disability; or

24 (B) was life threatening; or

25 (3) the accused was 17 years of age or over and commits

1 an act of sexual penetration with a victim who was under 13
2 years of age when the act was committed and the accused
3 delivered (by injection, inhalation, ingestion, transfer
4 of possession, or any other means) to the victim without
5 his or her consent, or by threat or deception, and for
6 other than medical purposes, any controlled substance; ~~or~~ -

7 (3.1) the accused was 17 years of age or over and
8 commits an act of sexual penetration with a victim who was
9 under 13 years of age when the act was committed and,
10 during the commission or attempted commission of the act,
11 the victim was under the influence of alcohol, regardless
12 of whether or not the alcohol was supplied by the accused.

13 (b) Sentence.

14 (1) A person convicted of a violation of subsection
15 (a) (1) commits a Class X felony, for which the person shall
16 be sentenced to a term of imprisonment of ~~not less than 6~~
17 ~~years and not more than~~ 60 years. A person convicted of a
18 violation of subsection (a) (1.1) commits a Class X felony
19 for which 15 years shall be added to the term of
20 imprisonment imposed by the court. A person convicted of a
21 violation of subsection (a) (1.2) commits a Class X felony
22 for which 20 years shall be added to the term of
23 imprisonment imposed by the court. A person convicted of a
24 violation of subsection (a) (2) commits a Class X felony for
25 which the person shall be sentenced to a term of
26 imprisonment of not less than 60 ~~50~~ years or up to a term

1 of natural life imprisonment. A person convicted of a
2 violation of subsection (a) (3.1) commits a Class X felony
3 for which 11 years shall be added to the term of
4 imprisonment imposed by the court.

5 (1.1) A person convicted of a violation of subsection
6 (a) (3) commits a Class X felony for which the person shall
7 be sentenced to a term of imprisonment of not less than 50
8 years and not more than 60 years.

9 (1.2) A person convicted of predatory criminal sexual
10 assault of a child committed against 2 or more persons
11 regardless of whether the offenses occurred as the result
12 of the same act or of several related or unrelated acts
13 shall be sentenced to a term of natural life imprisonment.

14 (2) A person who is convicted of a second or subsequent
15 offense of predatory criminal sexual assault of a child, or
16 who is convicted of the offense of predatory criminal
17 sexual assault of a child after having previously been
18 convicted of the offense of criminal sexual assault or the
19 offense of aggravated criminal sexual assault, or who is
20 convicted of the offense of predatory criminal sexual
21 assault of a child after having previously been convicted
22 under the laws of this State or any other state of an
23 offense that is substantially equivalent to the offense of
24 predatory criminal sexual assault of a child, the offense
25 of aggravated criminal sexual assault or the offense of
26 criminal sexual assault, shall be sentenced to a term of

1 natural life imprisonment. The commission of the second or
2 subsequent offense is required to have been after the
3 initial conviction for this paragraph (2) to apply.

4 (Source: P.A. 95-640, eff. 6-1-08.)

5 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)
6 Sec. 12-16. Aggravated Criminal Sexual Abuse.

7 (a) The accused commits aggravated criminal sexual abuse if
8 he or she commits criminal sexual abuse as defined in
9 subsection (a) of Section 12-15 of this Code and any of the
10 following aggravating circumstances existed during, or for the
11 purposes of paragraph (7) of this subsection (a) as part of the
12 same course of conduct as, the commission of the offense:

13 (1) the accused displayed, threatened to use or used a
14 dangerous weapon or any object fashioned or utilized in
15 such a manner as to lead the victim under the circumstances
16 reasonably to believe it to be a dangerous weapon; or

17 (2) the accused caused bodily harm to the victim; or

18 (3) the victim was 60 years of age or over when the
19 offense was committed; or

20 (4) the victim was a physically handicapped person; or

21 (5) the accused acted in such a manner as to threaten
22 or endanger the life of the victim or any other person; or

23 (6) the criminal sexual abuse was perpetrated during
24 the course of the commission or attempted commission of any
25 other felony by the accused; or

1 (7) the accused delivered (by injection, inhalation,
2 ingestion, transfer of possession, or any other means) to
3 the victim without his or her consent, or by threat or
4 deception, and for other than medical purposes, any
5 controlled substance.

6 (b) The accused commits aggravated criminal sexual abuse if
7 he or she commits an act of sexual conduct with a victim who
8 was under 18 years of age when the act was committed and the
9 accused was a family member.

10 (c) The accused commits aggravated criminal sexual abuse
11 if:

12 (1) the accused was 17 years of age or over and (i)
13 commits an act of sexual conduct with a victim who was
14 under 13 years of age when the act was committed; or (ii)
15 commits an act of sexual conduct with a victim who was at
16 least 13 years of age but under 17 years of age when the
17 act was committed and the accused used force or threat of
18 force to commit the act; or

19 (2) the accused was under 17 years of age and (i)
20 commits an act of sexual conduct with a victim who was
21 under 9 years of age when the act was committed; or (ii)
22 commits an act of sexual conduct with a victim who was at
23 least 9 years of age but under 17 years of age when the act
24 was committed and the accused used force or threat of force
25 to commit the act.

26 (d) The accused commits aggravated criminal sexual abuse if

1 he or she commits an act of sexual penetration or sexual
2 conduct with a victim who was at least 13 years of age but
3 under 17 years of age and the accused was at least 5 years
4 older than the victim.

5 (e) The accused commits aggravated criminal sexual abuse if
6 he or she commits an act of sexual conduct with a victim who
7 was a severely or profoundly mentally retarded person at the
8 time the act was committed.

9 (f) The accused commits aggravated criminal sexual abuse if
10 he or she commits an act of sexual conduct with a victim who
11 was at least 13 years of age but under 18 years of age when the
12 act was committed and the accused was 17 years of age or over
13 and held a position of trust, authority or supervision in
14 relation to the victim.

15 (g) Sentence. Aggravated criminal sexual abuse under
16 subsection (a) or (e) is a Class 2 felony. Aggravated criminal
17 sexual abuse under subsection (b), (c), (d), or (f) is a Class
18 2 felony for which 11 years shall be added to the term of
19 imprisonment imposed by the court.

20 (Source: P.A. 92-434, eff. 1-1-02.)

21 Section 10. The Rights of Crime Victims and Witnesses Act
22 is amended by changing Section 4.5 as follows:

23 (725 ILCS 120/4.5)

24 Sec. 4.5. Procedures to implement the rights of crime

1 victims. To afford crime victims their rights, law enforcement,
2 prosecutors, judges and corrections will provide information,
3 as appropriate of the following procedures:

4 (a) At the request of the crime victim, law enforcement
5 authorities investigating the case shall provide notice of the
6 status of the investigation, except where the State's Attorney
7 determines that disclosure of such information would
8 unreasonably interfere with the investigation, until such time
9 as the alleged assailant is apprehended or the investigation is
10 closed.

11 (b) The office of the State's Attorney:

12 (1) shall provide notice of the filing of information,
13 the return of an indictment by which a prosecution for any
14 violent crime is commenced, or the filing of a petition to
15 adjudicate a minor as a delinquent for a violent crime;

16 (2) shall provide notice of the date, time, and place
17 of trial;

18 (3) or victim advocate personnel shall provide
19 information of social services and financial assistance
20 available for victims of crime, including information of
21 how to apply for these services and assistance;

22 (4) shall assist in having any stolen or other personal
23 property held by law enforcement authorities for
24 evidentiary or other purposes returned as expeditiously as
25 possible, pursuant to the procedures set out in Section
26 115-9 of the Code of Criminal Procedure of 1963;

1 (5) or victim advocate personnel shall provide
2 appropriate employer intercession services to ensure that
3 employers of victims will cooperate with the criminal
4 justice system in order to minimize an employee's loss of
5 pay and other benefits resulting from court appearances;

6 (6) shall provide information whenever possible, of a
7 secure waiting area during court proceedings that does not
8 require victims to be in close proximity to defendant or
9 juveniles accused of a violent crime, and their families
10 and friends;

11 (7) shall provide notice to the crime victim of the
12 right to have a translator present at all court proceedings
13 and, in compliance with the federal Americans with
14 Disabilities Act of 1990, the right to communications
15 access through a sign language interpreter or by other
16 means;

17 (8) in the case of the death of a person, which death
18 occurred in the same transaction or occurrence in which
19 acts occurred for which a defendant is charged with an
20 offense, shall notify the spouse, parent, child or sibling
21 of the decedent of the date of the trial of the person or
22 persons allegedly responsible for the death;

23 (9) shall inform the victim of the right to have
24 present at all court proceedings, subject to the rules of
25 evidence, an advocate or other support person of the
26 victim's choice, and the right to retain an attorney, at

1 the victim's own expense, who, upon written notice filed
2 with the clerk of the court and State's Attorney, is to
3 receive copies of all notices, motions and court orders
4 filed thereafter in the case, in the same manner as if the
5 victim were a named party in the case;

6 (10) at the sentencing hearing shall make a good faith
7 attempt to explain the minimum amount of time during which
8 the defendant may actually be physically imprisoned. The
9 Office of the State's Attorney shall further notify the
10 crime victim of the right to request from the Prisoner
11 Review Board information concerning the release of the
12 defendant under subparagraph (d) (1) of this Section;

13 (11) shall request restitution at sentencing and shall
14 consider restitution in any plea negotiation, as provided
15 by law; ~~and~~

16 (12) shall, upon the court entering a verdict of not
17 guilty by reason of insanity, inform the victim of the
18 notification services available from the Department of
19 Human Services, including the statewide telephone number,
20 under subparagraph (d) (2) of this Section; and -

21 (13) shall provide an alleged victim of a sexual
22 assault, as defined in Section 1a of the Sexual Assault
23 Survivors Emergency Treatment Act, within 24 hours after
24 the indictment of, or the filing of an information or
25 complaint against, the alleged perpetrator of the sexual
26 assault with a written or electronic statement of the

1 rights guaranteed by this Act and the Bill of Rights for
2 Children and an explanation of those rights. The alleged
3 victim of the sexual assault shall sign an acknowledgement
4 that he or she received such information. If the victim is
5 under 18 years of age, the parent, legal guardian, or
6 custodian of the minor shall sign the acknowledgement.

7 (c) At the written request of the crime victim, the office
8 of the State's Attorney shall:

9 (1) provide notice a reasonable time in advance of the
10 following court proceedings: preliminary hearing, any
11 hearing the effect of which may be the release of defendant
12 from custody, or to alter the conditions of bond and the
13 sentencing hearing. The crime victim shall also be notified
14 of the cancellation of the court proceeding in sufficient
15 time, wherever possible, to prevent an unnecessary
16 appearance in court;

17 (2) provide notice within a reasonable time after
18 receipt of notice from the custodian, of the release of the
19 defendant on bail or personal recognizance or the release
20 from detention of a minor who has been detained for a
21 violent crime;

22 (3) explain in nontechnical language the details of any
23 plea or verdict of a defendant, or any adjudication of a
24 juvenile as a delinquent for a violent crime;

25 (4) where practical, consult with the crime victim
26 before the Office of the State's Attorney makes an offer of

1 a plea bargain to the defendant or enters into negotiations
2 with the defendant concerning a possible plea agreement,
3 and shall consider the written victim impact statement, if
4 prepared prior to entering into a plea agreement;

5 (5) provide notice of the ultimate disposition of the
6 cases arising from an indictment or an information, or a
7 petition to have a juvenile adjudicated as a delinquent for
8 a violent crime;

9 (6) provide notice of any appeal taken by the defendant
10 and information on how to contact the appropriate agency
11 handling the appeal;

12 (7) provide notice of any request for post-conviction
13 review filed by the defendant under Article 122 of the Code
14 of Criminal Procedure of 1963, and of the date, time and
15 place of any hearing concerning the petition. Whenever
16 possible, notice of the hearing shall be given in advance;

17 (8) forward a copy of any statement presented under
18 Section 6 to the Prisoner Review Board to be considered by
19 the Board in making its determination under subsection (b)
20 of Section 3-3-8 of the Unified Code of Corrections.

21 (d) (1) The Prisoner Review Board shall inform a victim or
22 any other concerned citizen, upon written request, of the
23 prisoner's release on parole, mandatory supervised release,
24 electronic detention, work release, international transfer or
25 exchange, or by the custodian of the discharge of any
26 individual who was adjudicated a delinquent for a violent crime

1 from State custody and by the sheriff of the appropriate county
2 of any such person's final discharge from county custody. The
3 Prisoner Review Board, upon written request, shall provide to a
4 victim or any other concerned citizen a recent photograph of
5 any person convicted of a felony, upon his or her release from
6 custody. The Prisoner Review Board, upon written request, shall
7 inform a victim or any other concerned citizen when feasible at
8 least 7 days prior to the prisoner's release on furlough of the
9 times and dates of such furlough. Upon written request by the
10 victim or any other concerned citizen, the State's Attorney
11 shall notify the person once of the times and dates of release
12 of a prisoner sentenced to periodic imprisonment. Notification
13 shall be based on the most recent information as to victim's or
14 other concerned citizen's residence or other location
15 available to the notifying authority. For purposes of this
16 paragraph (1) of subsection (d), "concerned citizen" includes
17 relatives of the victim, friends of the victim, witnesses to
18 the crime, or any other person associated with the victim or
19 prisoner.

20 (2) When the defendant has been committed to the
21 Department of Human Services pursuant to Section 5-2-4 or
22 any other provision of the Unified Code of Corrections, the
23 victim may request to be notified by the releasing
24 authority of the defendant's furloughs, temporary release,
25 or final discharge from State custody. The Department of
26 Human Services shall establish and maintain a statewide

1 telephone number to be used by victims to make notification
2 requests under these provisions and shall publicize this
3 telephone number on its website and to the State's Attorney
4 of each county.

5 (3) In the event of an escape from State custody, the
6 Department of Corrections or the Department of Juvenile
7 Justice immediately shall notify the Prisoner Review Board
8 of the escape and the Prisoner Review Board shall notify
9 the victim. The notification shall be based upon the most
10 recent information as to the victim's residence or other
11 location available to the Board. When no such information
12 is available, the Board shall make all reasonable efforts
13 to obtain the information and make the notification. When
14 the escapee is apprehended, the Department of Corrections
15 or the Department of Juvenile Justice immediately shall
16 notify the Prisoner Review Board and the Board shall notify
17 the victim.

18 (4) The victim of the crime for which the prisoner has
19 been sentenced shall receive reasonable written notice not
20 less than 15 days prior to the parole hearing and may
21 submit, in writing, on film, videotape or other electronic
22 means or in the form of a recording or in person at the
23 parole hearing or if a victim of a violent crime, by
24 calling the toll-free number established in subsection (f)
25 of this Section, information for consideration by the
26 Prisoner Review Board. The victim shall be notified within

1 7 days after the prisoner has been granted parole and shall
2 be informed of the right to inspect the registry of parole
3 decisions, established under subsection (g) of Section
4 3-3-5 of the Unified Code of Corrections. The provisions of
5 this paragraph (4) are subject to the Open Parole Hearings
6 Act.

7 (5) If a statement is presented under Section 6, the
8 Prisoner Review Board shall inform the victim of any order
9 of discharge entered by the Board pursuant to Section 3-3-8
10 of the Unified Code of Corrections.

11 (6) At the written request of the victim of the crime
12 for which the prisoner was sentenced, the Prisoner Review
13 Board shall notify the victim of the death of the prisoner
14 if the prisoner died while on parole or mandatory
15 supervised release.

16 (7) When a defendant who has been committed to the
17 Department of Corrections, the Department of Juvenile
18 Justice, or the Department of Human Services is released or
19 discharged and subsequently committed to the Department of
20 Human Services as a sexually violent person and the victim
21 had requested to be notified by the releasing authority of
22 the defendant's discharge from State custody, the
23 releasing authority shall provide to the Department of
24 Human Services such information that would allow the
25 Department of Human Services to contact the victim.

26 (8) When a defendant has been convicted of a sex

1 offense as defined in Section 2 of the Sex Offender
2 Registration Act and has been sentenced to the Department
3 of Corrections or the Department of Juvenile Justice, the
4 Prisoner Review Board shall notify the victim of the sex
5 offense of the prisoner's eligibility for release on
6 parole, mandatory supervised release, electronic
7 detention, work release, international transfer or
8 exchange, or by the custodian of the discharge of any
9 individual who was adjudicated a delinquent for a sex
10 offense from State custody and by the sheriff of the
11 appropriate county of any such person's final discharge
12 from county custody. The notification shall be made to the
13 victim at least 30 days, whenever possible, before release
14 of the sex offender.

15 (e) The officials named in this Section may satisfy some or
16 all of their obligations to provide notices and other
17 information through participation in a statewide victim and
18 witness notification system established by the Attorney
19 General under Section 8.5 of this Act.

20 (f) To permit a victim of a violent crime to provide
21 information to the Prisoner Review Board for consideration by
22 the Board at a parole hearing of a person who committed the
23 crime against the victim in accordance with clause (d)(4) of
24 this Section or at a proceeding to determine the conditions of
25 mandatory supervised release of a person sentenced to a
26 determinate sentence or at a hearing on revocation of mandatory

1 supervised release of a person sentenced to a determinate
2 sentence, the Board shall establish a toll-free number that may
3 be accessed by the victim of a violent crime to present that
4 information to the Board.

5 (Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09;
6 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff.
7 8-11-09.)

8 Section 15. The Unified Code of Corrections is amended by
9 changing Section 5-5-3.2 as follows:

10 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

11 (Text of Section after amendment by P.A. 96-339)

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

13 (a) The following factors shall be accorded weight in favor
14 of imposing a term of imprisonment or may be considered by the
15 court as reasons to impose a more severe sentence under Section
16 5-8-1 or Article 4.5 of Chapter V:

17 (1) the defendant's conduct caused or threatened
18 serious harm;

19 (2) the defendant received compensation for committing
20 the offense;

21 (3) the defendant has a history of prior delinquency or
22 criminal activity;

23 (4) the defendant, by the duties of his office or by
24 his position, was obliged to prevent the particular offense

1 committed or to bring the offenders committing it to
2 justice;

3 (5) the defendant held public office at the time of the
4 offense, and the offense related to the conduct of that
5 office;

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

9 (7) the sentence is necessary to deter others from
10 committing the same crime;

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

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

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

1 bisexuality;

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

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

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

20 (14) the defendant held a position of trust or
21 supervision such as, but not limited to, family member as
22 defined in Section 12-12 of the Criminal Code of 1961,
23 teacher, scout leader, baby sitter, or day care worker, in
24 relation to a victim under 18 years of age, and the
25 defendant committed an offense in violation of Section
26 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,

1 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
2 against that victim;

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

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

19 (16.5) the defendant committed an offense in violation
20 of one of the following Sections while in a day care
21 center, regardless of the time of day or time of year; on
22 the real property of a day care center, regardless of the
23 time of day or time of year; or on a public way within
24 1,000 feet of the real property comprising any day care
25 center, regardless of the time of day or time of year:
26 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,

1 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
2 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
3 33A-2 of the Criminal Code of 1961;

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

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

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

24 (20) the defendant (i) committed the offense of
25 reckless homicide under Section 9-3 of the Criminal Code of
26 1961 or the offense of driving under the influence of

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

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

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

22 (23) the defendant committed the offense against a
23 person who was elderly, disabled, or infirm by taking
24 advantage of a family or fiduciary relationship with the
25 elderly, disabled, or infirm person; ~~or~~

26 (24) the defendant committed any offense under Section

1 11-20.1 of the Criminal Code of 1961 and possessed 100 or
2 more images; ~~or~~

3 (25) the defendant committed the offense while the
4 defendant or the victim was in a train, bus, or other
5 vehicle used for public transportation; or.

6 (26) ~~(25)~~ the defendant committed the offense of child
7 pornography or aggravated child pornography, specifically
8 including paragraph (1), (2), (3), (4), (5), or (7) of
9 subsection (a) of Section 11-20.1 of the Criminal Code of
10 1961 where a child engaged in, solicited for, depicted in,
11 or posed in any act of sexual penetration or bound,
12 fettered, or subject to sadistic, masochistic, or
13 sadomasochistic abuse in a sexual context and specifically
14 including paragraph (1), (2), (3), (4), (5), or (7) of
15 subsection (a) of Section 11-20.3 of the Criminal Code of
16 1961 where a child engaged in, solicited for, depicted in,
17 or posed in any act of sexual penetration or bound,
18 fettered, or subject to sadistic, masochistic, or
19 sadomasochistic abuse in a sexual context.

20 For the purposes of this Section:

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

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

1 "Public transportation" means the transportation or
2 conveyance of persons by means available to the general public,
3 and includes paratransit services.

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

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

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

18 (3) When a defendant is convicted of any felony
19 committed against:

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

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

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

26 (4) 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 (5) When a defendant is convicted of a felony other
15 than conspiracy and the court finds that the felony was
16 committed under an agreement with 2 or more other persons
17 to commit that offense and the defendant, with respect to
18 the other individuals, occupied a position of organizer,
19 supervisor, financier, or any other position of management
20 or leadership, and the court further finds that the felony
21 committed was related to or in furtherance of the criminal
22 activities of an organized gang or was motivated by the
23 defendant's leadership in an organized gang; or

24 (6) When a defendant is convicted of an offense
25 committed while using a firearm with a laser sight attached
26 to it. For purposes of this paragraph, "laser sight" has

1 the meaning ascribed to it in Section 24.6-5 of the
2 Criminal Code of 1961; or

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

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

17 (c) The following factors may be considered by the court as
18 reasons to impose an extended term sentence under Section 5-8-2
19 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

20 (1) When a defendant is convicted of first degree
21 murder, after having been previously convicted in Illinois
22 of any offense listed under paragraph (c)(2) of Section
23 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
24 within 10 years after the previous conviction, excluding
25 time spent in custody, and the charges are separately
26 brought and tried and arise out of different series of

1 acts.

2 (1.5) When a defendant is convicted of first degree
3 murder, after having been previously convicted of domestic
4 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
5 (720 ILCS 5/12-3.3) committed on the same victim or after
6 having been previously convicted of violation of an order
7 of protection (720 ILCS 5/12-30) in which the same victim
8 was the protected person.

9 (2) When a defendant is convicted of voluntary
10 manslaughter, second degree murder, involuntary
11 manslaughter, or reckless homicide in which the defendant
12 has been convicted of causing the death of more than one
13 individual.

14 (3) When a defendant is convicted of aggravated
15 criminal sexual assault or criminal sexual assault, when
16 there is a finding that aggravated criminal sexual assault
17 or criminal sexual assault was also committed on the same
18 victim by one or more other individuals, and the defendant
19 voluntarily participated in the crime with the knowledge of
20 the participation of the others in the crime, and the
21 commission of the crime was part of a single course of
22 conduct during which there was no substantial change in the
23 nature of the criminal objective.

24 (4) If the victim was under 18 years of age at the time
25 of the commission of the offense, when a defendant is
26 convicted of aggravated criminal sexual assault or

1 predatory criminal sexual assault of a child under
2 subsection (a)(1) of Section 12-14.1 of the Criminal Code
3 of 1961 (720 ILCS 5/12-14.1).

4 (5) When a defendant is convicted of a felony violation
5 of Section 24-1 of the Criminal Code of 1961 (720 ILCS
6 5/24-1) and there is a finding that the defendant is a
7 member of an organized gang.

8 (6) When a defendant was convicted of unlawful use of
9 weapons under Section 24-1 of the Criminal Code of 1961
10 (720 ILCS 5/24-1) for possessing a weapon that is not
11 readily distinguishable as one of the weapons enumerated in
12 Section 24-1 of the Criminal Code of 1961 (720 ILCS
13 5/24-1).

14 (7) When a defendant is convicted of an offense
15 involving the illegal manufacture of a controlled
16 substance under Section 401 of the Illinois Controlled
17 Substances Act (720 ILCS 570/401), the illegal manufacture
18 of methamphetamine under Section 25 of the Methamphetamine
19 Control and Community Protection Act (720 ILCS 646/25), or
20 the illegal possession of explosives and an emergency
21 response officer in the performance of his or her duties is
22 killed or injured at the scene of the offense while
23 responding to the emergency caused by the commission of the
24 offense. In this paragraph, "emergency" means a situation
25 in which a person's life, health, or safety is in jeopardy;
26 and "emergency response officer" means a peace officer,

1 community policing volunteer, fireman, emergency medical
2 technician-ambulance, emergency medical
3 technician-intermediate, emergency medical
4 technician-paramedic, ambulance driver, other medical
5 assistance or first aid personnel, or hospital emergency
6 room personnel.

7 (c-5) The court shall impose an extended term sentence
8 under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender who
9 has been convicted of a felony violation of Section 12-13,
10 12-14, 12-15, or 12-16 of the Criminal Code of 1961 when the
11 victim of the offense is under 18 years of age at the time of
12 the commission of the offense and, during the commission or
13 attempted commission of the offense, the victim was under the
14 influence of alcohol, regardless of whether or not the alcohol
15 was supplied by the accused.

16 (d) For the purposes of this Section, "organized gang" has
17 the meaning ascribed to it in Section 10 of the Illinois
18 Streetgang Terrorism Omnibus Prevention Act.

19 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,
20 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;
21 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;
22 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; revised 9-25-09.)

1 INDEX
2 Statutes amended in order of appearance

3	720 ILCS 5/12-13	from Ch. 38, par. 12-13
4	720 ILCS 5/12-14	from Ch. 38, par. 12-14
5	720 ILCS 5/12-14.1	
6	720 ILCS 5/12-16	from Ch. 38, par. 12-16
7	725 ILCS 120/4.5	
8	730 ILCS 5/5-5-3.2	from Ch. 38, par. 1005-5-3.2