

SB2824



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2824

Introduced 1/28/2010, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.4
720 ILCS 5/11-9.4-1 new

Amends the Criminal Code of 1961. Provides that it is a Class 4 felony for any sex offender (rather than just a child sex offender) to knowingly be present in any public park building or on real property comprising any public park or to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park.

LRB096 19736 RLC 35157 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 and by adding Section 11-9.4-1 as follows:

6 (720 ILCS 5/11-9.4)

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

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

18 (b) (Blank) ~~It is unlawful for a child sex offender to~~
19 ~~knowingly loiter on a public way within 500 feet of a public~~
20 ~~park 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, day care home,
6 group day care home, or a facility providing programs or
7 services exclusively directed toward persons under 18 years of
8 age. Nothing in this subsection (b-5) prohibits a child sex
9 offender from residing within 500 feet of a playground or a
10 facility providing programs or services exclusively directed
11 toward persons under 18 years of age if the property is owned
12 by the child sex offender and was purchased before the
13 effective date of this amendatory Act of the 91st General
14 Assembly. Nothing in this subsection (b-5) prohibits a child
15 sex offender from residing within 500 feet of a child care
16 institution, day care center, or part day child care facility
17 if the property is owned by the child sex offender and was
18 purchased before the effective date of this amendatory Act of
19 the 94th General Assembly. Nothing in this subsection (b-5)
20 prohibits a child sex offender from residing within 500 feet of
21 a day care home or group day care home if the property is owned
22 by the child sex offender and was purchased before August 14,
23 2008 (the effective date of Public Act 95-821).

24 (b-6) It is unlawful for a child sex offender to knowingly
25 reside within 500 feet of the victim of the sex offense.
26 Nothing in this subsection (b-6) prohibits a child sex offender

1 from residing within 500 feet of the victim if the property in
2 which the child sex offender resides is owned by the child sex
3 offender and was purchased before the effective date of this
4 amendatory Act of the 92nd General Assembly.

5 This subsection (b-6) does not apply if the victim of the
6 sex offense is 21 years of age or older.

7 (b-7) It is unlawful for a child sex offender to knowingly
8 communicate, other than for a lawful purpose under Illinois
9 law, using the Internet or any other digital media, with a
10 person under 18 years of age or with a person whom he or she
11 believes to be a person under 18 years of age, unless the
12 offender is a parent or guardian of the person under 18 years
13 of age.

14 (c) It is unlawful for a child sex offender to knowingly
15 operate, manage, be employed by, volunteer at, be associated
16 with, or knowingly be present at any: (i) facility providing
17 programs or services exclusively directed towards persons
18 under the age of 18; (ii) day care center; (iii) part day child
19 care facility; (iv) child care institution; (v) school
20 providing before and after school programs for children under
21 18 years of age; (vi) day care home; or (vii) group day care
22 home. This does not prohibit a child sex offender from owning
23 the real property upon which the programs or services are
24 offered or upon which the day care center, part day child care
25 facility, child care institution, or school providing before
26 and after school programs for children under 18 years of age is

1 located, provided the child sex offender refrains from being
2 present on the premises for the hours during which: (1) the
3 programs or services are being offered or (2) the day care
4 center, part day child care facility, child care institution,
5 school providing before and after school programs for children
6 under 18 years of age, day care home, or group day care home is
7 operated.

8 (c-5) It is unlawful for a child sex offender to knowingly
9 operate, manage, be employed by, or be associated with any
10 county fair when persons under the age of 18 are present.

11 (c-6) It is unlawful for a child sex offender who owns and
12 resides at residential real estate to knowingly rent any
13 residential unit within the same building in which he or she
14 resides to a person who is the parent or guardian of a child or
15 children under 18 years of age. This subsection shall apply
16 only to leases or other rental arrangements entered into after
17 January 1, 2009 (the effective date of Public Act 95-820).

18 (c-7) It is unlawful for a child sex offender to knowingly
19 offer or provide any programs or services to persons under 18
20 years of age in his or her residence or the residence of
21 another or in any facility for the purpose of offering or
22 providing such programs or services, whether such programs or
23 services are offered or provided by contract, agreement,
24 arrangement, or on a volunteer basis.

25 (c-8) It is unlawful for a child sex offender to knowingly
26 operate, whether authorized to do so or not, any of the

1 following vehicles: (1) a vehicle which is specifically
2 designed, constructed or modified and equipped to be used for
3 the retail sale of food or beverages, including but not limited
4 to an ice cream truck; (2) an authorized emergency vehicle; or
5 (3) a rescue vehicle.

6 (d) Definitions. In this Section:

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

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

13 (A) is convicted of such offense or an attempt
14 to commit such offense; or

15 (B) is found not guilty by reason of insanity
16 of such offense or an attempt to commit such
17 offense; or

18 (C) is found not guilty by reason of insanity
19 pursuant to subsection (c) of Section 104-25 of the
20 Code of Criminal Procedure of 1963 of such offense
21 or an attempt to commit such offense; or

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

1 offense; or

2 (E) is found not guilty by reason of insanity
3 following a hearing conducted pursuant to a
4 federal law or the law of another state
5 substantially similar to subsection (c) of Section
6 104-25 of the Code of Criminal Procedure of 1963 of
7 such offense or of the attempted commission of such
8 offense; or

9 (F) is the subject of a finding not resulting
10 in an acquittal at a hearing conducted pursuant to
11 a federal law or the law of another state
12 substantially similar to subsection (a) of Section
13 104-25 of the Code of Criminal Procedure of 1963
14 for the alleged violation or attempted commission
15 of such offense; or

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

22 (iii) is subject to the provisions of Section 2 of
23 the Interstate Agreements on Sexually Dangerous
24 Persons Act.

25 Convictions that result from or are connected with the
26 same act, or result from offenses committed at the same

1 time, shall be counted for the purpose of this Section as
2 one conviction. Any conviction set aside pursuant to law is
3 not a conviction for purposes of this Section.

4 (2) Except as otherwise provided in paragraph (2.5),
5 "sex offense" means:

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

1 contracted by a school to transport students to or from
2 school or a school related activity, or in a public
3 park). An attempt to commit any of these offenses.

4 (ii) A violation of any of the following Sections
5 of the Criminal Code of 1961, when the victim is a
6 person under 18 years of age: 12-13 (criminal sexual
7 assault), 12-14 (aggravated criminal sexual assault),
8 12-15 (criminal sexual abuse), 12-16 (aggravated
9 criminal sexual abuse). An attempt to commit any of
10 these offenses.

11 (iii) 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 and the defendant is not a
14 parent of the victim:

15 10-1 (kidnapping),

16 10-2 (aggravated kidnapping),

17 10-3 (unlawful restraint),

18 10-3.1 (aggravated unlawful restraint).

19 An attempt to commit any of these offenses.

20 (iv) A violation of any former law of this State
21 substantially equivalent to any offense listed in
22 clause (2)(i) of this subsection (d).

23 (2.5) For the purposes of subsection (b-5) only, a sex
24 offense means:

25 (i) A violation of any of the following Sections of
26 the Criminal Code of 1961:

1 10-5(b)(10) (child luring), 10-7 (aiding or
2 abetting child abduction under Section
3 10-5(b)(10)), 11-6 (indecent solicitation of a
4 child), 11-6.5 (indecent solicitation of an
5 adult), 11-15.1 (soliciting for a juvenile
6 prostitute), 11-17.1 (keeping a place of juvenile
7 prostitution), 11-18.1 (patronizing a juvenile
8 prostitute), 11-19.1 (juvenile pimping), 11-19.2
9 (exploitation of a child), 11-20.1 (child
10 pornography), 11-20.3 (aggravated child
11 pornography), 12-14.1 (predatory criminal sexual
12 assault of a child), or 12-33 (ritualized abuse of
13 a child). An attempt to commit any of these
14 offenses.

15 (ii) A violation of any of the following Sections
16 of the Criminal Code of 1961, when the victim is a
17 person under 18 years of age: 12-13 (criminal sexual
18 assault), 12-14 (aggravated criminal sexual assault),
19 12-16 (aggravated criminal sexual abuse), and
20 subsection (a) of Section 12-15 (criminal sexual
21 abuse). An attempt to commit any of these offenses.

22 (iii) A violation of any of the following Sections
23 of the Criminal Code of 1961, when the victim is a
24 person under 18 years of age and the defendant is not a
25 parent of the victim:

26 10-1 (kidnapping),

1 10-2 (aggravated kidnapping),
2 10-3 (unlawful restraint),
3 10-3.1 (aggravated unlawful restraint).

4 An attempt to commit any of these offenses.

5 (iv) A violation of any former law of this State
6 substantially equivalent to any offense listed in this
7 paragraph (2.5) of this subsection.

8 (3) A conviction for an offense of federal law or the
9 law of another state that is substantially equivalent to
10 any offense listed in paragraph (2) of this subsection (d)
11 shall constitute a conviction for the purpose of this
12 Section. A finding or adjudication as a sexually dangerous
13 person under any federal law or law of another state that
14 is substantially equivalent to the Sexually Dangerous
15 Persons Act shall constitute an adjudication for the
16 purposes of this Section.

17 (4) (Blank) ~~"Public park" includes a park, forest~~
18 ~~preserve, or conservation area under the jurisdiction of~~
19 ~~the State or a unit of local government.~~

20 (5) "Facility providing programs or services directed
21 towards persons under the age of 18" means any facility
22 providing programs or services exclusively directed
23 towards persons under the age of 18.

24 (6) ~~"Loiter" means:~~

25 ~~(i) Standing, sitting idly, whether or not the~~
26 ~~person is in a vehicle or remaining in or around public~~

1 ~~park property.~~

2 ~~(ii) Standing, sitting idly, whether or not the~~
3 ~~person is in a vehicle or remaining in or around public~~
4 ~~park property, for the purpose of committing or~~
5 ~~attempting to commit a sex offense.~~

6 (7) "Playground" means a piece of land owned or
7 controlled by a unit of local government that is designated
8 by the unit of local government for use solely or primarily
9 for children's recreation.

10 (8) "Child care institution" has the meaning ascribed
11 to it in Section 2.06 of the Child Care Act of 1969.

12 (9) "Day care center" has the meaning ascribed to it in
13 Section 2.09 of the Child Care Act of 1969.

14 (10) "Part day child care facility" has the meaning
15 ascribed to it in Section 2.10 of the Child Care Act of
16 1969.

17 (11) "Day care home" has the meaning ascribed to it in
18 Section 2.18 of the Child Care Act of 1969.

19 (12) "Group day care home" has the meaning ascribed to
20 it in Section 2.20 of the Child Care Act of 1969.

21 (13) "Internet" means an interactive computer service
22 or system or an information service, system, or access
23 software provider that provides or enables computer access
24 by multiple users to a computer server, and includes, but
25 is not limited to, an information service, system, or
26 access software provider that provides access to a network

1 system commonly known as the Internet, or any comparable
2 system or service and also includes, but is not limited to,
3 a World Wide Web page, newsgroup, message board, mailing
4 list, or chat area on any interactive computer service or
5 system or other online service.

6 (14) "Authorized emergency vehicle", "rescue vehicle",
7 and "vehicle" have the meanings ascribed to them in
8 Sections 1-105, 1-171.8 and 1-217, respectively, of the
9 Illinois Vehicle Code.

10 (d-5) For the purposes of this Section, the 500 feet
11 distance shall be measured from ~~the edge of the property~~
12 ~~comprising the public park building or~~ the real property
13 comprising the ~~public park,~~ playground, child care
14 institution, day care center, part day child care facility, or
15 a facility providing programs or services exclusively directed
16 toward persons under 18 years of age, or a victim of the sex
17 offense who is under 21 years of age to the edge of the child
18 sex offender's place of residence or where he or she is
19 loitering.

20 (e) Sentence. A person who violates this Section is guilty
21 of a Class 4 felony.

22 (Source: P.A. 95-32, eff. 1-1-08; 95-640, eff. 6-1-08; 95-819,
23 eff. 1-1-09; 95-820, eff. 1-1-09; 95-821, eff. 8-14-08; 95-876,
24 eff. 8-21-08; 95-983, eff. 6-1-09; 96-118, eff. 8-4-09; 96-328,
25 eff. 8-11-09; 96-710, eff. 1-1-10; revised 10-6-09.)

1 (720 ILCS 5/11-9.4-1 new)

2 Sec. 11-9.4-1. Sex offenders; presence or loitering in or
3 near public parks prohibited.

4 (a) For the purposes of this Section:

5 "Public park" includes a park, forest preserve, or
6 conservation area under the jurisdiction of the State or a
7 unit of local government.

8 "Loiter" means:

9 (i) Standing, sitting idly, whether or not the
10 person is in a vehicle or remaining in or around public
11 park property.

12 (ii) Standing, sitting idly, whether or not the
13 person is in a vehicle or remaining in or around public
14 park property, for the purpose of committing or
15 attempting to commit a sex offense.

16 "Sex offender" and "sex offense" have the meanings
17 ascribed to them in Section 2 of the Sex Offender
18 Registration Act.

19 (b) It is unlawful for a sex offender to knowingly be
20 present in any public park building or on real property
21 comprising any public park.

22 (c) It is unlawful for a sex offender to knowingly loiter
23 on a public way within 500 feet of a public park building or
24 real property comprising any public park. For the purposes of
25 this subsection (c), the 500 feet distance shall be measured
26 from the edge of the property comprising the public park

1 building or the real property comprising the public park.

2 (d) Sentence. A person who violates this Section is guilty

3 of a Class 4 felony.