

# SB3605



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3605

Introduced 2/11/2010, by Sen. A. J. Wilhelmi - John J. Millner

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.4

Amends the Criminal Code of 1961. Provides that it is a Class 4 felony for a child sex offender to knowingly attempt to entice a person under 18 years of age to the entrance of or into a dwelling or structure by means of oral communications, gestures, signage, illumination or any form of electronic communication or to knowingly attempt to entice a person under 18 years of age into a vehicle.

LRB096 16746 RLC 32039 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/11-9.4)

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

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

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

1 building or on the grounds.

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

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

1 which the child sex offender resides is owned by the child sex  
2 offender and was purchased before the effective date of this  
3 amendatory Act of the 92nd General Assembly.

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

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

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

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

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

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

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

24 (c-8) It is unlawful for a child sex offender to knowingly  
25 operate, whether authorized to do so or not, any of the  
26 following vehicles: (1) a vehicle which is specifically

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

5 (c-9) It is unlawful for a child sex offender to knowingly  
6 attempt to entice a person under 18 years of age to the  
7 entrance of or into a dwelling or structure by means of oral  
8 communications, gestures, signage, illumination or any form of  
9 electronic communication.

10 (c-10) It is unlawful for a child sex offender to knowingly  
11 attempt to entice a person under 18 years of age into a  
12 vehicle.

13 (d) Definitions. In this Section:

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

15 (i) has been charged under Illinois law, or any  
16 substantially similar federal law or law of another  
17 state, with a sex offense set forth in paragraph (2) of  
18 this subsection (d) or the attempt to commit an  
19 included sex offense, and:

20 (A) is convicted of such offense or an attempt  
21 to commit such offense; or

22 (B) is found not guilty by reason of insanity  
23 of such offense or an attempt to commit such  
24 offense; or

25 (C) is found not guilty by reason of insanity  
26 pursuant to subsection (c) of Section 104-25 of the

1 Code of Criminal Procedure of 1963 of such offense  
2 or an attempt to commit such offense; or

3 (D) is the subject of a finding not resulting  
4 in an acquittal at a hearing conducted pursuant to  
5 subsection (a) of Section 104-25 of the Code of  
6 Criminal Procedure of 1963 for the alleged  
7 commission or attempted commission of such  
8 offense; or

9 (E) is found not guilty by reason of insanity  
10 following a hearing conducted pursuant to a  
11 federal law or the law of another state  
12 substantially similar to subsection (c) of Section  
13 104-25 of the Code of Criminal Procedure of 1963 of  
14 such offense or of the attempted commission of such  
15 offense; or

16 (F) is the subject of a finding not resulting  
17 in an acquittal at a hearing conducted pursuant to  
18 a federal law or the law of another state  
19 substantially similar to subsection (a) of Section  
20 104-25 of the Code of Criminal Procedure of 1963  
21 for the alleged violation or attempted commission  
22 of such offense; or

23 (ii) is certified as a sexually dangerous person  
24 pursuant to the Illinois Sexually Dangerous Persons  
25 Act, or any substantially similar federal law or the  
26 law of another state, when any conduct giving rise to

1 such certification is committed or attempted against a  
2 person less than 18 years of age; or

3 (iii) is subject to the provisions of Section 2 of  
4 the Interstate Agreements on Sexually Dangerous  
5 Persons Act.

6 Convictions that result from or are connected with the  
7 same act, or result from offenses committed at the same  
8 time, shall be counted for the purpose of this Section as  
9 one conviction. Any conviction set aside pursuant to law is  
10 not a conviction for purposes of this Section.

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

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



1 11-19.2 (exploitation of a child), 11-20.1 (child  
2 pornography), 11-20.3 (aggravated child pornography),  
3 11-21 (harmful material), 12-14.1 (predatory criminal  
4 sexual assault of a child), 12-33 (ritualized abuse of  
5 a child), 11-20 (obscenity) (when that offense was  
6 committed in any school, on real property comprising  
7 any school, on any conveyance owned, leased, or  
8 contracted by a school to transport students to or from  
9 school or a school related activity, or in a public  
10 park). An attempt to commit any of these offenses.

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

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

22 10-1 (kidnapping),

23 10-2 (aggravated kidnapping),

24 10-3 (unlawful restraint),

25 10-3.1 (aggravated unlawful restraint).

26 An attempt to commit any of these offenses.

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

4 (2.5) For the purposes of subsection (b-5) only, a sex  
5 offense means:

6 (i) A violation of any of the following Sections of  
7 the Criminal Code of 1961:

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

22 (ii) 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: 12-13 (criminal sexual  
25 assault), 12-14 (aggravated criminal sexual assault),  
26 12-16 (aggravated criminal sexual abuse), and

1 subsection (a) of Section 12-15 (criminal sexual  
2 abuse). An attempt to commit any of these offenses.

3 (iii) A violation of any of the following Sections  
4 of the Criminal Code of 1961, when the victim is a  
5 person under 18 years of age and the defendant is not a  
6 parent of the victim:

7 10-1 (kidnapping),

8 10-2 (aggravated kidnapping),

9 10-3 (unlawful restraint),

10 10-3.1 (aggravated unlawful restraint).

11 An attempt to commit any of these offenses.

12 (iv) A violation of any former law of this State  
13 substantially equivalent to any offense listed in this  
14 paragraph (2.5) of this subsection.

15 (3) A conviction for an offense of federal law or the  
16 law of another state that is substantially equivalent to  
17 any offense listed in paragraph (2) of this subsection (d)  
18 shall constitute a conviction for the purpose of this  
19 Section. A finding or adjudication as a sexually dangerous  
20 person under any federal law or law of another state that  
21 is substantially equivalent to the Sexually Dangerous  
22 Persons Act shall constitute an adjudication for the  
23 purposes of this Section.

24 (4) "Public park" includes a park, forest preserve, or  
25 conservation area under the jurisdiction of the State or a  
26 unit of local government.

1           (5) "Facility providing programs or services directed  
2 towards persons under the age of 18" means any facility  
3 providing programs or services exclusively directed  
4 towards persons under the age of 18.

5           (6) "Loiter" means:

6           (i) Standing, sitting idly, whether or not the  
7 person is in a vehicle or remaining in or around public  
8 park property.

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

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

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

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

21           (10) "Part day child care facility" has the meaning  
22 ascribed to it in Section 2.10 of the Child Care Act of  
23 1969.

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

26           (12) "Group day care home" has the meaning ascribed to

1           it in Section 2.20 of the Child Care Act of 1969.

2           (13) "Internet" means an interactive computer service  
3           or system or an information service, system, or access  
4           software provider that provides or enables computer access  
5           by multiple users to a computer server, and includes, but  
6           is not limited to, an information service, system, or  
7           access software provider that provides access to a network  
8           system commonly known as the Internet, or any comparable  
9           system or service and also includes, but is not limited to,  
10          a World Wide Web page, newsgroup, message board, mailing  
11          list, or chat area on any interactive computer service or  
12          system or other online service.

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

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

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

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