

**SB3579**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB3579**

Introduced 2/10/2012, by Sen. Kirk W. Dillard

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/11-9.3

Amends the Criminal Code of 1961. Provides that it is Class 4 felony for a child sex offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter. Exempts from a violation where (1) the sex offense conviction which brought the person into the child sex offender category was criminal sexual abuse in which the victim was at least 13 years of age but under 17 years of age and the offender was less than 5 years older than the victim; or (2) the child sex offender is a parent or guardian of children under 18 years of age that are present in the home and no non-familial minors are present.

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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 11-9.3 as follows:

6 (720 ILCS 5/11-9.3)

7 Sec. 11-9.3. Presence within school zone by child sex  
8 offenders prohibited; approaching, contacting, residing with,  
9 or communicating with a child within certain places by child  
10 sex offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be  
12 present in any school building, on real property comprising any  
13 school, or in any conveyance owned, leased, or contracted by a  
14 school to transport students to or from school or a school  
15 related activity when persons under the age of 18 are present  
16 in the building, on the grounds or in the conveyance, unless  
17 the offender is a parent or guardian of a student attending the  
18 school and the parent or guardian is: (i) attending a  
19 conference at the school with school personnel to discuss the  
20 progress of his or her child academically or socially, (ii)  
21 participating in child review conferences in which evaluation  
22 and placement decisions may be made with respect to his or her  
23 child regarding special education services, or (iii) attending

1 conferences to discuss other student issues concerning his or  
2 her child such as retention and promotion and notifies the  
3 principal of the school of his or her presence at the school or  
4 unless the offender has permission to be present from the  
5 superintendent or the school board or in the case of a private  
6 school from the principal. In the case of a public school, if  
7 permission is granted, the superintendent or school board  
8 president must inform the principal of the school where the sex  
9 offender will be present. Notification includes the nature of  
10 the sex offender's visit and the hours in which the sex  
11 offender will be present in the school. The sex offender is  
12 responsible for notifying the principal's office when he or she  
13 arrives on school property and when he or she departs from  
14 school property. If the sex offender is to be present in the  
15 vicinity of children, the sex offender has the duty to remain  
16 under the direct supervision of a school official.

17 (a-5) It is unlawful for a child sex offender to knowingly  
18 be present within 100 feet of a site posted as a pick-up or  
19 discharge stop for a conveyance owned, leased, or contracted by  
20 a school to transport students to or from school or a school  
21 related activity when one or more persons under the age of 18  
22 are present at the site.

23 (a-10) It is unlawful for a child sex offender to knowingly  
24 be present in any public park building or on real property  
25 comprising any public park when persons under the age of 18 are  
26 present in the building or on the grounds and to approach,

1 contact, or communicate with a child under 18 years of age,  
2 unless the offender is a parent or guardian of a person under  
3 18 years of age present in the building or on the grounds.

4 (b) It is unlawful for a child sex offender to knowingly  
5 loiter within 500 feet of a school building or real property  
6 comprising any school while persons under the age of 18 are  
7 present in the building or on the grounds, unless the offender  
8 is a parent or guardian of a student attending the school and  
9 the parent or guardian is: (i) attending a conference at the  
10 school with school personnel to discuss the progress of his or  
11 her child academically or socially, (ii) participating in child  
12 review conferences in which evaluation and placement decisions  
13 may be made with respect to his or her child regarding special  
14 education services, or (iii) attending conferences to discuss  
15 other student issues concerning his or her child such as  
16 retention and promotion and notifies the principal of the  
17 school of his or her presence at the school or has permission  
18 to be present from the superintendent or the school board or in  
19 the case of a private school from the principal. In the case of  
20 a public school, if permission is granted, the superintendent  
21 or school board president must inform the principal of the  
22 school where the sex offender will be present. Notification  
23 includes the nature of the sex offender's visit and the hours  
24 in which the sex offender will be present in the school. The  
25 sex offender is responsible for notifying the principal's  
26 office when he or she arrives on school property and when he or

1 she departs from school property. If the sex offender is to be  
2 present in the vicinity of children, the sex offender has the  
3 duty to remain under the direct supervision of a school  
4 official.

5 (b-2) It is unlawful for a child sex offender to knowingly  
6 loiter on a public way within 500 feet of a public park  
7 building or real property comprising any public park while  
8 persons under the age of 18 are present in the building or on  
9 the grounds and to approach, contact, or communicate with a  
10 child under 18 years of age, unless the offender is a parent or  
11 guardian of a person under 18 years of age present in the  
12 building or on the grounds.

13 (b-5) It is unlawful for a child sex offender to knowingly  
14 reside within 500 feet of a school building or the real  
15 property comprising any school that persons under the age of 18  
16 attend. Nothing in this subsection (b-5) prohibits a child sex  
17 offender from residing within 500 feet of a school building or  
18 the real property comprising any school that persons under 18  
19 attend if the property is owned by the child sex offender and  
20 was purchased before the effective date of this amendatory Act  
21 of the 91st General Assembly.

22 (b-10) It is unlawful for a child sex offender to knowingly  
23 reside within 500 feet of a playground, child care institution,  
24 day care center, part day child care facility, day care home,  
25 group day care home, or a facility providing programs or  
26 services exclusively directed toward persons under 18 years of

1 age. Nothing in this subsection (b-10) prohibits a child sex  
2 offender from residing within 500 feet of a playground or a  
3 facility providing programs or services exclusively directed  
4 toward persons under 18 years of age if the property is owned  
5 by the child sex offender and was purchased before July 7,  
6 2000. Nothing in this subsection (b-10) prohibits a child sex  
7 offender from residing within 500 feet of a child care  
8 institution, day care center, or part day child care facility  
9 if the property is owned by the child sex offender and was  
10 purchased before June 26, 2006. Nothing in this subsection  
11 (b-10) prohibits a child sex offender from residing within 500  
12 feet of a day care home or group day care home if the property  
13 is owned by the child sex offender and was purchased before  
14 August 14, 2008 (the effective date of Public Act 95-821).

15 (b-15) It is unlawful for a child sex offender to knowingly  
16 reside within 500 feet of the victim of the sex offense.  
17 Nothing in this subsection (b-15) prohibits a child sex  
18 offender from residing within 500 feet of the victim if the  
19 property in which the child sex offender resides is owned by  
20 the child sex offender and was purchased before August 22,  
21 2002.

22 This subsection (b-15) does not apply if the victim of the  
23 sex offense is 21 years of age or older.

24 (b-20) It is unlawful for a child sex offender to knowingly  
25 communicate, other than for a lawful purpose under Illinois  
26 law, using the Internet or any other digital media, with a

1 person under 18 years of age or with a person whom he or she  
2 believes to be a person under 18 years of age, unless the  
3 offender is a parent or guardian of the person under 18 years  
4 of age.

5 (c) It is unlawful for a child sex offender to knowingly  
6 operate, manage, be employed by, volunteer at, be associated  
7 with, or knowingly be present at any: (i) facility providing  
8 programs or services exclusively directed toward persons under  
9 the age of 18; (ii) day care center; (iii) part day child care  
10 facility; (iv) child care institution; (v) school providing  
11 before and after school programs for children under 18 years of  
12 age; (vi) day care home; or (vii) group day care home. This  
13 does not prohibit a child sex offender from owning the real  
14 property upon which the programs or services are offered or  
15 upon which the day care center, part day child care facility,  
16 child care institution, or school providing before and after  
17 school programs for children under 18 years of age is located,  
18 provided the child sex offender refrains from being present on  
19 the premises for the hours during which: (1) the programs or  
20 services are being offered or (2) the day care center, part day  
21 child care facility, child care institution, or school  
22 providing before and after school programs for children under  
23 18 years of age, day care home, or group day care home is  
24 operated.

25 (c-2) It is unlawful for a child sex offender to  
26 participate in a holiday event involving children under 18

1 years of age, including but not limited to distributing candy  
2 or other items to children on Halloween, wearing a Santa Claus  
3 costume on or preceding Christmas, being employed as a  
4 department store Santa Claus, or wearing an Easter Bunny  
5 costume on or preceding Easter. For the purposes of this  
6 subsection, child sex offender has the meaning as defined in  
7 this Section, but does not include as a sex offense under  
8 paragraph (2) of subsection (d) of this Section, the offense  
9 under subsection (c) of Section 11-1.50 of this Code. This  
10 subsection does not apply to a child sex offender who is a  
11 parent or guardian of children under 18 years of age that are  
12 present in the home and other non-familial minors are not  
13 present.

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

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

24 (c-7) It is unlawful for a child sex offender to knowingly  
25 offer or provide any programs or services to persons under 18  
26 years of age in his or her residence or the residence of



1 another or in any facility for the purpose of offering or  
2 providing such programs or services, whether such programs or  
3 services are offered or provided by contract, agreement,  
4 arrangement, or on a volunteer basis.

5 (c-8) It is unlawful for a child sex offender to knowingly  
6 operate, whether authorized to do so or not, any of the  
7 following vehicles: (1) a vehicle which is specifically  
8 designed, constructed or modified and equipped to be used for  
9 the retail sale of food or beverages, including but not limited  
10 to an ice cream truck; (2) an authorized emergency vehicle; or  
11 (3) a rescue vehicle.

12 (d) Definitions. In this Section:

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

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

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

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

24 (C) is found not guilty by reason of insanity  
25 pursuant to subsection (c) of Section 104-25 of the  
26 Code of Criminal Procedure of 1963 of such offense

1 or an attempt to commit such offense; or

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

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

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

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

1 person less than 18 years of age; or

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

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

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

12 (i) A violation of any of the following Sections of  
13 the Criminal Code of 1961: 10-7 (aiding or abetting  
14 child abduction under Section 10-5(b)(10)),  
15 10-5(b)(10) (child luring), 11-1.40 (predatory  
16 criminal sexual assault of a child), 11-6 (indecent  
17 solicitation of a child), 11-6.5 (indecent  
18 solicitation of an adult), 11-9.1 (sexual exploitation  
19 of a child), 11-14.4 (promoting juvenile  
20 prostitution), 11-18.1 (patronizing a juvenile  
21 prostitute), 11-20.1 (child pornography), 11-20.1B  
22 (aggravated child pornography), 11-21 (harmful  
23 material), 12-33 (ritualized abuse of a child), 11-20  
24 (obscenity) (when that offense was committed in any  
25 school, on real property comprising any school, in any  
26 conveyance owned, leased, or contracted by a school to

1 transport students to or from school or a school  
2 related activity, or in a public park), 11-30 (public  
3 indecency) (when committed in a school, on real  
4 property comprising a school, in any conveyance owned,  
5 leased, or contracted by a school to transport students  
6 to or from school or a school related activity, or in a  
7 public park). An attempt to commit any of these  
8 offenses.

9 (ii) A violation of any of the following Sections  
10 of the Criminal Code of 1961, when the victim is a  
11 person under 18 years of age: 11-1.20 (criminal sexual  
12 assault), 11-1.30 (aggravated criminal sexual  
13 assault), 11-1.50 (criminal sexual abuse), 11-1.60  
14 (aggravated criminal sexual abuse). An attempt to  
15 commit any of these offenses.

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

20 10-1 (kidnapping),  
21 10-2 (aggravated kidnapping),  
22 10-3 (unlawful restraint),  
23 10-3.1 (aggravated unlawful restraint).

24 An attempt to commit any of these offenses.

25 (iv) A violation of any former law of this State  
26 substantially equivalent to any offense listed in

1 clause (2)(i) of subsection (d) of this Section.

2 (2.5) For the purposes of subsections (b-5) and (b-10)  
3 only, a sex offense means:

4 (i) A violation of any of the following Sections of  
5 the Criminal Code of 1961:

6 10-5(b)(10) (child luring), 10-7 (aiding or  
7 abetting child abduction under Section 10-5(b)(10)),  
8 11-1.40 (predatory criminal sexual assault of a  
9 child), 11-6 (indecent solicitation of a child),  
10 11-6.5 (indecent solicitation of an adult), 11-14.4  
11 (promoting juvenile prostitution), 11-18.1  
12 (patronizing a juvenile prostitute), 11-20.1 (child  
13 pornography), 11-20.1B (aggravated child pornography),  
14 or 12-33 (ritualized abuse of a child). An attempt to  
15 commit any of these offenses.

16 (ii) A violation of any of the following Sections  
17 of the Criminal Code of 1961, when the victim is a  
18 person under 18 years of age: 11-1.20 (criminal sexual  
19 assault), 11-1.30 (aggravated criminal sexual  
20 assault), 11-1.60 (aggravated criminal sexual abuse),  
21 and subsection (a) of Section 11-1.50 (criminal sexual  
22 abuse). An attempt to commit any of these offenses.

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

- 1           10-1 (kidnapping),  
2           10-2 (aggravated kidnapping),  
3           10-3 (unlawful restraint),  
4           10-3.1 (aggravated unlawful restraint).

5           An attempt to commit any of these offenses.

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

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

18          (4) "Authorized emergency vehicle", "rescue vehicle",  
19          and "vehicle" have the meanings ascribed to them in  
20          Sections 1-105, 1-171.8 and 1-217, respectively, of the  
21          Illinois Vehicle Code.

22          (5) "Child care institution" has the meaning ascribed  
23          to it in Section 2.06 of the Child Care Act of 1969.

24          (6) "Day care center" has the meaning ascribed to it in  
25          Section 2.09 of the Child Care Act of 1969.

26          (7) "Day care home" has the meaning ascribed to it in

1 Section 2.18 of the Child Care Act of 1969.

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

6 (9) "Group day care home" has the meaning ascribed to  
7 it in Section 2.20 of the Child Care Act of 1969.

8 (10) "Internet" has the meaning set forth in Section  
9 16J-5 of this Code.

10 (11) "Loiter" means:

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

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

18 (iii) Entering or remaining in a building in or  
19 around school property, other than the offender's  
20 residence.

21 (12) "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 (13) "Playground" means a piece of land owned or  
25 controlled by a unit of local government that is designated  
26 by the unit of local government for use solely or primarily

1 for children's recreation.

2 (14) "Public park" includes a park, forest preserve, or  
3 conservation area under the jurisdiction of the State or a  
4 unit of local government.

5 (15) "School" means a public or private preschool or  
6 elementary or secondary school.

7 (16) "School official" means the principal, a teacher,  
8 or any other certified employee of the school, the  
9 superintendent of schools or a member of the school board.

10 (e) For the purposes of this Section, the 500 feet distance  
11 shall be measured from: (1) the edge of the property of the  
12 school building or the real property comprising the school that  
13 is closest to the edge of the property of the child sex  
14 offender's residence or where he or she is loitering, and (2)  
15 the edge of the property comprising the public park building or  
16 the real property comprising the public park, playground, child  
17 care institution, day care center, part day child care  
18 facility, or facility providing programs or services  
19 exclusively directed toward persons under 18 years of age, or a  
20 victim of the sex offense who is under 21 years of age, to the  
21 edge of the child sex offender's place of residence or place  
22 where he or she is loitering.

23 (f) Sentence. A person who violates this Section is guilty  
24 of a Class 4 felony.

25 (Source: P.A. 95-331, eff. 8-21-07; 95-440, eff. 8-27-07;  
26 95-640, eff. 6-1-08; 95-819, eff. 1-1-09; 95-876, eff. 8-21-08;



1 96-328, eff. 8-11-09; 96-710, eff. 1-1-10; 96-1551, eff.  
2 7-1-11.)