



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1309

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/12-3.05	was 720 ILCS 5/12-4
730 ILCS 5/5-5-3.2	

Amends the Criminal Code of 2012. Provides that a person commits aggravated assault or aggravated battery when he or she, in committing the assault or battery, knowingly video or audio records the offense with the intent to disseminate the recording. Provides that an aggravated assault committed under these circumstances is a Class 4 felony and an aggravated battery committed under these circumstances is a Class 3 felony. Amends the Unified Code of Corrections. Provides that the court may impose an extended term sentence when a defendant commits any felony and the defendant knowingly video or audio records the offense with the intent to disseminate the recording.

LRB098 03409 MRW 33424 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 2012 is amended by changing
5 Sections 12-2 and 12-3.05 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) Offense based on location of conduct. A person commits
9 aggravated assault when he or she commits an assault against an
10 individual who is on or about a public way, public property, a
11 public place of accommodation or amusement, or a sports venue.

12 (b) Offense based on status of victim. A person commits
13 aggravated assault when, in committing an assault, he or she
14 knows the individual assaulted to be any of the following:

15 (1) A physically handicapped person or a person 60
16 years of age or older and the assault is without legal
17 justification.

18 (2) A teacher or school employee upon school grounds or
19 grounds adjacent to a school or in any part of a building
20 used for school purposes.

21 (3) A park district employee upon park grounds or
22 grounds adjacent to a park or in any part of a building
23 used for park purposes.

1 (4) A peace officer, community policing volunteer,
2 fireman, private security officer, emergency management
3 worker, emergency medical technician, or utility worker:

4 (i) performing his or her official duties;

5 (ii) assaulted to prevent performance of his or her
6 official duties; or

7 (iii) assaulted in retaliation for performing his
8 or her official duties.

9 (5) A correctional officer or probation officer:

10 (i) performing his or her official duties;

11 (ii) assaulted to prevent performance of his or her
12 official duties; or

13 (iii) assaulted in retaliation for performing his
14 or her official duties.

15 (6) A correctional institution employee, a county
16 juvenile detention center employee who provides direct and
17 continuous supervision of residents of a juvenile
18 detention center, including a county juvenile detention
19 center employee who supervises recreational activity for
20 residents of a juvenile detention center, or a Department
21 of Human Services employee, Department of Human Services
22 officer, or employee of a subcontractor of the Department
23 of Human Services supervising or controlling sexually
24 dangerous persons or sexually violent persons:

25 (i) performing his or her official duties;

26 (ii) assaulted to prevent performance of his or her

1 official duties; or

2 (iii) assaulted in retaliation for performing his
3 or her official duties.

4 (7) An employee of the State of Illinois, a municipal
5 corporation therein, or a political subdivision thereof,
6 performing his or her official duties.

7 (8) A transit employee performing his or her official
8 duties, or a transit passenger.

9 (9) A sports official or coach actively participating
10 in any level of athletic competition within a sports venue,
11 on an indoor playing field or outdoor playing field, or
12 within the immediate vicinity of such a facility or field.

13 (10) A person authorized to serve process under Section
14 2-202 of the Code of Civil Procedure or a special process
15 server appointed by the circuit court, while that
16 individual is in the performance of his or her duties as a
17 process server.

18 (c) Offense based on use of firearm, device, or motor
19 vehicle. A person commits aggravated assault when, in
20 committing an assault, he or she does any of the following:

21 (1) Uses a deadly weapon, an air rifle as defined in
22 the Air Rifle Act, or any device manufactured and designed
23 to be substantially similar in appearance to a firearm,
24 other than by discharging a firearm.

25 (2) Discharges a firearm, other than from a motor
26 vehicle.

1 (3) Discharges a firearm from a motor vehicle.

2 (4) Wears a hood, robe, or mask to conceal his or her
3 identity.

4 (5) Knowingly and without lawful justification shines
5 or flashes a laser gun sight or other laser device attached
6 to a firearm, or used in concert with a firearm, so that
7 the laser beam strikes near or in the immediate vicinity of
8 any person.

9 (6) Uses a firearm, other than by discharging the
10 firearm, against a peace officer, community policing
11 volunteer, fireman, private security officer, emergency
12 management worker, emergency medical technician, employee
13 of a police department, employee of a sheriff's department,
14 or traffic control municipal employee:

15 (i) performing his or her official duties;

16 (ii) assaulted to prevent performance of his or her
17 official duties; or

18 (iii) assaulted in retaliation for performing his
19 or her official duties.

20 (7) Without justification operates a motor vehicle in a
21 manner which places a person, other than a person listed in
22 subdivision (b)(4), in reasonable apprehension of being
23 struck by the moving motor vehicle.

24 (8) Without justification operates a motor vehicle in a
25 manner which places a person listed in subdivision (b)(4),
26 in reasonable apprehension of being struck by the moving

1 motor vehicle.

2 (9) Knowingly video or audio records the offense with
3 the intent to disseminate the recording.

4 (d) Sentence. Aggravated assault as defined in subdivision
5 (a), (b) (1), (b) (2), (b) (3), (b) (4), (b) (7), (b) (8), (b) (9),
6 (c) (1), or (c) (4) is a Class A misdemeanor, except that
7 aggravated assault as defined in subdivision (b) (4) and (b) (7)
8 is a Class 4 felony if a Category I, Category II, or Category
9 III weapon is used in the commission of the assault. Aggravated
10 assault as defined in subdivision (b) (5), (b) (6), (b) (10),
11 (c) (2), (c) (5), (c) (6), ~~or~~ (c) (7), or (c) (9) is a Class 4
12 felony. Aggravated assault as defined in subdivision (c) (3) or
13 (c) (8) is a Class 3 felony.

14 (e) For the purposes of this Section, "Category I weapon",
15 "Category II weapon, and "Category III weapon" have the
16 meanings ascribed to those terms in Section 33A-1 of this Code.
17 (Source: P.A. 96-201, eff. 8-10-09; 96-1000, eff. 7-2-10;
18 96-1109, eff. 1-1-11; 96-1398, eff. 7-29-10; 96-1551, eff.
19 7-1-11; 97-225, eff. 7-28-11; 97-313, eff. 1-1-12; 97-333, eff.
20 8-12-11; 97-1109, eff. 1-1-13.)

21 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

22 Sec. 12-3.05. Aggravated battery.

23 (a) Offense based on injury. A person commits aggravated
24 battery when, in committing a battery, other than by the
25 discharge of a firearm, he or she knowingly does any of the

1 following:

2 (1) Causes great bodily harm or permanent disability or
3 disfigurement.

4 (2) Causes severe and permanent disability, great
5 bodily harm, or disfigurement by means of a caustic or
6 flammable substance, a poisonous gas, a deadly biological
7 or chemical contaminant or agent, a radioactive substance,
8 or a bomb or explosive compound.

9 (3) Causes great bodily harm or permanent disability or
10 disfigurement to an individual whom the person knows to be
11 a peace officer, community policing volunteer, fireman,
12 private security officer, correctional institution
13 employee, or Department of Human Services employee
14 supervising or controlling sexually dangerous persons or
15 sexually violent persons:

16 (i) performing his or her official duties;

17 (ii) battered to prevent performance of his or her
18 official duties; or

19 (iii) battered in retaliation for performing his
20 or her official duties.

21 (4) Causes great bodily harm or permanent disability or
22 disfigurement to an individual 60 years of age or older.

23 (5) Strangles another individual.

24 (b) Offense based on injury to a child or intellectually
25 disabled person. A person who is at least 18 years of age
26 commits aggravated battery when, in committing a battery, he or

1 she knowingly and without legal justification by any means:

2 (1) causes great bodily harm or permanent disability or
3 disfigurement to any child under the age of 13 years, or to
4 any severely or profoundly intellectually disabled person;
5 or

6 (2) causes bodily harm or disability or disfigurement
7 to any child under the age of 13 years or to any severely
8 or profoundly intellectually disabled person.

9 (c) Offense based on location of conduct. A person commits
10 aggravated battery when, in committing a battery, other than by
11 the discharge of a firearm, he or she is or the person battered
12 is on or about a public way, public property, a public place of
13 accommodation or amusement, a sports venue, or a domestic
14 violence shelter.

15 (d) Offense based on status of victim. A person commits
16 aggravated battery when, in committing a battery, other than by
17 discharge of a firearm, he or she knows the individual battered
18 to be any of the following:

19 (1) A person 60 years of age or older.

20 (2) A person who is pregnant or physically handicapped.

21 (3) A teacher or school employee upon school grounds or
22 grounds adjacent to a school or in any part of a building
23 used for school purposes.

24 (4) A peace officer, community policing volunteer,
25 fireman, private security officer, correctional
26 institution employee, or Department of Human Services

1 employee supervising or controlling sexually dangerous
2 persons or sexually violent persons:

3 (i) performing his or her official duties;

4 (ii) battered to prevent performance of his or her
5 official duties; or

6 (iii) battered in retaliation for performing his
7 or her official duties.

8 (5) A judge, emergency management worker, emergency
9 medical technician, or utility worker:

10 (i) performing his or her official duties;

11 (ii) battered to prevent performance of his or her
12 official duties; or

13 (iii) battered in retaliation for performing his
14 or her official duties.

15 (6) An officer or employee of the State of Illinois, a
16 unit of local government, or a school district, while
17 performing his or her official duties.

18 (7) A transit employee performing his or her official
19 duties, or a transit passenger.

20 (8) A taxi driver on duty.

21 (9) A merchant who detains the person for an alleged
22 commission of retail theft under Section 16-26 of this Code
23 and the person without legal justification by any means
24 causes bodily harm to the merchant.

25 (10) A person authorized to serve process under Section
26 2-202 of the Code of Civil Procedure or a special process

1 server appointed by the circuit court while that individual
2 is in the performance of his or her duties as a process
3 server.

4 (e) Offense based on use of a firearm. A person commits
5 aggravated battery when, in committing a battery, he or she
6 knowingly does any of the following:

7 (1) Discharges a firearm, other than a machine gun or a
8 firearm equipped with a silencer, and causes any injury to
9 another person.

10 (2) Discharges a firearm, other than a machine gun or a
11 firearm equipped with a silencer, and causes any injury to
12 a person he or she knows to be a peace officer, community
13 policing volunteer, person summoned by a police officer,
14 fireman, private security officer, correctional
15 institution employee, or emergency management worker:

16 (i) performing his or her official duties;

17 (ii) battered to prevent performance of his or her
18 official duties; or

19 (iii) battered in retaliation for performing his
20 or her official duties.

21 (3) Discharges a firearm, other than a machine gun or a
22 firearm equipped with a silencer, and causes any injury to
23 a person he or she knows to be an emergency medical
24 technician employed by a municipality or other
25 governmental unit:

26 (i) performing his or her official duties;

1 (ii) battered to prevent performance of his or her
2 official duties; or

3 (iii) battered in retaliation for performing his
4 or her official duties.

5 (4) Discharges a firearm and causes any injury to a
6 person he or she knows to be a teacher, a student in a
7 school, or a school employee, and the teacher, student, or
8 employee is upon school grounds or grounds adjacent to a
9 school or in any part of a building used for school
10 purposes.

11 (5) Discharges a machine gun or a firearm equipped with
12 a silencer, and causes any injury to another person.

13 (6) Discharges a machine gun or a firearm equipped with
14 a silencer, and causes any injury to a person he or she
15 knows to be a peace officer, community policing volunteer,
16 person summoned by a police officer, fireman, private
17 security officer, correctional institution employee or
18 emergency management worker:

19 (i) performing his or her official duties;

20 (ii) battered to prevent performance of his or her
21 official duties; or

22 (iii) battered in retaliation for performing his
23 or her official duties.

24 (7) Discharges a machine gun or a firearm equipped with
25 a silencer, and causes any injury to a person he or she
26 knows to be an emergency medical technician employed by a

1 municipality or other governmental unit:

2 (i) performing his or her official duties;

3 (ii) battered to prevent performance of his or her
4 official duties; or

5 (iii) battered in retaliation for performing his
6 or her official duties.

7 (8) Discharges a machine gun or a firearm equipped with
8 a silencer, and causes any injury to a person he or she
9 knows to be a teacher, or a student in a school, or a
10 school employee, and the teacher, student, or employee is
11 upon school grounds or grounds adjacent to a school or in
12 any part of a building used for school purposes.

13 (f) Offense based on use of a weapon or device. A person
14 commits aggravated battery when, in committing a battery, he or
15 she does any of the following:

16 (1) Uses a deadly weapon other than by discharge of a
17 firearm, or uses an air rifle as defined in the Air Rifle
18 Act.

19 (2) Wears a hood, robe, or mask to conceal his or her
20 identity.

21 (3) Knowingly and without lawful justification shines
22 or flashes a laser gunsight or other laser device attached
23 to a firearm, or used in concert with a firearm, so that
24 the laser beam strikes upon or against the person of
25 another.

26 (4) Knowingly video or audio records the offense with

1 the intent to disseminate the recording.

2 (g) Offense based on certain conduct. A person commits
3 aggravated battery when, other than by discharge of a firearm,
4 he or she does any of the following:

5 (1) Violates Section 401 of the Illinois Controlled
6 Substances Act by unlawfully delivering a controlled
7 substance to another and any user experiences great bodily
8 harm or permanent disability as a result of the injection,
9 inhalation, or ingestion of any amount of the controlled
10 substance.

11 (2) Knowingly administers to an individual or causes
12 him or her to take, without his or her consent or by threat
13 or deception, and for other than medical purposes, any
14 intoxicating, poisonous, stupefying, narcotic, anesthetic,
15 or controlled substance, or gives to another person any
16 food containing any substance or object intended to cause
17 physical injury if eaten.

18 (3) Knowingly causes or attempts to cause a
19 correctional institution employee or Department of Human
20 Services employee to come into contact with blood, seminal
21 fluid, urine, or feces by throwing, tossing, or expelling
22 the fluid or material, and the person is an inmate of a
23 penal institution or is a sexually dangerous person or
24 sexually violent person in the custody of the Department of
25 Human Services.

26 (h) Sentence. Unless otherwise provided, aggravated

1 battery is a Class 3 felony.

2 Aggravated battery as defined in subdivision (a)(4),
3 (d)(4), or (g)(3) is a Class 2 felony.

4 Aggravated battery as defined in subdivision (a)(3) or
5 (g)(1) is a Class 1 felony.

6 Aggravated battery as defined in subdivision (a)(1) is a
7 Class 1 felony when the aggravated battery was intentional and
8 involved the infliction of torture, as defined in paragraph
9 (14) of subsection (b) of Section 9-1 of this Code, as the
10 infliction of or subjection to extreme physical pain, motivated
11 by an intent to increase or prolong the pain, suffering, or
12 agony of the victim.

13 Aggravated battery under subdivision (a)(5) is a Class 1
14 felony if:

15 (A) the person used or attempted to use a dangerous
16 instrument while committing the offense; or

17 (B) the person caused great bodily harm or permanent
18 disability or disfigurement to the other person while
19 committing the offense; or

20 (C) the person has been previously convicted of a
21 violation of subdivision (a)(5) under the laws of this
22 State or laws similar to subdivision (a)(5) of any other
23 state.

24 Aggravated battery as defined in subdivision (e)(1) is a
25 Class X felony.

26 Aggravated battery as defined in subdivision (a)(2) is a

1 Class X felony for which a person shall be sentenced to a term
2 of imprisonment of a minimum of 6 years and a maximum of 45
3 years.

4 Aggravated battery as defined in subdivision (e)(5) is a
5 Class X felony for which a person shall be sentenced to a term
6 of imprisonment of a minimum of 12 years and a maximum of 45
7 years.

8 Aggravated battery as defined in subdivision (e)(2),
9 (e)(3), or (e)(4) is a Class X felony for which a person shall
10 be sentenced to a term of imprisonment of a minimum of 15 years
11 and a maximum of 60 years.

12 Aggravated battery as defined in subdivision (e)(6),
13 (e)(7), or (e)(8) is a Class X felony for which a person shall
14 be sentenced to a term of imprisonment of a minimum of 20 years
15 and a maximum of 60 years.

16 Aggravated battery as defined in subdivision (b)(1) is a
17 Class X felony, except that:

18 (1) if the person committed the offense while armed
19 with a firearm, 15 years shall be added to the term of
20 imprisonment imposed by the court;

21 (2) if, during the commission of the offense, the
22 person personally discharged a firearm, 20 years shall be
23 added to the term of imprisonment imposed by the court;

24 (3) if, during the commission of the offense, the
25 person personally discharged a firearm that proximately
26 caused great bodily harm, permanent disability, permanent

1 disfigurement, or death to another person, 25 years or up
2 to a term of natural life shall be added to the term of
3 imprisonment imposed by the court.

4 (i) Definitions. For the purposes of this Section:

5 "Building or other structure used to provide shelter" has
6 the meaning ascribed to "shelter" in Section 1 of the Domestic
7 Violence Shelters Act.

8 "Domestic violence" has the meaning ascribed to it in
9 Section 103 of the Illinois Domestic Violence Act of 1986.

10 "Domestic violence shelter" means any building or other
11 structure used to provide shelter or other services to victims
12 or to the dependent children of victims of domestic violence
13 pursuant to the Illinois Domestic Violence Act of 1986 or the
14 Domestic Violence Shelters Act, or any place within 500 feet of
15 such a building or other structure in the case of a person who
16 is going to or from such a building or other structure.

17 "Firearm" has the meaning provided under Section 1.1 of the
18 Firearm Owners Identification Card Act, and does not include an
19 air rifle as defined by Section 24.8-0.1 ~~±~~ of this Code ~~the Air~~
20 ~~Rifle Act.~~

21 "Machine gun" has the meaning ascribed to it in Section
22 24-1 of this Code.

23 "Merchant" has the meaning ascribed to it in Section 16-0.1
24 of this Code.

25 "Strangle" means intentionally impeding the normal
26 breathing or circulation of the blood of an individual by

1 applying pressure on the throat or neck of that individual or
2 by blocking the nose or mouth of that individual.

3 (Source: P.A. 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
4 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-597, eff.
5 1-1-12; incorporates 97-227, eff. 1-1-12, 97-313, eff. 1-1-12,
6 and 97-467, eff. 1-1-12; 97-1109, eff. 1-1-13.)

7 Section 10. The Unified Code of Corrections is amended by
8 changing Section 5-5-3.2 as follows:

9 (730 ILCS 5/5-5-3.2)

10 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
11 Sentencing.

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

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

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

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

22 (4) the defendant, by the duties of his office or by
23 his position, was obliged to prevent the particular offense
24 committed or to bring the offenders committing it to

1 justice;

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

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

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

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

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

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

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

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

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

19 (14) the defendant held a position of trust or
20 supervision such as, but not limited to, family member as
21 defined in Section 11-0.1 of the Criminal Code of 2012
22 ~~1961~~, teacher, scout leader, baby sitter, or day care
23 worker, in relation to a victim under 18 years of age, and
24 the defendant committed an offense in violation of Section
25 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
26 11-14.4 except for an offense that involves keeping a place

1 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
2 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
3 or 12-16 of the Criminal Code of 1961 or the Criminal Code
4 of 2012 against that victim;

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

10 (16) the defendant committed an offense in violation of
11 one of the following Sections while in a school, regardless
12 of the time of day or time of year; on any conveyance
13 owned, leased, or contracted by a school to transport
14 students to or from school or a school related activity; on
15 the real property of a school; or on a public way within
16 1,000 feet of the real property comprising any school:
17 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
18 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
20 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
21 18-2, or 33A-2, or Section 12-3.05 except for subdivision
22 (a) (4) or (g) (1), of the Criminal Code of 1961 or the
23 Criminal Code of 2012;

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

1 the real property of a day care center, regardless of the
2 time of day or time of year; or on a public way within
3 1,000 feet of the real property comprising any day care
4 center, regardless of the time of day or time of year:
5 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
6 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
7 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
8 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
9 18-2, or 33A-2, or Section 12-3.05 except for subdivision
10 (a)(4) or (g)(1), of the Criminal Code of 1961 or the
11 Criminal Code of 2012;

12 (17) the defendant committed the offense by reason of
13 any person's activity as a community policing volunteer or
14 to prevent any person from engaging in activity as a
15 community policing volunteer. For the purpose of this
16 Section, "community policing volunteer" has the meaning
17 ascribed to it in Section 2-3.5 of the Criminal Code of
18 2012 ~~1961~~;

19 (18) the defendant committed the offense in a nursing
20 home or on the real property comprising a nursing home. For
21 the purposes of this paragraph (18), "nursing home" means a
22 skilled nursing or intermediate long term care facility
23 that is subject to license by the Illinois Department of
24 Public Health under the Nursing Home Care Act, the
25 Specialized Mental Health Rehabilitation Act, or the ID/DD
26 Community Care Act;

1 (19) the defendant was a federally licensed firearm
2 dealer and was previously convicted of a violation of
3 subsection (a) of Section 3 of the Firearm Owners
4 Identification Card Act and has now committed either a
5 felony violation of the Firearm Owners Identification Card
6 Act or an act of armed violence while armed with a firearm;

7 (20) the defendant (i) committed the offense of
8 reckless homicide under Section 9-3 of the Criminal Code of
9 1961 or the Criminal Code of 2012 or the offense of driving
10 under the influence of alcohol, other drug or drugs,
11 intoxicating compound or compounds or any combination
12 thereof under Section 11-501 of the Illinois Vehicle Code
13 or a similar provision of a local ordinance and (ii) was
14 operating a motor vehicle in excess of 20 miles per hour
15 over the posted speed limit as provided in Article VI of
16 Chapter 11 of the Illinois Vehicle Code;

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

23 (22) the defendant committed the offense against a
24 person that the defendant knew, or reasonably should have
25 known, was a member of the Armed Forces of the United
26 States serving on active duty. For purposes of this clause

1 (22), the term "Armed Forces" means any of the Armed Forces
2 of the United States, including a member of any reserve
3 component thereof or National Guard unit called to active
4 duty;

5 (23) the defendant committed the offense against a
6 person who was elderly, disabled, or infirm by taking
7 advantage of a family or fiduciary relationship with the
8 elderly, disabled, or infirm person;

9 (24) the defendant committed any offense under Section
10 11-20.1 of the Criminal Code of 1961 or the Criminal Code
11 of 2012 and possessed 100 or more images;

12 (25) the defendant committed the offense while the
13 defendant or the victim was in a train, bus, or other
14 vehicle used for public transportation;

15 (26) the defendant committed the offense of child
16 pornography or aggravated child pornography, specifically
17 including paragraph (1), (2), (3), (4), (5), or (7) of
18 subsection (a) of Section 11-20.1 of the Criminal Code of
19 1961 or the Criminal Code of 2012 where a child engaged in,
20 solicited for, depicted in, or posed in any act of sexual
21 penetration or bound, fettered, or subject to sadistic,
22 masochistic, or sadomasochistic abuse in a sexual context
23 and specifically including paragraph (1), (2), (3), (4),
24 (5), or (7) of subsection (a) of Section 11-20.1B or
25 Section 11-20.3 of the Criminal Code of 1961 where a child
26 engaged in, solicited for, depicted in, or posed in any act

1 of sexual penetration or bound, fettered, or subject to
2 sadistic, masochistic, or sadomasochistic abuse in a
3 sexual context;

4 (27) the defendant committed the offense of first
5 degree murder, assault, aggravated assault, battery,
6 aggravated battery, robbery, armed robbery, or aggravated
7 robbery against a person who was a veteran and the
8 defendant knew, or reasonably should have known, that the
9 person was a veteran performing duties as a representative
10 of a veterans' organization. For the purposes of this
11 paragraph (27), "veteran" means an Illinois resident who
12 has served as a member of the United States Armed Forces, a
13 member of the Illinois National Guard, or a member of the
14 United States Reserve Forces; and "veterans' organization"
15 means an organization comprised of members of which
16 substantially all are individuals who are veterans or
17 spouses, widows, or widowers of veterans, the primary
18 purpose of which is to promote the welfare of its members
19 and to provide assistance to the general public in such a
20 way as to confer a public benefit; or

21 (28) the defendant committed the offense of assault,
22 aggravated assault, battery, aggravated battery, robbery,
23 armed robbery, or aggravated robbery against a person that
24 the defendant knew or reasonably should have known was a
25 letter carrier or postal worker while that person was
26 performing his or her duties delivering mail for the United

1 States Postal Service.

2 For the purposes of this Section:

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

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

9 "Public transportation" means the transportation or
10 conveyance of persons by means available to the general public,
11 and includes paratransit services.

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

15 (1) When a defendant is convicted of any felony, after
16 having been previously convicted in Illinois or any other
17 jurisdiction of the same or similar class felony or greater
18 class felony, when such conviction has occurred within 10
19 years after the previous conviction, excluding time spent
20 in custody, and such charges are separately brought and
21 tried and arise out of different series of acts; or

22 (2) When a defendant is convicted of any felony and the
23 court finds that the offense was accompanied by
24 exceptionally brutal or heinous behavior indicative of
25 wanton cruelty; or

26 (3) When a defendant is convicted of any felony

1 committed against:

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

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

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

8 (4) When a defendant is convicted of any felony and the
9 offense involved any of the following types of specific
10 misconduct committed as part of a ceremony, rite,
11 initiation, observance, performance, practice or activity
12 of any actual or ostensible religious, fraternal, or social
13 group:

14 (i) the brutalizing or torturing of humans or
15 animals;

16 (ii) the theft of human corpses;

17 (iii) the kidnapping of humans;

18 (iv) the desecration of any cemetery, religious,
19 fraternal, business, governmental, educational, or
20 other building or property; or

21 (v) ritualized abuse of a child; or

22 (5) When a defendant is convicted of a felony other
23 than conspiracy and the court finds that the felony was
24 committed under an agreement with 2 or more other persons
25 to commit that offense and the defendant, with respect to
26 the other individuals, occupied a position of organizer,

1 supervisor, financier, or any other position of management
2 or leadership, and the court further finds that the felony
3 committed was related to or in furtherance of the criminal
4 activities of an organized gang or was motivated by the
5 defendant's leadership in an organized gang; or

6 (6) When a defendant is convicted of an offense
7 committed while using a firearm with a laser sight attached
8 to it. For purposes of this paragraph, "laser sight" has
9 the meaning ascribed to it in Section 26-7 of the Criminal
10 Code of 2012 ~~1961~~; or

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

19 (8) When a defendant commits any felony and the
20 defendant used, possessed, exercised control over, or
21 otherwise directed an animal to assault a law enforcement
22 officer engaged in the execution of his or her official
23 duties or in furtherance of the criminal activities of an
24 organized gang in which the defendant is engaged.

25 (9) When a defendant commits any felony and the
26 defendant knowingly video or audio records the offense with

1 the intent to disseminate the recording.

2 (c) The following factors may be considered by the court as
3 reasons to impose an extended term sentence under Section 5-8-2
4 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

5 (1) When a defendant is convicted of first degree
6 murder, after having been previously convicted in Illinois
7 of any offense listed under paragraph (c)(2) of Section
8 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
9 within 10 years after the previous conviction, excluding
10 time spent in custody, and the charges are separately
11 brought and tried and arise out of different series of
12 acts.

13 (1.5) When a defendant is convicted of first degree
14 murder, after having been previously convicted of domestic
15 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
16 (720 ILCS 5/12-3.3) committed on the same victim or after
17 having been previously convicted of violation of an order
18 of protection (720 ILCS 5/12-30) in which the same victim
19 was the protected person.

20 (2) When a defendant is convicted of voluntary
21 manslaughter, second degree murder, involuntary
22 manslaughter, or reckless homicide in which the defendant
23 has been convicted of causing the death of more than one
24 individual.

25 (3) When a defendant is convicted of aggravated
26 criminal sexual assault or criminal sexual assault, when

1 there is a finding that aggravated criminal sexual assault
2 or criminal sexual assault was also committed on the same
3 victim by one or more other individuals, and the defendant
4 voluntarily participated in the crime with the knowledge of
5 the participation of the others in the crime, and the
6 commission of the crime was part of a single course of
7 conduct during which there was no substantial change in the
8 nature of the criminal objective.

9 (4) If the victim was under 18 years of age at the time
10 of the commission of the offense, when a defendant is
11 convicted of aggravated criminal sexual assault or
12 predatory criminal sexual assault of a child under
13 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
14 of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS
15 5/11-1.40 or 5/12-14.1).

16 (5) When a defendant is convicted of a felony violation
17 of Section 24-1 of the Criminal Code of 1961 or the
18 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
19 finding that the defendant is a member of an organized
20 gang.

21 (6) When a defendant was convicted of unlawful use of
22 weapons under Section 24-1 of the Criminal Code of 1961 or
23 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
24 a weapon that is not readily distinguishable as one of the
25 weapons enumerated in Section 24-1 of the Criminal Code of
26 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

1 (7) When a defendant is convicted of an offense
2 involving the illegal manufacture of a controlled
3 substance under Section 401 of the Illinois Controlled
4 Substances Act (720 ILCS 570/401), the illegal manufacture
5 of methamphetamine under Section 25 of the Methamphetamine
6 Control and Community Protection Act (720 ILCS 646/25), or
7 the illegal possession of explosives and an emergency
8 response officer in the performance of his or her duties is
9 killed or injured at the scene of the offense while
10 responding to the emergency caused by the commission of the
11 offense. In this paragraph, "emergency" means a situation
12 in which a person's life, health, or safety is in jeopardy;
13 and "emergency response officer" means a peace officer,
14 community policing volunteer, fireman, emergency medical
15 technician-ambulance, emergency medical
16 technician-intermediate, emergency medical
17 technician-paramedic, ambulance driver, other medical
18 assistance or first aid personnel, or hospital emergency
19 room personnel.

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

23 (e) The court may impose an extended term sentence under
24 Article 4.5 of Chapter V upon an offender who has been
25 convicted of a felony violation of Section 11-1.20, 11-1.30,
26 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or

1 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
2 when the victim of the offense is under 18 years of age at the
3 time of the commission of the offense and, during the
4 commission of the offense, the victim was under the influence
5 of alcohol, regardless of whether or not the alcohol was
6 supplied by the offender; and the offender, at the time of the
7 commission of the offense, knew or should have known that the
8 victim had consumed alcohol.

9 (Source: P.A. 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328,
10 eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10;
11 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff.
12 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551,
13 Article 2, Section 1065, eff. 7-1-11; 97-38, eff. 6-28-11,
14 97-227, eff. 1-1-12; 97-333, eff. 8-12-11; 97-693, eff. 1-1-13;
15 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; revised 9-20-12.)