

HB3023



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3023

by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

Amends the Criminal Code of 2012. Makes it unlawful for a child sex offender to knowingly be present in or loiter on a public way within 500 feet of any publicly accessible privately owned building with playground or recreation facilities or on real property comprising any publicly accessible privately owned building with playground or recreation facilities. Provides that a violation is a Class 4 felony.

LRB098 08688 RLC 38810 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 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, publicly accessible
25 privately owned building with playground or recreation
26 facilities, or on real property comprising any public park or

1 publicly accessible privately owned building with playground
2 or recreation facilities when persons under the age of 18 are
3 present in the building or on the grounds and to approach,
4 contact, or communicate with a child under 18 years of age,
5 unless the offender is a parent or guardian of a person under
6 18 years of age present in the building or on the grounds.

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

1 in which the sex offender will be present in the school. The
2 sex offender is responsible for notifying the principal's
3 office when he or she arrives on school property and when he or
4 she departs from school property. If the sex offender is to be
5 present in the vicinity of children, the sex offender has the
6 duty to remain under the direct supervision of a school
7 official.

8 (b-2) It is unlawful for a child sex offender to knowingly
9 loiter on a public way within 500 feet of a public park
10 building, publicly accessible privately owned building with
11 playground or recreation facilities, or real property
12 comprising any public park or publicly accessible privately
13 owned building with playground or recreation facilities while
14 persons under the age of 18 are present in the building or on
15 the grounds and to approach, contact, or communicate with a
16 child under 18 years of age, unless the offender is a parent or
17 guardian of a person under 18 years of age present in the
18 building or on the grounds.

19 (b-5) It is unlawful for a child sex offender to knowingly
20 reside within 500 feet of a school building or the real
21 property comprising any school that persons under the age of 18
22 attend. Nothing in this subsection (b-5) prohibits a child sex
23 offender from residing within 500 feet of a school building or
24 the real property comprising any school that persons under 18
25 attend if the property is owned by the child sex offender and
26 was purchased before July 7, 2000 (the effective date of Public

1 Act 91-911).

2 (b-10) 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-10) 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 July 7,
12 2000. Nothing in this subsection (b-10) prohibits a child sex
13 offender from residing within 500 feet of a child care
14 institution, day care center, or part day child care facility
15 if the property is owned by the child sex offender and was
16 purchased before June 26, 2006. Nothing in this subsection
17 (b-10) prohibits a child sex offender from residing within 500
18 feet of a day care home or group day care home if the property
19 is owned by the child sex offender and was purchased before
20 August 14, 2008 (the effective date of Public Act 95-821).

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

1 2002.

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

4 (b-20) It is unlawful for a child sex offender to knowingly
5 communicate, other than for a lawful purpose under Illinois
6 law, using the Internet or any other digital media, with a
7 person under 18 years of age or with a person whom he or she
8 believes to be a person under 18 years of age, unless the
9 offender is a parent or guardian of the person under 18 years
10 of age.

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

1 child care facility, child care institution, or school
2 providing before and after school programs for children under
3 18 years of age, day care home, or group day care home is
4 operated.

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

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

23 (c-6) It is unlawful for a child sex offender who owns and
24 resides at residential real estate to knowingly rent any
25 residential unit within the same building in which he or she
26 resides to a person who is the parent or guardian of a child or

1 children under 18 years of age. This subsection shall apply
2 only to leases or other rental arrangements entered into after
3 January 1, 2009 (the effective date of Public Act 95-820).

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

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

18 (d) Definitions. In this Section:

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

20 (i) has been charged under Illinois law, or any
21 substantially similar federal law or law of another
22 state, with a sex offense set forth in paragraph (2) of
23 this subsection (d) or the attempt to commit an
24 included sex offense, and the victim is a person under
25 18 years of age at the time of the offense; and:

26 (A) is convicted of such offense or an attempt

1 to commit such offense; or

2 (B) is found not guilty by reason of insanity
3 of such offense or an attempt to commit such
4 offense; or

5 (C) is found not guilty by reason of insanity
6 pursuant to subsection (c) of Section 104-25 of the
7 Code of Criminal Procedure of 1963 of such offense
8 or an attempt to commit such offense; or

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

15 (E) is found not guilty by reason of insanity
16 following a hearing conducted pursuant to a
17 federal law or the law of another state
18 substantially similar to subsection (c) of Section
19 104-25 of the Code of Criminal Procedure of 1963 of
20 such offense or of the attempted commission of such
21 offense; or

22 (F) is the subject of a finding not resulting
23 in an acquittal at a hearing conducted pursuant to
24 a federal law or the law of another state
25 substantially similar to subsection (a) of Section
26 104-25 of the Code of Criminal Procedure of 1963

1 for the alleged violation or attempted commission
2 of such offense; or

3 (ii) is certified as a sexually dangerous person
4 pursuant to the Illinois Sexually Dangerous Persons
5 Act, or any substantially similar federal law or the
6 law of another state, when any conduct giving rise to
7 such certification is committed or attempted against a
8 person less than 18 years of age; or

9 (iii) is subject to the provisions of Section 2 of
10 the Interstate Agreements on Sexually Dangerous
11 Persons Act.

12 Convictions that result from or are connected with the
13 same act, or result from offenses committed at the same
14 time, shall be counted for the purpose of this Section as
15 one conviction. Any conviction set aside pursuant to law is
16 not a conviction for purposes of this Section.

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

19 (i) A violation of any of the following Sections of
20 the Criminal Code of 1961 or the Criminal Code of 2012:
21 10-4 (forcible detention), 10-7 (aiding or abetting
22 child abduction under Section 10-5(b)(10)),
23 10-5(b)(10) (child luring), 11-1.40 (predatory
24 criminal sexual assault of a child), 11-6 (indecent
25 solicitation of a child), 11-6.5 (indecent
26 solicitation of an adult), 11-9.1 (sexual exploitation

1 of a child), 11-9.2 (custodial sexual misconduct),
2 11-9.5 (sexual misconduct with a person with a
3 disability), 11-11 (sexual relations within families),
4 11-14.3(a)(1) (promoting prostitution by advancing
5 prostitution), 11-14.3(a)(2)(A) (promoting
6 prostitution by profiting from prostitution by
7 compelling a person to be a prostitute),
8 11-14.3(a)(2)(C) (promoting prostitution by profiting
9 from prostitution by means other than as described in
10 subparagraphs (A) and (B) of paragraph (2) of
11 subsection (a) of Section 11-14.3), 11-14.4 (promoting
12 juvenile prostitution), 11-18.1 (patronizing a
13 juvenile prostitute), 11-20.1 (child pornography),
14 11-20.1B (aggravated child pornography), 11-21
15 (harmful material), 11-25 (grooming), 11-26 (traveling
16 to meet a minor), 12-33 (ritualized abuse of a child),
17 11-20 (obscenity) (when that offense was committed in
18 any school, on real property comprising any school, in
19 any conveyance owned, leased, or contracted by a school
20 to transport students to or from school or a school
21 related activity, or in a public park), 11-30 (public
22 indecency) (when committed in a school, on real
23 property comprising a school, in any conveyance owned,
24 leased, or contracted by a school to transport students
25 to or from school or a school related activity, or in a
26 public park). An attempt to commit any of these

1 offenses.

2 (ii) A violation of any of the following Sections
3 of the Criminal Code of 1961 or the Criminal Code of
4 2012, when the victim is a person under 18 years of
5 age: 11-1.20 (criminal sexual assault), 11-1.30
6 (aggravated criminal sexual assault), 11-1.50
7 (criminal sexual abuse), 11-1.60 (aggravated criminal
8 sexual abuse). An attempt to commit any of these
9 offenses.

10 (iii) A violation of any of the following Sections
11 of the Criminal Code of 1961 or the Criminal Code of
12 2012, when the victim is a person under 18 years of age
13 and the defendant is not a parent of the victim:

14 10-1 (kidnapping),
15 10-2 (aggravated kidnapping),
16 10-3 (unlawful restraint),
17 10-3.1 (aggravated unlawful restraint),
18 11-9.1(A) (permitting sexual abuse of a child).

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) or (2)(ii) of subsection (d) of this
23 Section.

24 (2.5) For the purposes of subsections (b-5) and (b-10)
25 only, a sex offense means:

26 (i) A violation of any of the following Sections of

1 the Criminal Code of 1961 or the Criminal Code of 2012:
2 10-5(b)(10) (child luring), 10-7 (aiding or
3 abetting child abduction under Section 10-5(b)(10)),
4 11-1.40 (predatory criminal sexual assault of a
5 child), 11-6 (indecent solicitation of a child),
6 11-6.5 (indecent solicitation of an adult), 11-9.2
7 (custodial sexual misconduct), 11-9.5 (sexual
8 misconduct with a person with a disability), 11-11
9 (sexual relations within families), 11-14.3(a)(1)
10 (promoting prostitution by advancing prostitution),
11 11-14.3(a)(2)(A) (promoting prostitution by profiting
12 from prostitution by compelling a person to be a
13 prostitute), 11-14.3(a)(2)(C) (promoting prostitution
14 by profiting from prostitution by means other than as
15 described in subparagraphs (A) and (B) of paragraph (2)
16 of subsection (a) of Section 11-14.3), 11-14.4
17 (promoting juvenile prostitution), 11-18.1
18 (patronizing a juvenile prostitute), 11-20.1 (child
19 pornography), 11-20.1B (aggravated child pornography),
20 11-25 (grooming), 11-26 (traveling to meet a minor), or
21 12-33 (ritualized abuse of a child). An attempt to
22 commit any of these offenses.

23 (ii) A violation of any of the following Sections
24 of the Criminal Code of 1961 or the Criminal Code of
25 2012, when the victim is a person under 18 years of
26 age: 11-1.20 (criminal sexual assault), 11-1.30

1 (aggravated criminal sexual assault), 11-1.60
2 (aggravated criminal sexual abuse), and subsection (a)
3 of Section 11-1.50 (criminal sexual abuse). An attempt
4 to commit any of these offenses.

5 (iii) A violation of any of the following Sections
6 of the Criminal Code of 1961 or the Criminal Code of
7 2012, when the victim is a person under 18 years of age
8 and the defendant is not a parent of the victim:

9 10-1 (kidnapping),

10 10-2 (aggravated kidnapping),

11 10-3 (unlawful restraint),

12 10-3.1 (aggravated unlawful restraint),

13 11-9.1(A) (permitting sexual abuse of a child).

14 An attempt to commit any of these offenses.

15 (iv) A violation of any former law of this State
16 substantially equivalent to any offense listed in this
17 paragraph (2.5) of this subsection.

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

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

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

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

9 (7) "Day care home" has the meaning ascribed to it in
10 Section 2.18 of the Child Care Act of 1969.

11 (8) "Facility providing programs or services directed
12 towards persons under the age of 18" means any facility
13 providing programs or services exclusively directed
14 towards persons under the age of 18.

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

17 (10) "Internet" has the meaning set forth in Section
18 16-0.1 of this Code.

19 (11) "Loiter" means:

20 (i) Standing, sitting idly, whether or not the
21 person is in a vehicle, or remaining in or around
22 school or public park property.

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

1 (iii) Entering or remaining in a building in or
2 around school property, other than the offender's
3 residence.

4 (12) "Part day child care facility" has the meaning
5 ascribed to it in Section 2.10 of the Child Care Act of
6 1969.

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

11 (14) "Public park" includes a park, forest preserve,
12 bikeway, trail, or conservation area under the
13 jurisdiction of the State or a unit of local government.

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

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

19 (e) For the purposes of this Section, the 500 feet distance
20 shall be measured from: (1) the edge of the property of the
21 school building or the real property comprising the school that
22 is closest to the edge of the property of the child sex
23 offender's residence or where he or she is loitering, and (2)
24 the edge of the property comprising the public park building or
25 the real property comprising the public park, playground, child
26 care institution, day care center, part day child care

1 facility, or facility providing programs or services
2 exclusively directed toward persons under 18 years of age, or a
3 victim of the sex offense who is under 21 years of age, to the
4 edge of the child sex offender's place of residence or place
5 where he or she is loitering.

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

8 (Source: P.A. 96-328, eff. 8-11-09; 96-710, eff. 1-1-10;
9 96-1551, eff. 7-1-11; 97-698, eff. 1-1-13; 97-699, eff. 1-1-13;
10 97-1150, eff. 1-25-13.)