

HB4280



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4280

by Rep. Mike Smiddy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

Amends the Criminal Code of 2012. Prohibits a convicted child sex offender from knowingly being present at a county fair or within 500 feet of a county fair. Defines "county fair".

LRB098 17578 MRW 52688 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, a playground or
25 recreation area within any publicly accessible privately owned
26 building, or on real property comprising any public park when

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

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

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

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

15 (b-5) It is unlawful for a child sex offender to knowingly
16 reside within 500 feet of a school building or the real
17 property comprising any school that persons under the age of 18
18 attend. Nothing in this subsection (b-5) prohibits a child sex
19 offender from residing within 500 feet of a school building or
20 the real property comprising any school that persons under 18
21 attend if the property is owned by the child sex offender and
22 was purchased before July 7, 2000 (the effective date of Public
23 Act 91-911).

24 (b-10) It is unlawful for a child sex offender to knowingly
25 reside within 500 feet of a playground, child care institution,
26 day care center, part day child care facility, day care home,

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

17 (b-15) It is unlawful for a child sex offender to knowingly
18 reside within 500 feet of the victim of the sex offense.
19 Nothing in this subsection (b-15) prohibits a child sex
20 offender from residing within 500 feet of the victim if the
21 property in which the child sex offender resides is owned by
22 the child sex offender and was purchased before August 22,
23 2002.

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

26 (b-20) It is unlawful for a child sex offender to knowingly

1 communicate, other than for a lawful purpose under Illinois
2 law, using the Internet or any other digital media, with a
3 person under 18 years of age or with a person whom he or she
4 believes to be a person under 18 years of age, unless the
5 offender is a parent or guardian of the person under 18 years
6 of age.

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

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

16 (c-5) It is unlawful for a child sex offender to:

17 (1) knowingly operate, manage, be employed by, or be
18 associated with any county fair when persons under the age
19 of 18 are present; or -

20 (2) knowingly be present at a county fair or loiter
21 within 500 feet of a county fair.

22 (c-6) It is unlawful for a child sex offender who owns and
23 resides at residential real estate to knowingly rent any
24 residential unit within the same building in which he or she
25 resides to a person who is the parent or guardian of a child or
26 children under 18 years of age. This subsection shall apply

1 only to leases or other rental arrangements entered into after
2 January 1, 2009 (the effective date of Public Act 95-820).

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

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

17 (d) Definitions. In this Section:

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

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

25 (A) is convicted of such offense or an attempt
26 to commit such offense; or

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

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

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

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

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

1 of such offense; or

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

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

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

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

18 (i) A violation of any of the following Sections of
19 the Criminal Code of 1961 or the Criminal Code of 2012:
20 10-4 (forcible detention), 10-7 (aiding or abetting
21 child abduction under Section 10-5(b)(10)),
22 10-5(b)(10) (child luring), 11-1.40 (predatory
23 criminal sexual assault of a child), 11-6 (indecent
24 solicitation of a child), 11-6.5 (indecent
25 solicitation of an adult), 11-9.1 (sexual exploitation
26 of a child), 11-9.2 (custodial sexual misconduct),

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

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

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

13 10-1 (kidnapping),
14 10-2 (aggravated kidnapping),
15 10-3 (unlawful restraint),
16 10-3.1 (aggravated unlawful restraint),
17 11-9.1(A) (permitting sexual abuse of a child).

18 An attempt to commit any of these offenses.

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

23 (2.5) For the purposes of subsections (b-5) and (b-10)
24 only, a sex offense means:

25 (i) A violation of any of the following Sections of
26 the Criminal Code of 1961 or the Criminal Code of 2012:

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

22 (ii) A violation of any of the following Sections
23 of the Criminal Code of 1961 or the Criminal Code of
24 2012, when the victim is a person under 18 years of
25 age: 11-1.20 (criminal sexual assault), 11-1.30
26 (aggravated criminal sexual assault), 11-1.60

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

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

8 10-1 (kidnapping),

9 10-2 (aggravated kidnapping),

10 10-3 (unlawful restraint),

11 10-3.1 (aggravated unlawful restraint),

12 11-9.1(A) (permitting sexual abuse of a child).

13 An attempt to commit any of these offenses.

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

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

26 (4) "Authorized emergency vehicle", "rescue vehicle",

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

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

6 (5.5) "County fair" means a fair sponsored by a fair
7 association or agricultural society.

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

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

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

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

18 (10) "Internet" has the meaning set forth in Section
19 16-0.1 of this Code.

20 (11) "Loiter" means:

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

24 (ii) Standing, sitting idly, whether or not the
25 person is in a vehicle, or remaining in or around
26 school or public park property, for the purpose of

1 committing or attempting to commit a sex offense.

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

5 (12) "Part day child care facility" has the meaning
6 ascribed to it in Section 2.10 of the Child Care Act of
7 1969.

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

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

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

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

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

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

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

9 (Source: P.A. 97-698, eff. 1-1-13; 97-699, eff. 1-1-13;
10 97-1150, eff. 1-25-13; 98-266, eff. 1-1-14.)