



Sen. Kwame Raoul

**Filed: 4/23/2013**

09800SB1005sam002

LRB098 05270 RLC 44987 a

1 AMENDMENT TO SENATE BILL 1005

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1005 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-5-3.2 as follows:

6 (730 ILCS 5/5-5-3.2)

7 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
8 Sentencing.

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

13 (1) the defendant's conduct caused or threatened  
14 serious harm;

15 (2) the defendant received compensation for committing  
16 the offense;

1           (3) the defendant has a history of prior delinquency or  
2 criminal activity;

3           (4) the defendant, by the duties of his office or by  
4 his position, was obliged to prevent the particular offense  
5 committed or to bring the offenders committing it to  
6 justice;

7           (5) the defendant held public office at the time of the  
8 offense, and the offense related to the conduct of that  
9 office;

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

13          (7) the sentence is necessary to deter others from  
14 committing the same crime;

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

17          (9) the defendant committed the offense against a  
18 person who is physically handicapped or such person's  
19 property;

20          (10) by reason of another individual's actual or  
21 perceived race, color, creed, religion, ancestry, gender,  
22 sexual orientation, physical or mental disability, or  
23 national origin, the defendant committed the offense  
24 against (i) the person or property of that individual; (ii)  
25 the person or property of a person who has an association  
26 with, is married to, or has a friendship with the other

1 individual; or (iii) the person or property of a relative  
2 (by blood or marriage) of a person described in clause (i)  
3 or (ii). For the purposes of this Section, "sexual  
4 orientation" means heterosexuality, homosexuality, or  
5 bisexuality;

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

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

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

24 (14) the defendant held a position of trust or  
25 supervision such as, but not limited to, family member as  
26 defined in Section 11-0.1 of the Criminal Code of 2012,

1 teacher, scout leader, baby sitter, or day care worker, in  
2 relation to a victim under 18 years of age, and the  
3 defendant committed an offense in violation of Section  
4 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,  
5 11-14.4 except for an offense that involves keeping a place  
6 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,  
7 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15  
8 or 12-16 of the Criminal Code of 1961 or the Criminal Code  
9 of 2012 against that victim;

10 (15) the defendant committed an offense related to the  
11 activities of an organized gang. For the purposes of this  
12 factor, "organized gang" has the meaning ascribed to it in  
13 Section 10 of the Streetgang Terrorism Omnibus Prevention  
14 Act;

15 (16) the defendant committed an offense in violation of  
16 one of the following Sections while in a school, regardless  
17 of the time of day or time of year; on any conveyance  
18 owned, leased, or contracted by a school to transport  
19 students to or from school or a school related activity; on  
20 the real property of a school; or on a public way within  
21 1,000 feet of the real property comprising any school:  
22 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
23 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
25 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
26 18-2, or 33A-2, or Section 12-3.05 except for subdivision

1 (a) (4) or (g) (1), of the Criminal Code of 1961 or the  
2 Criminal Code of 2012;

3 (16.5) the defendant committed an offense in violation  
4 of one of the following Sections while in a day care  
5 center, regardless of the time of day or time of year; on  
6 the real property of a day care center, regardless of the  
7 time of day or time of year; or on a public way within  
8 1,000 feet of the real property comprising any day care  
9 center, regardless of the time of day or time of year:  
10 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
11 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
12 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
13 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
14 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
15 (a) (4) or (g) (1), of the Criminal Code of 1961 or the  
16 Criminal Code of 2012;

17 (17) the defendant committed the offense by reason of  
18 any person's activity as a community policing volunteer or  
19 to prevent any person from engaging in activity as a  
20 community policing volunteer. For the purpose of this  
21 Section, "community policing volunteer" has the meaning  
22 ascribed to it in Section 2-3.5 of the Criminal Code of  
23 2012;

24 (18) the defendant committed the offense in a nursing  
25 home or on the real property comprising a nursing home. For  
26 the purposes of this paragraph (18), "nursing home" means a

1 skilled nursing or intermediate long term care facility  
2 that is subject to license by the Illinois Department of  
3 Public Health under the Nursing Home Care Act, the  
4 Specialized Mental Health Rehabilitation Act, or the ID/DD  
5 Community Care Act;

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

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

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

1 Chapter 11 of the Illinois Vehicle Code;

2 (22) the defendant committed the offense against a  
3 person that the defendant knew, or reasonably should have  
4 known, was a member of the Armed Forces of the United  
5 States serving on active duty. For purposes of this clause  
6 (22), the term "Armed Forces" means any of the Armed Forces  
7 of the United States, including a member of any reserve  
8 component thereof or National Guard unit called to active  
9 duty;

10 (23) the defendant committed the offense against a  
11 person who was elderly, disabled, or infirm by taking  
12 advantage of a family or fiduciary relationship with the  
13 elderly, disabled, or infirm person;

14 (24) the defendant committed any offense under Section  
15 11-20.1 of the Criminal Code of 1961 or the Criminal Code  
16 of 2012 and possessed 100 or more images;

17 (25) the defendant committed the offense while the  
18 defendant or the victim was in a train, bus, or other  
19 vehicle used for public transportation;

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

1 masochistic, or sadomasochistic abuse in a sexual context  
2 and specifically including paragraph (1), (2), (3), (4),  
3 (5), or (7) of subsection (a) of Section 11-20.1B or  
4 Section 11-20.3 of the Criminal Code of 1961 where a child  
5 engaged in, solicited for, depicted in, or posed in any act  
6 of sexual penetration or bound, fettered, or subject to  
7 sadistic, masochistic, or sadomasochistic abuse in a  
8 sexual context;

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

26 (28) the defendant committed the offense of assault,



1 aggravated assault, battery, aggravated battery, robbery,  
2 armed robbery, or aggravated robbery against a person that  
3 the defendant knew or reasonably should have known was a  
4 letter carrier or postal worker while that person was  
5 performing his or her duties delivering mail for the United  
6 States Postal Service.

7 For the purposes of this Section:

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

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

14 "Public transportation" means the transportation or  
15 conveyance of persons by means available to the general public,  
16 and includes paratransit services.

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

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

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

5           (3) When a defendant is convicted of any felony  
6 committed against:

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

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

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

13           (4) When a defendant is convicted of any felony and the  
14 offense involved any of the following types of specific  
15 misconduct committed as part of a ceremony, rite,  
16 initiation, observance, performance, practice or activity  
17 of any actual or ostensible religious, fraternal, or social  
18 group:

19                 (i) the brutalizing or torturing of humans or  
20 animals;

21                 (ii) the theft of human corpses;

22                 (iii) the kidnapping of humans;

23                 (iv) the desecration of any cemetery, religious,  
24 fraternal, business, governmental, educational, or  
25 other building or property; or

26                 (v) ritualized abuse of a child; or

1           (5) When a defendant is convicted of a felony other  
2 than conspiracy and the court finds that the felony was  
3 committed under an agreement with 2 or more other persons  
4 to commit that offense and the defendant, with respect to  
5 the other individuals, occupied a position of organizer,  
6 supervisor, financier, or any other position of management  
7 or leadership, and the court further finds that the felony  
8 committed was related to or in furtherance of the criminal  
9 activities of an organized gang or was motivated by the  
10 defendant's leadership in an organized gang; or

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

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

24           (8) When a defendant commits any felony and the  
25 defendant used, possessed, exercised control over, or  
26 otherwise directed an animal to assault a law enforcement

1 officer engaged in the execution of his or her official  
2 duties or in furtherance of the criminal activities of an  
3 organized gang in which the defendant is engaged.

4 (c) The following factors may be considered by the court as  
5 reasons to impose an extended term sentence under Section 5-8-2  
6 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

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

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

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

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

11           (4) If the victim was under 18 years of age at the time  
12 of the commission of the offense, when a defendant is  
13 convicted of aggravated criminal sexual assault or  
14 predatory criminal sexual assault of a child under  
15 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)  
16 of Section 12-14.1 of the Criminal Code of 1961 or the  
17 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

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

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

1 weapons enumerated in Section 24-1 of the Criminal Code of  
2 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

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

22 (8) When the defendant is convicted of attempted mob  
23 action, solicitation to commit mob action, or conspiracy to  
24 commit mob action under Section 8-1, 8-2, or 8-4 of the  
25 Criminal Code of 2012, where the criminal object is a  
26 violation of Section 25-1 of the Criminal Code of 2012, and

1       an electronic communication is used in the commission of  
2       the offense. For the purposes of this paragraph (8),  
3       "electronic communication" shall have the meaning provided  
4       in Section 26.5-0.1 of the Criminal Code of 2012.

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

8       (e) The court may impose an extended term sentence under  
9       Article 4.5 of Chapter V upon an offender who has been  
10      convicted of a felony violation of Section 11-1.20, 11-1.30,  
11      11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or  
12      12-16 of the Criminal Code of 1961 or the Criminal Code of 2012  
13      when the victim of the offense is under 18 years of age at the  
14      time of the commission of the offense and, during the  
15      commission of the offense, the victim was under the influence  
16      of alcohol, regardless of whether or not the alcohol was  
17      supplied by the offender; and the offender, at the time of the  
18      commission of the offense, knew or should have known that the  
19      victim had consumed alcohol.

20      (Source: P.A. 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328,  
21      eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10;  
22      96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff.  
23      1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551,  
24      Article 2, Section 1065, eff. 7-1-11; 97-38, eff. 6-28-11,  
25      97-227, eff. 1-1-12; 97-333, eff. 8-12-11; 97-693, eff. 1-1-13;  
26      97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff.

1 1-25-13.)".