

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 2012 is amended by changing Sections 12-7.1 and 21-1.2 as follows:

(720 ILCS 5/12-7.1) (from Ch. 38, par. 12-7.1)

Sec. 12-7.1. Hate crime.

(a) A person commits hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he commits assault, battery, aggravated assault, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, harassment by telephone, or harassment through electronic communications as these crimes are defined in Sections 12-1, 12-2, 12-3(a), 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-2, and paragraphs (a) (2) and (a) (5) of Section 26.5-3 of this Code, respectively.

(b) Except as provided in subsection (b-5), hate crime is a Class 4 felony for a first offense and a Class 2 felony for a

second or subsequent offense.

(b-5) Hate crime is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense if committed:

(1) in a church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose;

(2) in a cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead;

(3) in a school or other educational facility, including an administrative facility or public or private dormitory facility of or associated with the school or other educational facility;

(4) in a public park or an ethnic or religious community center;

(5) on the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5); or

(6) on a public way within 1,000 feet of the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5).

(b-10) Upon imposition of any sentence, the trial court shall also either order restitution paid to the victim or impose a fine up to \$1,000. In addition, any order of probation or conditional discharge entered following a conviction or an adjudication of delinquency shall include a condition that the

offender perform public or community service of no less than 200 hours if that service is established in the county where the offender was convicted of hate crime. In addition, any order of probation or conditional discharge entered following a conviction or an adjudication of delinquency shall include a condition that the offender enroll in an educational program discouraging hate crimes if the offender caused criminal damage to property consisting of religious fixtures, objects, or decorations. The educational program may be administered, as determined by the court, by a university, college, community college, non-profit organization, or the Holocaust and Genocide Commission. Nothing in this subsection (b-10) prohibits courses discouraging hate crimes from being made available online. The court may also impose any other condition of probation or conditional discharge under this Section.

(c) Independent of any criminal prosecution or the result thereof, any person suffering injury to his person or damage to his property as a result of hate crime may bring a civil action for damages, injunction or other appropriate relief. The court may award actual damages, including damages for emotional distress, or punitive damages. A judgment may include attorney's fees and costs. The parents or legal guardians, other than guardians appointed pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, of an unemancipated minor shall be liable for the amount of any judgment for actual damages rendered against such minor under this subsection (c)

in any amount not exceeding the amount provided under Section 5 of the Parental Responsibility Law.

(d) "Sexual orientation" has the meaning ascribed to it in paragraph (0-1) of Section 1-103 of the Illinois Human Rights Act ~~means heterosexuality, homosexuality, or bisexuality.~~

(Source: P.A. 96-1551, eff. 7-1-11; 97-161, eff. 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13.)

(720 ILCS 5/21-1.2) (from Ch. 38, par. 21-1.2)

Sec. 21-1.2. Institutional vandalism.

(a) A person commits institutional vandalism when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she knowingly and without consent inflicts damage to any of the following properties:

(1) A church, synagogue, mosque, or other building, structure or place used for religious worship or other religious purpose;

(2) A cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead;

(3) A school, educational facility or community center;

(4) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place

described in paragraphs (1), (2) or (3) of this subsection (a); or

(5) Any personal property contained in any institution, facility, building, structure or place described in paragraphs (1), (2) or (3) of this subsection (a).

(b) Sentence.

(1) Institutional vandalism is a Class 3 felony when the damage to the property does not exceed \$300. Institutional vandalism is a Class 2 felony when the damage to the property exceeds \$300. Institutional vandalism is a Class 2 felony for any second or subsequent offense.

(2) Upon imposition of any sentence, the trial court shall also either order restitution paid to the victim or impose a fine up to \$1,000. In addition, any order of probation or conditional discharge entered following a conviction or an adjudication of delinquency shall include a condition that the offender perform public or community service of no less than 200 hours if that service is established in the county where the offender was convicted of institutional vandalism. The court may also impose any other condition of probation or conditional discharge under this Section.

(c) Independent of any criminal prosecution or the result of that prosecution, a person suffering damage to property or injury to his or her person as a result of institutional

vandalism may bring a civil action for damages, injunction or other appropriate relief. The court may award actual damages, including damages for emotional distress, or punitive damages. A judgment may include attorney's fees and costs. The parents or legal guardians of an unemancipated minor, other than guardians appointed under the Juvenile Court Act or the Juvenile Court Act of 1987, shall be liable for the amount of any judgment for actual damages rendered against the minor under this subsection in an amount not exceeding the amount provided under Section 5 of the Parental Responsibility Law.

(d) As used in this Section, "sexual orientation" has the meaning ascribed to it in paragraph (0-1) of Section 1-103 of the Illinois Human Rights Act.

(Source: P.A. 97-1108, eff. 1-1-13.)

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

(730 ILCS 5/5-5-3.2)

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

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

(1) the defendant's conduct caused or threatened

serious harm;

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

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

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

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

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

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

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

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

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense

against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" has the meaning ascribed to it in paragraph (0-1) of Section 1-103 of the Illinois Human Rights Act ~~means heterosexuality, homosexuality, or bisexuality;~~

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

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

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the

wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 11-0.1 of the Criminal Code of 2012, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11, 11-14.4 except for an offense that involves keeping a place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 against that victim;

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

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,

11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 or the Criminal Code of 2012;

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

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

2012;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, or the ID/DD Community Care Act;

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

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

(21) the defendant (i) committed the offense of

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

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

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

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

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

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of

subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1B or Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context;

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), "veteran" means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and "veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary

purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit; or

(28) the defendant committed the offense of assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person that the defendant knew or reasonably should have known was a letter carrier or postal worker while that person was performing his or her duties delivering mail for the United States Postal Service.

For the purposes of this Section:

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

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

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

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

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater

class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

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

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

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

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

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

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

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

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

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

(v) ritualized abuse of a child; or

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

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

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

spent in custody; or

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

(9) When a defendant commits any felony and the defendant knowingly video or audio records the offense with the intent to disseminate the recording.

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

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

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order

of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

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

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

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

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 or the

Criminal Code of 2012 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

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

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical

assistance or first aid personnel, or hospital emergency room personnel.

(8) When the defendant is convicted of attempted mob action, solicitation to commit mob action, or conspiracy to commit mob action under Section 8-1, 8-2, or 8-4 of the Criminal Code of 2012, where the criminal object is a violation of Section 25-1 of the Criminal Code of 2012, and an electronic communication is used in the commission of the offense. For the purposes of this paragraph (8), "electronic communication" shall have the meaning provided in Section 26.5-0.1 of the Criminal Code of 2012.

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

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

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HB3930 Enrolled

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(Source: P.A. 97-38, eff. 6-28-11, 97-227, eff. 1-1-12; 97-333, eff. 8-12-11; 97-693, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-14, eff. 1-1-14; 98-104, eff. 7-22-13; 98-385, eff. 1-1-14; 98-756, eff. 7-16-14.)