

**100TH GENERAL ASSEMBLY****State of Illinois****2017 and 2018****SB2856**

Introduced 2/13/2018, by Sen. Michael Connelly

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Illinois Police Training Act. Provides that the Illinois Law Enforcement Training Standards Board shall conduct or approve a training program for school resource officers. Provides that the program shall train school resource officers on all aspects of school-based policing. Amends the School Code. Defines "school resource officer", "sexting", and "sextortion". Provides that a school board may enter into an agreement with a law enforcement agency to provide a school district with one or more school resource officers. Provides that each school district, charter school, and non-public, non-sectarian elementary or secondary school shall create a training program on cyber-bullying, sexting, and sextortion for all school personnel. Specifies training program requirements. Amends the Criminal Code of 2012. Provides that the charge of child pornography shall not apply to the performance of official duties by school officials working with law enforcement. Amends the Drug Asset Forfeiture Procedure Act. Provides that any local, municipal, or county law enforcement agency entitled to receive a monetary distribution of forfeiture proceeds may share those forfeiture proceeds pursuant to the terms of an intergovernmental agreement with a municipality that has a population in excess of 20,000 if the funds are used for the training of school resource officers in the prevention of drug abuse in schools.

LRB100 17720 AXK 32893 b

FISCAL NOTE ACT  
MAY APPLYSTATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning education.

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

4 Section 5. The Illinois Police Training Act is amended by  
5 adding Section 10.22 as follows:

6 (50 ILCS 705/10.22 new)

7 Sec. 10.22. Training; school resource officer.

8 (a) In this Section, "school resource officer" has the  
9 meaning given to that term under Section 1-3 of the School  
10 Code.

11 (b) The Board shall conduct or approve a training program  
12 for school resource officers. The program shall train school  
13 resource officers on all aspects of school-based policing and  
14 shall include information on the minimum number of hours and  
15 number of courses required to become and maintain certification  
16 as a school resource officer. The Board shall adopt rules to  
17 implement this Section.

18 Section 10. The School Code is amended by changing Sections  
19 1-3 and 27-23.7 and by adding Sections 10-20.67 and 34-18.60 as  
20 follows:

21 (105 ILCS 5/1-3) (from Ch. 122, par. 1-3)

1           Sec. 1-3. Definitions. In this Code:

2           The terms "common schools", "free schools" and "public  
3 schools" are used interchangeably to apply to any school  
4 operated by authority of this Act.

5           "School board" means the governing body of any district  
6 created or operating under authority of this Act, including  
7 board of school directors and board of education. When the  
8 context so indicates it also means the governing body of any  
9 non-high school district and of any special charter district,  
10 including board of school inspectors.

11           "Special charter district" means any city, township or  
12 district organized into a school district, under a special Act  
13 or charter of the General Assembly or in which schools are now  
14 managed and operating within such unit in whole or in part  
15 under the terms of such special Act or charter.

16           "School resource officer" means a law enforcement officer  
17 who has been assigned to a school district for the purpose of  
18 school-based policing and who:

19           (1) is in compliance with all rules adopted by the  
20 Illinois Law Enforcement Training Standards Board;

21           (2) has been certified as a police officer in good  
22 standing by the Illinois Law Enforcement Training  
23 Standards Board;

24           (3) has been certified as a juvenile officer by the  
25 Illinois Law Enforcement Training Standards Board; and

26           (4) has obtained nationally recognized certification

1 from an entity approved by the Illinois Law Enforcement  
2 Training Standards Board.

3 (Source: Laws 1961, p. 31.)

4 (105 ILCS 5/10-20.67 new)

5 Sec. 10-20.67. School resource officer; training.

6 (a) A school board may enter into an agreement with a law  
7 enforcement agency to provide a school district with one or  
8 more school resource officers. The school board and the law  
9 enforcement agency may enter into a memorandum of understanding  
10 to clearly document the roles, responsibilities, and  
11 expectations of the school board, school district, law  
12 enforcement agency, and school resource officer. The  
13 memorandum shall include, but is not limited to, examples of  
14 the activities the school resource officer will be required to  
15 perform.

16 (b) In addition to any other training requirements under  
17 the Illinois Police Training Act and this Code, a school  
18 resource officer shall participate in a minimum of 40 hours of  
19 training under Section 10.22 of the Illinois Police Training  
20 Act within 12 months of being assigned to a school district  
21 under subsection (a) of this Section and a minimum of 16 hours  
22 of approved training annually thereafter.

23 (105 ILCS 5/27-23.7)

24 Sec. 27-23.7. Bullying prevention.

1           (a) The General Assembly finds that a safe and civil school  
2 environment is necessary for students to learn and achieve and  
3 that bullying causes physical, psychological, and emotional  
4 harm to students and interferes with students' ability to learn  
5 and participate in school activities. The General Assembly  
6 further finds that bullying has been linked to other forms of  
7 antisocial behavior, such as vandalism, shoplifting, skipping  
8 and dropping out of school, fighting, using drugs and alcohol,  
9 sexual harassment, and sexual violence. Because of the negative  
10 outcomes associated with bullying in schools, the General  
11 Assembly finds that school districts, charter schools, and  
12 non-public, non-sectarian elementary and secondary schools  
13 should educate students, parents, and school district, charter  
14 school, or non-public, non-sectarian elementary or secondary  
15 school personnel about what behaviors constitute prohibited  
16 bullying.

17           Bullying on the basis of actual or perceived race, color,  
18 religion, sex, national origin, ancestry, age, marital status,  
19 physical or mental disability, military status, sexual  
20 orientation, gender-related identity or expression,  
21 unfavorable discharge from military service, association with  
22 a person or group with one or more of the aforementioned actual  
23 or perceived characteristics, or any other distinguishing  
24 characteristic is prohibited in all school districts, charter  
25 schools, and non-public, non-sectarian elementary and  
26 secondary schools. No student shall be subjected to bullying:

1           (1) during any school-sponsored education program or  
2 activity;

3           (2) while in school, on school property, on school  
4 buses or other school vehicles, at designated school bus  
5 stops waiting for the school bus, or at school-sponsored or  
6 school-sanctioned events or activities;

7           (3) through the transmission of information from a  
8 school computer, a school computer network, or other  
9 similar electronic school equipment; or

10           (4) through the transmission of information from a  
11 computer that is accessed at a nonschool-related location,  
12 activity, function, or program or from the use of  
13 technology or an electronic device that is not owned,  
14 leased, or used by a school district or school if the  
15 bullying causes a substantial disruption to the  
16 educational process or orderly operation of a school. This  
17 item (4) applies only in cases in which a school  
18 administrator or teacher receives a report that bullying  
19 through this means has occurred and does not require a  
20 district or school to staff or monitor any  
21 nonschool-related activity, function, or program.

22           (a-5) Nothing in this Section is intended to infringe upon  
23 any right to exercise free expression or the free exercise of  
24 religion or religiously based views protected under the First  
25 Amendment to the United States Constitution or under Section 3  
26 of Article I of the Illinois Constitution.

1 (b) In this Section:

2 "Bullying" includes "cyber-bullying" and means any severe  
3 or pervasive physical or verbal act or conduct, including  
4 communications made in writing or electronically, directed  
5 toward a student or students that has or can be reasonably  
6 predicted to have the effect of one or more of the following:

7 (1) placing the student or students in reasonable fear  
8 of harm to the student's or students' person or property;

9 (2) causing a substantially detrimental effect on the  
10 student's or students' physical or mental health;

11 (3) substantially interfering with the student's or  
12 students' academic performance; or

13 (4) substantially interfering with the student's or  
14 students' ability to participate in or benefit from the  
15 services, activities, or privileges provided by a school.

16 Bullying, as defined in this subsection (b), may take  
17 various forms, including without limitation one or more of the  
18 following: harassment, threats, intimidation, stalking,  
19 physical violence, sexual harassment, sexual violence, theft,  
20 public humiliation, destruction of property, or retaliation  
21 for asserting or alleging an act of bullying. This list is  
22 meant to be illustrative and non-exhaustive.

23 "Cyber-bullying" means bullying through the use of  
24 technology or any electronic communication, including without  
25 limitation any transfer of signs, signals, writing, images,  
26 sounds, data, or intelligence of any nature transmitted in

1 whole or in part by a wire, radio, electromagnetic system,  
2 photoelectronic system, or photooptical system, including  
3 without limitation electronic mail, Internet communications,  
4 instant messages, or facsimile communications.  
5 "Cyber-bullying" includes the creation of a webpage or weblog  
6 in which the creator assumes the identity of another person or  
7 the knowing impersonation of another person as the author of  
8 posted content or messages if the creation or impersonation  
9 creates any of the effects enumerated in the definition of  
10 bullying in this Section. "Cyber-bullying" also includes the  
11 distribution by electronic means of a communication to more  
12 than one person or the posting of material on an electronic  
13 medium that may be accessed by one or more persons if the  
14 distribution or posting creates any of the effects enumerated  
15 in the definition of bullying in this Section.

16 "Policy on bullying" means a bullying prevention policy  
17 that meets the following criteria:

18 (1) Includes the bullying definition provided in this  
19 Section.

20 (2) Includes a statement that bullying is contrary to  
21 State law and the policy of the school district, charter  
22 school, or non-public, non-sectarian elementary or  
23 secondary school and is consistent with subsection (a-5) of  
24 this Section.

25 (3) Includes procedures for promptly reporting  
26 bullying, including, but not limited to, identifying and



1 providing the school e-mail address (if applicable) and  
2 school telephone number for the staff person or persons  
3 responsible for receiving such reports and a procedure for  
4 anonymous reporting; however, this shall not be construed  
5 to permit formal disciplinary action solely on the basis of  
6 an anonymous report.

7 (4) Consistent with federal and State laws and rules  
8 governing student privacy rights, includes procedures for  
9 promptly informing parents or guardians of all students  
10 involved in the alleged incident of bullying and  
11 discussing, as appropriate, the availability of social  
12 work services, counseling, school psychological services,  
13 other interventions, and restorative measures.

14 (5) Contains procedures for promptly investigating and  
15 addressing reports of bullying, including the following:

16 (A) Making all reasonable efforts to complete the  
17 investigation within 10 school days after the date the  
18 report of the incident of bullying was received and  
19 taking into consideration additional relevant  
20 information received during the course of the  
21 investigation about the reported incident of bullying.

22 (B) Involving appropriate school support personnel  
23 and other staff persons with knowledge, experience,  
24 and training on bullying prevention, as deemed  
25 appropriate, in the investigation process.

26 (C) Notifying the principal or school

1 administrator or his or her designee of the report of  
2 the incident of bullying as soon as possible after the  
3 report is received.

4 (D) Consistent with federal and State laws and  
5 rules governing student privacy rights, providing  
6 parents and guardians of the students who are parties  
7 to the investigation information about the  
8 investigation and an opportunity to meet with the  
9 principal or school administrator or his or her  
10 designee to discuss the investigation, the findings of  
11 the investigation, and the actions taken to address the  
12 reported incident of bullying.

13 (6) Includes the interventions that can be taken to  
14 address bullying, which may include, but are not limited  
15 to, school social work services, restorative measures,  
16 social-emotional skill building, counseling, school  
17 psychological services, and community-based services.

18 (7) Includes a statement prohibiting reprisal or  
19 retaliation against any person who reports an act of  
20 bullying and the consequences and appropriate remedial  
21 actions for a person who engages in reprisal or  
22 retaliation.

23 (8) Includes consequences and appropriate remedial  
24 actions for a person found to have falsely accused another  
25 of bullying as a means of retaliation or as a means of  
26 bullying.

1           (9) Is based on the engagement of a range of school  
2 stakeholders, including students and parents or guardians.

3           (10) Is posted on the school district's, charter  
4 school's, or non-public, non-sectarian elementary or  
5 secondary school's existing Internet website, is included  
6 in the student handbook, and, where applicable, posted  
7 where other policies, rules, and standards of conduct are  
8 currently posted in the school and provided periodically  
9 throughout the school year to students and faculty, and is  
10 distributed annually to parents, guardians, students, and  
11 school personnel, including new employees when hired.

12           (11) As part of the process of reviewing and  
13 re-evaluating the policy under subsection (d) of this  
14 Section, contains a policy evaluation process to assess the  
15 outcomes and effectiveness of the policy that includes, but  
16 is not limited to, factors such as the frequency of  
17 victimization; student, staff, and family observations of  
18 safety at a school; identification of areas of a school  
19 where bullying occurs; the types of bullying utilized; and  
20 bystander intervention or participation. The school  
21 district, charter school, or non-public, non-sectarian  
22 elementary or secondary school may use relevant data and  
23 information it already collects for other purposes in the  
24 policy evaluation. The information developed as a result of  
25 the policy evaluation must be made available on the  
26 Internet website of the school district, charter school, or

1 non-public, non-sectarian elementary or secondary school.  
2 If an Internet website is not available, the information  
3 must be provided to school administrators, school board  
4 members, school personnel, parents, guardians, and  
5 students.

6 (12) Is consistent with the policies of the school  
7 board, charter school, or non-public, non-sectarian  
8 elementary or secondary school.

9 "Restorative measures" means a continuum of school-based  
10 alternatives to exclusionary discipline, such as suspensions  
11 and expulsions, that: (i) are adapted to the particular needs  
12 of the school and community, (ii) contribute to maintaining  
13 school safety, (iii) protect the integrity of a positive and  
14 productive learning climate, (iv) teach students the personal  
15 and interpersonal skills they will need to be successful in  
16 school and society, (v) serve to build and restore  
17 relationships among students, families, schools, and  
18 communities, and (vi) reduce the likelihood of future  
19 disruption by balancing accountability with an understanding  
20 of students' behavioral health needs in order to keep students  
21 in school.

22 "School personnel" means persons employed by, on contract  
23 with, or who volunteer in a school district, charter school, or  
24 non-public, non-sectarian elementary or secondary school,  
25 including without limitation school and school district  
26 administrators, teachers, school guidance counselors, school

1 social workers, school counselors, school psychologists,  
2 school nurses, cafeteria workers, custodians, bus drivers,  
3 school resource officers, and security guards.

4 "Sexting" means the sending of sexually explicit images or  
5 text to another individual through electronic means.

6 "Sextortion" means any form of sexual exploitation that  
7 employs non-physical forms of coercion to extort from an  
8 individual sexual favors or pictures or videos that are deemed  
9 child pornography under Section 11-20.1 of the Criminal Code of  
10 2012.

11 (c) (Blank).

12 (d) Each school district, charter school, and non-public,  
13 non-sectarian elementary or secondary school shall create,  
14 maintain, and implement a policy on bullying, which policy must  
15 be filed with the State Board of Education. The policy or  
16 implementing procedure shall include a process to investigate  
17 whether a reported act of bullying is within the permissible  
18 scope of the district's or school's jurisdiction and shall  
19 require that the district or school provide the victim with  
20 information regarding services that are available within the  
21 district and community, such as counseling, support services,  
22 and other programs. School personnel available for help with a  
23 bully or to make a report about bullying shall be made known to  
24 parents or legal guardians, students, and school personnel.  
25 Every 2 years, each school district, charter school, and  
26 non-public, non-sectarian elementary or secondary school shall

1 conduct a review and re-evaluation of its policy and make any  
2 necessary and appropriate revisions. The policy must be filed  
3 with the State Board of Education after being updated. The  
4 State Board of Education shall monitor and provide technical  
5 support for the implementation of policies created under this  
6 subsection (d).

7 (d-5) Each school district, charter school, and  
8 non-public, non-sectarian elementary or secondary school shall  
9 create a training program on cyber-bullying, sexting, and  
10 sexortion for all school personnel. The program shall include,  
11 but is not limited to:

12 (1) a discussion on how to handle circumstances that a  
13 student may encounter with regards to cyber-bullying,  
14 sexting, or sexortion;

15 (2) tools that school personnel may offer students in  
16 an effort to empower students to not be victimized or to  
17 not become possible offenders of cyber-bullying, sexting,  
18 or sexortion; and

19 (3) a discussion on harassment through electronic  
20 communication, cyber-stalking, computer tampering, false  
21 personation, intimidation, sexual exploitation of a child,  
22 the manufacturing of child pornography, and telephone  
23 harassment.

24 (e) This Section shall not be interpreted to prevent a  
25 victim from seeking redress under any other available civil or  
26 criminal law.

1 (Source: P.A. 99-78, eff. 7-20-15; 100-137, eff. 8-18-17.)

2 (105 ILCS 5/34-18.60 new)

3 Sec. 34-18.60. School resource officer; training.

4 (a) The board may enter into an agreement with a law  
5 enforcement agency to provide the school district with one or  
6 more school resource officers. The board and the law  
7 enforcement agency may enter into a memorandum of understanding  
8 to clearly document the roles, responsibilities, and  
9 expectations of the board, school district, law enforcement  
10 agency, and school resource officer. The memorandum shall  
11 include, but is not limited to, examples of the activities the  
12 school resource officer will be required to perform.

13 (b) In addition to any other training requirements under  
14 the Illinois Police Training Act and this Code, a school  
15 resource officer shall participate in a minimum of 40 hours of  
16 training under Section 10.22 of the Illinois Police Training  
17 Act within 12 months of being assigned to the school district  
18 under subsection (a) of this Section and a minimum of 16 hours  
19 of approved training annually thereafter.

20 Section 15. The Criminal Code of 2012 is amended by  
21 changing Section 11-20.1 as follows:

22 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

23 Sec. 11-20.1. Child pornography.

1 (a) A person commits child pornography who:

2 (1) films, videotapes, photographs, or otherwise  
3 depicts or portrays by means of any similar visual medium  
4 or reproduction or depicts by computer any child whom he or  
5 she knows or reasonably should know to be under the age of  
6 18 or any person with a severe or profound intellectual  
7 disability where such child or person with a severe or  
8 profound intellectual disability is:

9 (i) actually or by simulation engaged in any act of  
10 sexual penetration or sexual conduct with any person or  
11 animal; or

12 (ii) actually or by simulation engaged in any act  
13 of sexual penetration or sexual conduct involving the  
14 sex organs of the child or person with a severe or  
15 profound intellectual disability and the mouth, anus,  
16 or sex organs of another person or animal; or which  
17 involves the mouth, anus or sex organs of the child or  
18 person with a severe or profound intellectual  
19 disability and the sex organs of another person or  
20 animal; or

21 (iii) actually or by simulation engaged in any act  
22 of masturbation; or

23 (iv) actually or by simulation portrayed as being  
24 the object of, or otherwise engaged in, any act of lewd  
25 fondling, touching, or caressing involving another  
26 person or animal; or



1 (v) actually or by simulation engaged in any act of  
2 excretion or urination within a sexual context; or

3 (vi) actually or by simulation portrayed or  
4 depicted as bound, fettered, or subject to sadistic,  
5 masochistic, or sadomasochistic abuse in any sexual  
6 context; or

7 (vii) depicted or portrayed in any pose, posture or  
8 setting involving a lewd exhibition of the unclothed or  
9 transparently clothed genitals, pubic area, buttocks,  
10 or, if such person is female, a fully or partially  
11 developed breast of the child or other person; or

12 (2) with the knowledge of the nature or content  
13 thereof, reproduces, disseminates, offers to disseminate,  
14 exhibits or possesses with intent to disseminate any film,  
15 videotape, photograph or other similar visual reproduction  
16 or depiction by computer of any child or person with a  
17 severe or profound intellectual disability whom the person  
18 knows or reasonably should know to be under the age of 18  
19 or to be a person with a severe or profound intellectual  
20 disability, engaged in any activity described in  
21 subparagraphs (i) through (vii) of paragraph (1) of this  
22 subsection; or

23 (3) with knowledge of the subject matter or theme  
24 thereof, produces any stage play, live performance, film,  
25 videotape or other similar visual portrayal or depiction by  
26 computer which includes a child whom the person knows or

1 reasonably should know to be under the age of 18 or a  
2 person with a severe or profound intellectual disability  
3 engaged in any activity described in subparagraphs (i)  
4 through (vii) of paragraph (1) of this subsection; or

5 (4) solicits, uses, persuades, induces, entices, or  
6 coerces any child whom he or she knows or reasonably should  
7 know to be under the age of 18 or a person with a severe or  
8 profound intellectual disability to appear in any stage  
9 play, live presentation, film, videotape, photograph or  
10 other similar visual reproduction or depiction by computer  
11 in which the child or person with a severe or profound  
12 intellectual disability is or will be depicted, actually or  
13 by simulation, in any act, pose or setting described in  
14 subparagraphs (i) through (vii) of paragraph (1) of this  
15 subsection; or

16 (5) is a parent, step-parent, legal guardian or other  
17 person having care or custody of a child whom the person  
18 knows or reasonably should know to be under the age of 18  
19 or a person with a severe or profound intellectual  
20 disability and who knowingly permits, induces, promotes,  
21 or arranges for such child or person with a severe or  
22 profound intellectual disability to appear in any stage  
23 play, live performance, film, videotape, photograph or  
24 other similar visual presentation, portrayal or simulation  
25 or depiction by computer of any act or activity described  
26 in subparagraphs (i) through (vii) of paragraph (1) of this

1 subsection; or

2 (6) with knowledge of the nature or content thereof,  
3 possesses any film, videotape, photograph or other similar  
4 visual reproduction or depiction by computer of any child  
5 or person with a severe or profound intellectual disability  
6 whom the person knows or reasonably should know to be under  
7 the age of 18 or to be a person with a severe or profound  
8 intellectual disability, engaged in any activity described  
9 in subparagraphs (i) through (vii) of paragraph (1) of this  
10 subsection; or

11 (7) solicits, or knowingly uses, persuades, induces,  
12 entices, or coerces, a person to provide a child under the  
13 age of 18 or a person with a severe or profound  
14 intellectual disability to appear in any videotape,  
15 photograph, film, stage play, live presentation, or other  
16 similar visual reproduction or depiction by computer in  
17 which the child or person with a severe or profound  
18 intellectual disability will be depicted, actually or by  
19 simulation, in any act, pose, or setting described in  
20 subparagraphs (i) through (vii) of paragraph (1) of this  
21 subsection.

22 (a-5) The possession of each individual film, videotape,  
23 photograph, or other similar visual reproduction or depiction  
24 by computer in violation of this Section constitutes a single  
25 and separate violation. This subsection (a-5) does not apply to  
26 multiple copies of the same film, videotape, photograph, or

1 other similar visual reproduction or depiction by computer that  
2 are identical to each other.

3 (b)(1) It shall be an affirmative defense to a charge of  
4 child pornography that the defendant reasonably believed,  
5 under all of the circumstances, that the child was 18 years of  
6 age or older or that the person was not a person with a severe  
7 or profound intellectual disability but only where, prior to  
8 the act or acts giving rise to a prosecution under this  
9 Section, he or she took some affirmative action or made a  
10 bonafide inquiry designed to ascertain whether the child was 18  
11 years of age or older or that the person was not a person with a  
12 severe or profound intellectual disability and his or her  
13 reliance upon the information so obtained was clearly  
14 reasonable.

15 (1.5) Telecommunications carriers, commercial mobile  
16 service providers, and providers of information services,  
17 including, but not limited to, Internet service providers and  
18 hosting service providers, are not liable under this Section by  
19 virtue of the transmission, storage, or caching of electronic  
20 communications or messages of others or by virtue of the  
21 provision of other related telecommunications, commercial  
22 mobile services, or information services used by others in  
23 violation of this Section.

24 (2) (Blank).

25 (3) The charge of child pornography shall not apply to the  
26 performance of official duties by law enforcement or

1 prosecuting officers or persons employed by law enforcement or  
2 prosecuting agencies, court personnel or attorneys, school  
3 officials working with law enforcement, nor to bonafide  
4 treatment or professional education programs conducted by  
5 licensed physicians, psychologists or social workers.

6 (4) If the defendant possessed more than one of the same  
7 film, videotape or visual reproduction or depiction by computer  
8 in which child pornography is depicted, then the trier of fact  
9 may infer that the defendant possessed such materials with the  
10 intent to disseminate them.

11 (5) The charge of child pornography does not apply to a  
12 person who does not voluntarily possess a film, videotape, or  
13 visual reproduction or depiction by computer in which child  
14 pornography is depicted. Possession is voluntary if the  
15 defendant knowingly procures or receives a film, videotape, or  
16 visual reproduction or depiction for a sufficient time to be  
17 able to terminate his or her possession.

18 (6) Any violation of paragraph (1), (2), (3), (4), (5), or  
19 (7) of subsection (a) that includes a child engaged in,  
20 solicited for, depicted in, or posed in any act of sexual  
21 penetration or bound, fettered, or subject to sadistic,  
22 masochistic, or sadomasochistic abuse in a sexual context shall  
23 be deemed a crime of violence.

24 (c) If the violation does not involve a film, videotape, or  
25 other moving depiction, a violation of paragraph (1), (4), (5),  
26 or (7) of subsection (a) is a Class 1 felony with a mandatory

1 minimum fine of \$2,000 and a maximum fine of \$100,000. If the  
2 violation involves a film, videotape, or other moving  
3 depiction, a violation of paragraph (1), (4), (5), or (7) of  
4 subsection (a) is a Class X felony with a mandatory minimum  
5 fine of \$2,000 and a maximum fine of \$100,000. If the violation  
6 does not involve a film, videotape, or other moving depiction,  
7 a violation of paragraph (3) of subsection (a) is a Class 1  
8 felony with a mandatory minimum fine of \$1500 and a maximum  
9 fine of \$100,000. If the violation involves a film, videotape,  
10 or other moving depiction, a violation of paragraph (3) of  
11 subsection (a) is a Class X felony with a mandatory minimum  
12 fine of \$1500 and a maximum fine of \$100,000. If the violation  
13 does not involve a film, videotape, or other moving depiction,  
14 a violation of paragraph (2) of subsection (a) is a Class 1  
15 felony with a mandatory minimum fine of \$1000 and a maximum  
16 fine of \$100,000. If the violation involves a film, videotape,  
17 or other moving depiction, a violation of paragraph (2) of  
18 subsection (a) is a Class X felony with a mandatory minimum  
19 fine of \$1000 and a maximum fine of \$100,000. If the violation  
20 does not involve a film, videotape, or other moving depiction,  
21 a violation of paragraph (6) of subsection (a) is a Class 3  
22 felony with a mandatory minimum fine of \$1000 and a maximum  
23 fine of \$100,000. If the violation involves a film, videotape,  
24 or other moving depiction, a violation of paragraph (6) of  
25 subsection (a) is a Class 2 felony with a mandatory minimum  
26 fine of \$1000 and a maximum fine of \$100,000.

1 (c-5) Where the child depicted is under the age of 13, a  
2 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
3 subsection (a) is a Class X felony with a mandatory minimum  
4 fine of \$2,000 and a maximum fine of \$100,000. Where the child  
5 depicted is under the age of 13, a violation of paragraph (6)  
6 of subsection (a) is a Class 2 felony with a mandatory minimum  
7 fine of \$1,000 and a maximum fine of \$100,000. Where the child  
8 depicted is under the age of 13, a person who commits a  
9 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
10 subsection (a) where the defendant has previously been  
11 convicted under the laws of this State or any other state of  
12 the offense of child pornography, aggravated child  
13 pornography, aggravated criminal sexual abuse, aggravated  
14 criminal sexual assault, predatory criminal sexual assault of a  
15 child, or any of the offenses formerly known as rape, deviate  
16 sexual assault, indecent liberties with a child, or aggravated  
17 indecent liberties with a child where the victim was under the  
18 age of 18 years or an offense that is substantially equivalent  
19 to those offenses, is guilty of a Class X felony for which the  
20 person shall be sentenced to a term of imprisonment of not less  
21 than 9 years with a mandatory minimum fine of \$2,000 and a  
22 maximum fine of \$100,000. Where the child depicted is under the  
23 age of 13, a person who commits a violation of paragraph (6) of  
24 subsection (a) where the defendant has previously been  
25 convicted under the laws of this State or any other state of  
26 the offense of child pornography, aggravated child

1 pornography, aggravated criminal sexual abuse, aggravated  
2 criminal sexual assault, predatory criminal sexual assault of a  
3 child, or any of the offenses formerly known as rape, deviate  
4 sexual assault, indecent liberties with a child, or aggravated  
5 indecent liberties with a child where the victim was under the  
6 age of 18 years or an offense that is substantially equivalent  
7 to those offenses, is guilty of a Class 1 felony with a  
8 mandatory minimum fine of \$1,000 and a maximum fine of  
9 \$100,000. The issue of whether the child depicted is under the  
10 age of 13 is an element of the offense to be resolved by the  
11 trier of fact.

12 (d) If a person is convicted of a second or subsequent  
13 violation of this Section within 10 years of a prior  
14 conviction, the court shall order a presentence psychiatric  
15 examination of the person. The examiner shall report to the  
16 court whether treatment of the person is necessary.

17 (e) Any film, videotape, photograph or other similar visual  
18 reproduction or depiction by computer which includes a child  
19 under the age of 18 or a person with a severe or profound  
20 intellectual disability engaged in any activity described in  
21 subparagraphs (i) through (vii) or paragraph 1 of subsection  
22 (a), and any material or equipment used or intended for use in  
23 photographing, filming, printing, producing, reproducing,  
24 manufacturing, projecting, exhibiting, depiction by computer,  
25 or disseminating such material shall be seized and forfeited in  
26 the manner, method and procedure provided by Section 36-1 of



1 this Code for the seizure and forfeiture of vessels, vehicles  
2 and aircraft.

3 In addition, any person convicted under this Section is  
4 subject to the property forfeiture provisions set forth in  
5 Article 124B of the Code of Criminal Procedure of 1963.

6 (e-5) Upon the conclusion of a case brought under this  
7 Section, the court shall seal all evidence depicting a victim  
8 or witness that is sexually explicit. The evidence may be  
9 unsealed and viewed, on a motion of the party seeking to unseal  
10 and view the evidence, only for good cause shown and in the  
11 discretion of the court. The motion must expressly set forth  
12 the purpose for viewing the material. The State's attorney and  
13 the victim, if possible, shall be provided reasonable notice of  
14 the hearing on the motion to unseal the evidence. Any person  
15 entitled to notice of a hearing under this subsection (e-5) may  
16 object to the motion.

17 (f) Definitions. For the purposes of this Section:

18 (1) "Disseminate" means (i) to sell, distribute,  
19 exchange or transfer possession, whether with or without  
20 consideration or (ii) to make a depiction by computer  
21 available for distribution or downloading through the  
22 facilities of any telecommunications network or through  
23 any other means of transferring computer programs or data  
24 to a computer.

25 (2) "Produce" means to direct, promote, advertise,  
26 publish, manufacture, issue, present or show.

1 (3) "Reproduce" means to make a duplication or copy.

2 (4) "Depict by computer" means to generate or create,  
3 or cause to be created or generated, a computer program or  
4 data that, after being processed by a computer either alone  
5 or in conjunction with one or more computer programs,  
6 results in a visual depiction on a computer monitor,  
7 screen, or display.

8 (5) "Depiction by computer" means a computer program or  
9 data that, after being processed by a computer either alone  
10 or in conjunction with one or more computer programs,  
11 results in a visual depiction on a computer monitor,  
12 screen, or display.

13 (6) "Computer", "computer program", and "data" have  
14 the meanings ascribed to them in Section 16D-2 of this  
15 Code.

16 (7) For the purposes of this Section, "child  
17 pornography" includes a film, videotape, photograph, or  
18 other similar visual medium or reproduction or depiction by  
19 computer that is, or appears to be, that of a person,  
20 either in part, or in total, under the age of 18 or a  
21 person with a severe or profound intellectual disability,  
22 regardless of the method by which the film, videotape,  
23 photograph, or other similar visual medium or reproduction  
24 or depiction by computer is created, adopted, or modified  
25 to appear as such. "Child pornography" also includes a  
26 film, videotape, photograph, or other similar visual

1 medium or reproduction or depiction by computer that is  
2 advertised, promoted, presented, described, or distributed  
3 in such a manner that conveys the impression that the film,  
4 videotape, photograph, or other similar visual medium or  
5 reproduction or depiction by computer is of a person under  
6 the age of 18 or a person with a severe or profound  
7 intellectual disability.

8 (g) Re-enactment; findings; purposes.

9 (1) The General Assembly finds and declares that:

10 (i) Section 50-5 of Public Act 88-680, effective  
11 January 1, 1995, contained provisions amending the  
12 child pornography statute, Section 11-20.1 of the  
13 Criminal Code of 1961. Section 50-5 also contained  
14 other provisions.

15 (ii) In addition, Public Act 88-680 was entitled  
16 "AN ACT to create a Safe Neighborhoods Law". (A)  
17 Article 5 was entitled JUVENILE JUSTICE and amended the  
18 Juvenile Court Act of 1987. (B) Article 15 was entitled  
19 GANGS and amended various provisions of the Criminal  
20 Code of 1961 and the Unified Code of Corrections. (C)  
21 Article 20 was entitled ALCOHOL ABUSE and amended  
22 various provisions of the Illinois Vehicle Code. (D)  
23 Article 25 was entitled DRUG ABUSE and amended the  
24 Cannabis Control Act and the Illinois Controlled  
25 Substances Act. (E) Article 30 was entitled FIREARMS  
26 and amended the Criminal Code of 1961 and the Code of

1 Criminal Procedure of 1963. (F) Article 35 amended the  
2 Criminal Code of 1961, the Rights of Crime Victims and  
3 Witnesses Act, and the Unified Code of Corrections. (G)  
4 Article 40 amended the Criminal Code of 1961 to  
5 increase the penalty for compelling organization  
6 membership of persons. (H) Article 45 created the  
7 Secure Residential Youth Care Facility Licensing Act  
8 and amended the State Finance Act, the Juvenile Court  
9 Act of 1987, the Unified Code of Corrections, and the  
10 Private Correctional Facility Moratorium Act. (I)  
11 Article 50 amended the WIC Vendor Management Act, the  
12 Firearm Owners Identification Card Act, the Juvenile  
13 Court Act of 1987, the Criminal Code of 1961, the  
14 Wrongs to Children Act, and the Unified Code of  
15 Corrections.

16 (iii) On September 22, 1998, the Third District  
17 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
18 ruled that Public Act 88-680 violates the single  
19 subject clause of the Illinois Constitution (Article  
20 IV, Section 8 (d)) and was unconstitutional in its  
21 entirety. As of the time this amendatory Act of 1999  
22 was prepared, *People v. Dainty* was still subject to  
23 appeal.

24 (iv) Child pornography is a vital concern to the  
25 people of this State and the validity of future  
26 prosecutions under the child pornography statute of

1           the Criminal Code of 1961 is in grave doubt.

2           (2) It is the purpose of this amendatory Act of 1999 to  
3 prevent or minimize any problems relating to prosecutions  
4 for child pornography that may result from challenges to  
5 the constitutional validity of Public Act 88-680 by  
6 re-enacting the Section relating to child pornography that  
7 was included in Public Act 88-680.

8           (3) This amendatory Act of 1999 re-enacts Section  
9 11-20.1 of the Criminal Code of 1961, as it has been  
10 amended. This re-enactment is intended to remove any  
11 question as to the validity or content of that Section; it  
12 is not intended to supersede any other Public Act that  
13 amends the text of the Section as set forth in this  
14 amendatory Act of 1999. The material is shown as existing  
15 text (i.e., without underscoring) because, as of the time  
16 this amendatory Act of 1999 was prepared, *People v. Dainty*  
17 was subject to appeal to the Illinois Supreme Court.

18           (4) The re-enactment by this amendatory Act of 1999 of  
19 Section 11-20.1 of the Criminal Code of 1961 relating to  
20 child pornography that was amended by Public Act 88-680 is  
21 not intended, and shall not be construed, to imply that  
22 Public Act 88-680 is invalid or to limit or impair any  
23 legal argument concerning whether those provisions were  
24 substantially re-enacted by other Public Acts.

25           (Source: P.A. 98-437, eff. 1-1-14; 99-143, eff. 7-27-15.)

1 Section 20. The Drug Asset Forfeiture Procedure Act is  
2 amended by changing Section 17 as follows:

3 (725 ILCS 150/17)

4 (This Section may contain text from a Public Act with a  
5 delayed effective date)

6 Sec. 17. Distribution of proceeds; selling or retaining  
7 seized property prohibited.

8 (a) Except as otherwise provided in this Section, the court  
9 shall order that property forfeited under this Act be delivered  
10 to the Department of State Police within 60 days.

11 (b) All monies and the sale proceeds of all other property  
12 forfeited and seized under this Act shall be distributed as  
13 follows:

14 (1)(i) 65% shall be distributed to the metropolitan  
15 enforcement group, local, municipal, county, or state law  
16 enforcement agency or agencies which conducted or  
17 participated in the investigation resulting in the  
18 forfeiture. The distribution shall bear a reasonable  
19 relationship to the degree of direct participation of the  
20 law enforcement agency in the effort resulting in the  
21 forfeiture, taking into account the total value of the  
22 property forfeited and the total law enforcement effort  
23 with respect to the violation of the law upon which the  
24 forfeiture is based. Amounts distributed to the agency or  
25 agencies shall be used for the enforcement of laws

1 governing cannabis and controlled substances; for public  
2 education in the community or schools in the prevention or  
3 detection of the abuse of drugs or alcohol; or for security  
4 cameras used for the prevention or detection of violence,  
5 except that amounts distributed to the Secretary of State  
6 shall be deposited into the Secretary of State Evidence  
7 Fund to be used as provided in Section 2-115 of the  
8 Illinois Vehicle Code.

9 (ii) Any local, municipal, or county law enforcement  
10 agency entitled to receive a monetary distribution of  
11 forfeiture proceeds may share those forfeiture proceeds  
12 pursuant to the terms of an intergovernmental agreement  
13 with a municipality that has a population in excess of  
14 20,000 if:

15 (A) the receiving agency has entered into an  
16 intergovernmental agreement with the municipality to  
17 provide police services;

18 (B) the intergovernmental agreement for police  
19 services provides for consideration in an amount of not  
20 less than \$1,000,000 per year;

21 (C) the seizure took place within the geographical  
22 limits of the municipality; and

23 (D) the funds are used only for the enforcement of  
24 laws governing cannabis and controlled substances; for  
25 public education in the community or schools in the  
26 prevention or detection of the abuse of drugs or

1 alcohol; for the training of school resource officers  
2 in the prevention of drug abuse in schools; or for  
3 security cameras used for the prevention or detection  
4 of violence or the establishment of a municipal police  
5 force, including the training of officers,  
6 construction of a police station, or the purchase of  
7 law enforcement equipment or vehicles.

8 (2) (i) 12.5% shall be distributed to the Office of the  
9 State's Attorney of the county in which the prosecution  
10 resulting in the forfeiture was instituted, deposited in a  
11 special fund in the county treasury and appropriated to the  
12 State's Attorney for use in the enforcement of laws  
13 governing cannabis and controlled substances; for public  
14 education in the community or schools in the prevention or  
15 detection of the abuse of drugs or alcohol; or at the  
16 discretion of the State's Attorney, in addition to other  
17 authorized purposes, to make grants to local substance  
18 abuse treatment facilities and half-way houses. In  
19 counties over 3,000,000 population, 25% shall be  
20 distributed to the Office of the State's Attorney for use  
21 in the enforcement of laws governing cannabis and  
22 controlled substances; for public education in the  
23 community or schools in the prevention or detection of the  
24 abuse of drugs or alcohol; or at the discretion of the  
25 State's Attorney, in addition to other authorized  
26 purposes, to make grants to local substance abuse treatment



1 facilities and half-way houses. If the prosecution is  
2 undertaken solely by the Attorney General, the portion  
3 provided shall be distributed to the Attorney General for  
4 use in the enforcement of laws governing cannabis and  
5 controlled substances or for public education in the  
6 community or schools in the prevention or detection of the  
7 abuse of drugs or alcohol.

8 (ii) 12.5% shall be distributed to the Office of the  
9 State's Attorneys Appellate Prosecutor and deposited in  
10 the Narcotics Profit Forfeiture Fund of that office to be  
11 used for additional expenses incurred in the  
12 investigation, prosecution and appeal of cases arising  
13 under laws governing cannabis and controlled substances or  
14 for public education in the community or schools in the  
15 prevention or detection of the abuse of drugs or alcohol.  
16 The Office of the State's Attorneys Appellate Prosecutor  
17 shall not receive distribution from cases brought in  
18 counties with over 3,000,000 population.

19 (3) 10% shall be retained by the Department of State  
20 Police for expenses related to the administration and sale  
21 of seized and forfeited property.

22 (Source: P.A. 100-512, eff. 7-1-18.)

1 INDEX

2 Statutes amended in order of appearance

3 50 ILCS 705/10.22 new

4 105 ILCS 5/1-3 from Ch. 122, par. 1-3

5 105 ILCS 5/10-20.67 new

6 105 ILCS 5/27-23.7

7 105 ILCS 5/34-18.60 new

8 720 ILCS 5/11-20.1 from Ch. 38, par. 11-20.1

9 725 ILCS 150/17