

1 AN ACT in relation to criminal law.

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

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) (from Ch. 38, par. 1005-5-3.2)

7 Sec. 5-5-3.2. Factors in Aggravation.

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

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

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

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

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

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

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

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

31 (8) the defendant committed the offense against a

1 person 60 years of age or older or such person's
2 property;

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

6 (10) by reason of another individual's actual or
7 perceived race, color, creed, religion, ancestry, gender,
8 sexual orientation, physical or mental disability, or
9 national origin, the defendant committed the offense
10 against (i) the person or property of that individual;
11 (ii) the person or property of a person who has an
12 association with, is married to, or has a friendship with
13 the other individual; or (iii) the person or property of
14 a relative (by blood or marriage) of a person described
15 in clause (i) or (ii). For the purposes of this Section,
16 "sexual orientation" means heterosexuality,
17 homosexuality, or bisexuality;

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

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

33 (13) the defendant committed or attempted to commit
34 a felony while he was wearing a bulletproof vest. For

1 the purposes of this paragraph (13), a bulletproof vest
2 is any device which is designed for the purpose of
3 protecting the wearer from bullets, shot or other lethal
4 projectiles;

5 (14) the defendant held a position of trust or
6 supervision such as, but not limited to, family member as
7 defined in Section 12-12 of the Criminal Code of 1961,
8 teacher, scout leader, baby sitter, or day care worker,
9 in relation to a victim under 18 years of age, and the
10 defendant committed an offense in violation of Section
11 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
12 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of
13 1961 against that victim;

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

19 (16) the defendant committed an offense in
20 violation of one of the following Sections while in a
21 school, regardless of the time of day or time of year; on
22 any conveyance owned, leased, or contracted by a school
23 to transport students to or from school or a school
24 related activity; on the real property of a school; or on
25 a public way within 1,000 feet of the real property
26 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,
27 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
28 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
29 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
30 1961;

31 (16.5) the defendant committed an offense in
32 violation of one of the following Sections while in a day
33 care center, regardless of the time of day or time of
34 year; on the real property of a day care center,

1 regardless of the time of day or time of year; or on a
2 public way within 1,000 feet of the real property
3 comprising any day care center, regardless of the time of
4 day or time of year: Section 10-1, 10-2, 10-5, 11-15.1,
5 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
6 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
7 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
8 1961;

9 (17) the defendant committed the offense by reason
10 of any person's activity as a community policing
11 volunteer or to prevent any person from engaging in
12 activity as a community policing volunteer. For the
13 purpose of this Section, "community policing volunteer"
14 has the meaning ascribed to it in Section 2-3.5 of the
15 Criminal Code of 1961;

16 (18) the defendant committed the offense in a
17 nursing home or on the real property comprising a nursing
18 home. For the purposes of this paragraph (18), "nursing
19 home" means a skilled nursing or intermediate long term
20 care facility that is subject to license by the Illinois
21 Department of Public Health under the Nursing Home Care
22 Act; or

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

30 For the purposes of this Section:

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

33 "Day care center" means a public or private State
34 certified and licensed day care center as defined in Section

1 2.09 of the Child Care Act of 1969 that displays a sign in
2 plain view stating that the property is a day care center.

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

6 (1) When a defendant is convicted of any felony,
7 after having been previously convicted in Illinois or any
8 other jurisdiction of the same or similar class felony or
9 greater class felony, when such conviction has occurred
10 within 10 years after the previous conviction, excluding
11 time spent in custody, and such charges are separately
12 brought and tried and arise out of different series of
13 acts; or

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

18 (3) When a defendant is convicted of voluntary
19 manslaughter, second degree murder, involuntary
20 manslaughter or reckless homicide in which the defendant
21 has been convicted of causing the death of more than one
22 individual; or

23 (4) When a defendant is convicted of any felony
24 committed against:

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

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

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

31 (5) In the case of a defendant convicted of
32 aggravated criminal sexual assault or criminal sexual
33 assault, when the court finds that aggravated criminal
34 sexual assault or criminal sexual assault was also

1 committed on the same victim by one or more other
2 individuals, and the defendant voluntarily participated
3 in the crime with the knowledge of the participation of
4 the others in the crime, and the commission of the crime
5 was part of a single course of conduct during which there
6 was no substantial change in the nature of the criminal
7 objective; or

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

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

16 (ii) the theft of human corpses;

17 (iii) the kidnapping of humans;

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

21 (v) ritualized abuse of a child; or

22 (7) When a defendant is convicted of first degree
23 murder, after having been previously convicted in
24 Illinois of any offense listed under paragraph (c)(2) of
25 Section 5-5-3, when such conviction has occurred within
26 10 years after the previous conviction, excluding time
27 spent in custody, and such charges are separately brought
28 and tried and arise out of different series of acts; or

29 (8) When a defendant is convicted of a felony other
30 than conspiracy and the court finds that the felony was
31 committed under an agreement with 2 or more other persons
32 to commit that offense and the defendant, with respect to
33 the other individuals, occupied a position of organizer,
34 supervisor, financier, or any other position of

1 management or leadership, and the court further finds
2 that the felony committed was related to or in
3 furtherance of the criminal activities of an organized
4 gang or was motivated by the defendant's leadership in an
5 organized gang; or

6 (9) When a defendant is convicted of a felony
7 violation of Section 24-1 of the Criminal Code of 1961
8 and the court finds that the defendant is a member of an
9 organized gang; or

10 (10) When a defendant committed the offense using a
11 firearm with a laser sight attached to it. For purposes
12 of this paragraph (10), "laser sight" has the meaning
13 ascribed to it in Section 24.6-5 of the Criminal Code of
14 1961; or

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

23 (12) When a defendant commits an offense involving
24 the illegal manufacture of a controlled substance under
25 Section 401 of the Illinois Controlled Substances Act or
26 the illegal possession of explosives and an emergency
27 response officer in the performance of his or her duties
28 is killed or injured at the scene of the offense while
29 responding to the emergency caused by the commission of
30 the offense. In this paragraph (12), "emergency" means a
31 situation in which a person's life, health, or safety is
32 in jeopardy; and "emergency response officer" means a
33 peace officer, community policing volunteer, fireman,
34 emergency medical technician-ambulance, emergency medical

1 technician-intermediate, emergency medical
2 technician-paramedic, ambulance driver, other medical
3 assistance or first aid personnel, or hospital emergency
4 room personnel.

5 (b-1) For the purposes of this Section, "organized gang"
6 has the meaning ascribed to it in Section 10 of the Illinois
7 Streetgang Terrorism Omnibus Prevention Act.

8 (c) The court may impose an extended term sentence under
9 Section 5-8-2 upon any offender who was convicted of
10 aggravated criminal sexual assault or predatory criminal
11 sexual assault of a child under subsection (a)(1) of Section
12 12-14.1 of the Criminal Code of 1961 where the victim was
13 under 18 years of age at the time of the commission of the
14 offense.

15 (d) The court may impose an extended term sentence under
16 Section 5-8-2 upon any offender who was convicted of unlawful
17 use of weapons under Section 24-1 of the Criminal Code of
18 1961 for possessing a weapon that is not readily
19 distinguishable as one of the weapons enumerated in Section
20 24-1 of the Criminal Code of 1961.

21 (e) The court may impose an extended term sentence under
22 Section 5-8-2 upon any offender who was convicted of
23 aggravated criminal sexual assault or aggravated criminal
24 sexual abuse if the offense was committed while the victim
25 was under the influence of flunitrazepam (Rohypnol) or gamma
26 hydroxybutyric acid (GHB) or upon any offender who commits
27 the offense of aggravated battery under subsection (c) of
28 Section 12-4 of the Criminal Code of 1961 by administering
29 flunitrazepam or gamma hydroxybutyric acid to a person under
30 18 years of age who is the victim of the offense.

31 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;
32 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff.
33 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696,
34 eff. 4-13-00; 92-266, eff. 1-1-02.)