

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 12-16 as follows:

6 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

7 Sec. 12-16. Aggravated Criminal Sexual Abuse.

8 (a) The accused commits aggravated criminal sexual abuse if
9 he or she commits criminal sexual abuse as defined in
10 subsection (a) of Section 12-15 of this Code and any of the
11 following aggravating circumstances existed during, or for the
12 purposes of paragraph (7) of this subsection (a) as part of the
13 same course of conduct as, the commission of the offense:

14 (1) the accused displayed, threatened to use or used a
15 dangerous weapon or any object fashioned or utilized in
16 such a manner as to lead the victim under the circumstances
17 reasonably to believe it to be a dangerous weapon; or

18 (2) the accused caused bodily harm to the victim; or

19 (3) the victim was 60 years of age or over when the
20 offense was committed; or

21 (4) the victim was a physically handicapped person; or

22 (5) the accused acted in such a manner as to threaten
23 or endanger the life of the victim or any other person; or

1 (6) the criminal sexual abuse was perpetrated during
2 the course of the commission or attempted commission of any
3 other felony by the accused; or

4 (7) the accused delivered (by injection, inhalation,
5 ingestion, transfer of possession, or any other means) to
6 the victim without his or her consent, or by threat or
7 deception, and for other than medical purposes, any
8 controlled substance.

9 (b) The accused commits aggravated criminal sexual abuse if
10 he or she commits an act of sexual conduct with a victim who
11 was under 18 years of age when the act was committed and the
12 accused was a family member.

13 (c) The accused commits aggravated criminal sexual abuse
14 if:

15 (1) the accused was 17 years of age or over and (i)
16 commits an act of sexual conduct with a victim who was
17 under 13 years of age when the act was committed; or (ii)
18 commits an act of sexual conduct with a victim who was at
19 least 13 years of age but under 17 years of age when the
20 act was committed and the accused used force or threat of
21 force to commit the act; or

22 (2) the accused was under 17 years of age and (i)
23 commits an act of sexual conduct with a victim who was
24 under 9 years of age when the act was committed; or (ii)
25 commits an act of sexual conduct with a victim who was at
26 least 9 years of age but under 17 years of age when the act

1 was committed and the accused used force or threat of force
2 to commit the act.

3 (d) The accused commits aggravated criminal sexual abuse if
4 he or she commits an act of sexual penetration or sexual
5 conduct with a victim who was at least 13 years of age but
6 under 17 years of age and the accused was at least 5 years
7 older than the victim.

8 (e) The accused commits aggravated criminal sexual abuse if
9 he or she commits an act of sexual conduct with a victim who
10 was a severely or profoundly mentally retarded person at the
11 time the act was committed.

12 (f) The accused commits aggravated criminal sexual abuse if
13 he or she commits an act of sexual conduct with a victim who
14 was at least 13 years of age but under 18 years of age when the
15 act was committed and the accused was 17 years of age or over
16 and held a position of trust, authority or supervision in
17 relation to the victim.

18 (g) Sentence.

19 (1) Aggravated criminal sexual abuse is a Class 2 felony.

20 (2) A person who is convicted of a second or subsequent
21 offense of aggravated criminal sexual abuse, or who is
22 convicted of the offense of aggravated criminal sexual abuse
23 after having previously been convicted of the offense of
24 criminal sexual abuse, or who is convicted of the offense of
25 aggravated criminal sexual abuse after having previously been
26 convicted under the laws of this or any other state of an

1 offense that is substantially equivalent to the offense of
2 criminal sexual abuse or the offense of aggravated criminal
3 sexual abuse, is guilty of a Class 1 felony. The commission of
4 the second or subsequent offense is required to have been after
5 the initial conviction for this paragraph (2) to apply.

6 (Source: P.A. 92-434, eff. 1-1-02.)

7 Section 99. Effective date. This Act takes effect January
8 1, 2009.