



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6226

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/12-3.05	was 720 ILCS 5/12-4
730 ILCS 5/5-5-3.2	

Amends the Criminal Code of 1961. Provides that a person commits aggravated assault or aggravated battery when he or she, in committing the assault or battery, knowingly video or audio records the offense with the intent to disseminate the recording. Provides that an aggravated assault committed under these circumstances is a Class 4 felony and an aggravated battery committed under these circumstances is a Class 3 felony. Amends the Unified Code of Corrections. Provides that the court may impose an extended term sentence when a defendant commits any felony and the defendant knowingly video or audio records the offense with the intent to disseminate the recording.

LRB097 22419 MRW 71176 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 12-2 and 12-3.05 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) Offense based on location of conduct. A person commits
9 aggravated assault when he or she commits an assault against an
10 individual who is on or about a public way, public property, a
11 public place of accommodation or amusement, or a sports venue.

12 (b) Offense based on status of victim. A person commits
13 aggravated assault when, in committing an assault, he or she
14 knows the individual assaulted to be any of the following:

15 (1) A physically handicapped person or a person 60
16 years of age or older and the assault is without legal
17 justification.

18 (2) A teacher or school employee upon school grounds or
19 grounds adjacent to a school or in any part of a building
20 used for school purposes.

21 (3) A park district employee upon park grounds or
22 grounds adjacent to a park or in any part of a building
23 used for park purposes.

1 (4) A peace officer, community policing volunteer,
2 fireman, private security officer, emergency management
3 worker, emergency medical technician, or utility worker:

4 (i) performing his or her official duties;

5 (ii) assaulted to prevent performance of his or her
6 official duties; or

7 (iii) assaulted in retaliation for performing his
8 or her official duties.

9 (5) A correctional officer or probation officer:

10 (i) performing his or her official duties;

11 (ii) assaulted to prevent performance of his or her
12 official duties; or

13 (iii) assaulted in retaliation for performing his
14 or her official duties.

15 (6) A correctional institution employee, a county
16 juvenile detention center employee who provides direct and
17 continuous supervision of residents of a juvenile
18 detention center, including a county juvenile detention
19 center employee who supervises recreational activity for
20 residents of a juvenile detention center, or a Department
21 of Human Services employee, Department of Human Services
22 officer, or employee of a subcontractor of the Department
23 of Human Services supervising or controlling sexually
24 dangerous persons or sexually violent persons:

25 (i) performing his or her official duties;

26 (ii) assaulted to prevent performance of his or her

1 official duties; or

2 (iii) assaulted in retaliation for performing his
3 or her official duties.

4 (7) An employee of the State of Illinois, a municipal
5 corporation therein, or a political subdivision thereof,
6 performing his or her official duties.

7 (8) A transit employee performing his or her official
8 duties, or a transit passenger.

9 (9) A sports official or coach actively participating
10 in any level of athletic competition within a sports venue,
11 on an indoor playing field or outdoor playing field, or
12 within the immediate vicinity of such a facility or field.

13 (10) A person authorized to serve process under Section
14 2-202 of the Code of Civil Procedure or a special process
15 server appointed by the circuit court, while that
16 individual is in the performance of his or her duties as a
17 process server.

18 (c) Offense based on use of firearm, device, or motor
19 vehicle. A person commits aggravated assault when, in
20 committing an assault, he or she does any of the following:

21 (1) Uses a deadly weapon, an air rifle as defined in
22 the Air Rifle Act, or any device manufactured and designed
23 to be substantially similar in appearance to a firearm,
24 other than by discharging a firearm.

25 (2) Discharges a firearm, other than from a motor
26 vehicle.

1 (3) Discharges a firearm from a motor vehicle.

2 (4) Wears a hood, robe, or mask to conceal his or her
3 identity.

4 (5) Knowingly and without lawful justification shines
5 or flashes a laser gun sight or other laser device attached
6 to a firearm, or used in concert with a firearm, so that
7 the laser beam strikes near or in the immediate vicinity of
8 any person.

9 (6) Uses a firearm, other than by discharging the
10 firearm, against a peace officer, community policing
11 volunteer, fireman, private security officer, emergency
12 management worker, emergency medical technician, employee
13 of a police department, employee of a sheriff's department,
14 or traffic control municipal employee:

15 (i) performing his or her official duties;

16 (ii) assaulted to prevent performance of his or her
17 official duties; or

18 (iii) assaulted in retaliation for performing his
19 or her official duties.

20 (7) Without justification operates a motor vehicle in a
21 manner which places a person, other than a person listed in
22 subdivision (b)(4), in reasonable apprehension of being
23 struck by the moving motor vehicle.

24 (8) Without justification operates a motor vehicle in a
25 manner which places a person listed in subdivision (b)(4),
26 in reasonable apprehension of being struck by the moving

1 motor vehicle.

2 (9) Knowingly video or audio records the offense with
3 the intent to disseminate the recording.

4 (d) Sentence. Aggravated assault as defined in subdivision
5 (a), (b) (1), (b) (2), (b) (3), (b) (4), (b) (7), (b) (8), (b) (9),
6 (c) (1), or (c) (4) is a Class A misdemeanor, except that
7 aggravated assault as defined in subdivision (b) (4) and (b) (7)
8 is a Class 4 felony if a Category I, Category II, or Category
9 III weapon is used in the commission of the assault. Aggravated
10 assault as defined in subdivision (b) (5), (b) (6), (b) (10),
11 (c) (2), (c) (5), (c) (6), ~~or~~ (c) (7), or (c) (9) is a Class 4
12 felony. Aggravated assault as defined in subdivision (c) (3) or
13 (c) (8) is a Class 3 felony.

14 (e) For the purposes of this Section, "Category I weapon",
15 "Category II weapon, and "Category III weapon" have the
16 meanings ascribed to those terms in Section 33A-1 of this Code.
17 ~~an employee of a county juvenile detention center who provides~~
18 ~~direct and continuous supervision of residents of a juvenile~~
19 ~~detention center, including an employee of a county juvenile~~
20 ~~detention center who supervises recreational activity for~~
21 ~~residents of a juvenile detention center,~~

22 ~~or~~

23 ~~(20) Knows the individual assaulted to be either:~~

24 ~~(A) a person authorized to serve process under~~
25 ~~Section 2-202 of the Code of Civil Procedure; or~~

26 ~~(B) a special process server appointed by the~~

1 ~~circuit court;~~
2 ~~while that individual is in the performance of his or her~~
3 ~~duties as a process server.~~

4 ~~, and (20)~~

5 (Source: P.A. 96-201, eff. 8-10-09; 96-1000, eff. 7-2-10;
6 96-1109, eff. 1-1-11; 96-1398, eff. 7-29-10; 96-1551, eff.
7 7-1-11; 97-225, eff. 7-28-11; 97-313, eff. 1-1-12; 97-333, eff.
8 8-12-11; revised 9-12-11.)

9 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

10 Sec. 12-3.05. Aggravated battery.

11 (a) Offense based on injury. A person commits aggravated
12 battery when, in committing a battery, other than by the
13 discharge of a firearm, he or she knowingly does any of the
14 following:

15 (1) Causes great bodily harm or permanent disability or
16 disfigurement.

17 (2) Causes severe and permanent disability, great
18 bodily harm, or disfigurement by means of a caustic or
19 flammable substance, a poisonous gas, a deadly biological
20 or chemical contaminant or agent, a radioactive substance,
21 or a bomb or explosive compound.

22 (3) Causes great bodily harm or permanent disability or
23 disfigurement to an individual whom the person knows to be
24 a peace officer, community policing volunteer, fireman,
25 private security officer, correctional institution

1 employee, or Department of Human Services employee
2 supervising or controlling sexually dangerous persons or
3 sexually violent persons:

4 (i) performing his or her official duties;

5 (ii) battered to prevent performance of his or her
6 official duties; or

7 (iii) battered in retaliation for performing his
8 or her official duties.

9 (4) Causes great bodily harm or permanent disability or
10 disfigurement to an individual 60 years of age or older.

11 (5) Strangles another individual.

12 (b) Offense based on injury to a child or intellectually
13 disabled ~~mentally retarded~~ person. A person who is at least 18
14 years of age commits aggravated battery when, in committing a
15 battery, he or she knowingly and without legal justification by
16 any means:

17 (1) causes great bodily harm or permanent disability or
18 disfigurement to any child under the age of 13 years, or to
19 any severely or profoundly intellectually disabled
20 ~~mentally retarded~~ person; or

21 (2) causes bodily harm or disability or disfigurement
22 to any child under the age of 13 years or to any severely
23 or profoundly intellectually disabled ~~mentally retarded~~
24 person.

25 (c) Offense based on location of conduct. A person commits
26 aggravated battery when, in committing a battery, other than by

1 the discharge of a firearm, he or she is or the person battered
2 is on or about a public way, public property, a public place of
3 accommodation or amusement, a sports venue, or a domestic
4 violence shelter.

5 (d) Offense based on status of victim. A person commits
6 aggravated battery when, in committing a battery, other than by
7 discharge of a firearm, he or she knows the individual battered
8 to be any of the following:

9 (1) A person 60 years of age or older.

10 (2) A person who is pregnant or physically handicapped.

11 (3) A teacher or school employee upon school grounds or
12 grounds adjacent to a school or in any part of a building
13 used for school purposes.

14 (4) A peace officer, community policing volunteer,
15 fireman, private security officer, correctional
16 institution employee, or Department of Human Services
17 employee supervising or controlling sexually dangerous
18 persons or sexually violent persons:

19 (i) performing his or her official duties;

20 (ii) battered to prevent performance of his or her
21 official duties; or

22 (iii) battered in retaliation for performing his
23 or her official duties.

24 (5) A judge, emergency management worker, emergency
25 medical technician, or utility worker:

26 (i) performing his or her official duties;

1 (ii) battered to prevent performance of his or her
2 official duties; or

3 (iii) battered in retaliation for performing his
4 or her official duties.

5 (6) An officer or employee of the State of Illinois, a
6 unit of local government, or a school district, while
7 performing his or her official duties.

8 (7) A transit employee performing his or her official
9 duties, or a transit passenger.

10 (8) A taxi driver on duty.

11 (9) A merchant who detains the person for an alleged
12 commission of retail theft under Section 16-26 of this Code
13 and the person without legal justification by any means
14 causes bodily harm to the merchant.

15 (10) A person authorized to serve process under Section
16 2-202 of the Code of Civil Procedure or a special process
17 server appointed by the circuit court while that individual
18 is in the performance of his or her duties as a process
19 server.

20 (e) Offense based on use of a firearm. A person commits
21 aggravated battery when, in committing a battery, he or she
22 knowingly does any of the following:

23 (1) Discharges a firearm, other than a machine gun or a
24 firearm equipped with a silencer, and causes any injury to
25 another person.

26 (2) Discharges a firearm, other than a machine gun or a

1 firearm equipped with a silencer, and causes any injury to
2 a person he or she knows to be a peace officer, community
3 policing volunteer, person summoned by a police officer,
4 fireman, private security officer, correctional
5 institution employee, or emergency management worker:

6 (i) performing his or her official duties;

7 (ii) battered to prevent performance of his or her
8 official duties; or

9 (iii) battered in retaliation for performing his
10 or her official duties.

11 (3) Discharges a firearm, other than a machine gun or a
12 firearm equipped with a silencer, and causes any injury to
13 a person he or she knows to be an emergency medical
14 technician employed by a municipality or other
15 governmental unit:

16 (i) performing his or her official duties;

17 (ii) battered to prevent performance of his or her
18 official duties; or

19 (iii) battered in retaliation for performing his
20 or her official duties.

21 (4) Discharges a firearm and causes any injury to a
22 person he or she knows to be a teacher, a student in a
23 school, or a school employee, and the teacher, student, or
24 employee is upon school grounds or grounds adjacent to a
25 school or in any part of a building used for school
26 purposes.

1 (5) Discharges a machine gun or a firearm equipped with
2 a silencer, and causes any injury to another person.

3 (6) Discharges a machine gun or a firearm equipped with
4 a silencer, and causes any injury to a person he or she
5 knows to be a peace officer, community policing volunteer,
6 person summoned by a police officer, fireman, private
7 security officer, correctional institution employee or
8 emergency management worker:

9 (i) performing his or her official duties;

10 (ii) battered to prevent performance of his or her
11 official duties; or

12 (iii) battered in retaliation for performing his
13 or her official duties.

14 (7) Discharges a machine gun or a firearm equipped with
15 a silencer, and causes any injury to a person he or she
16 knows to be an emergency medical technician employed by a
17 municipality or other governmental unit:

18 (i) performing his or her official duties;

19 (ii) battered to prevent performance of his or her
20 official duties; or

21 (iii) battered in retaliation for performing his
22 or her official duties.

23 (8) Discharges a machine gun or a firearm equipped with
24 a silencer, and causes any injury to a person he or she
25 knows to be a teacher, or a student in a school, or a
26 school employee, and the teacher, student, or employee is

1 upon school grounds or grounds adjacent to a school or in
2 any part of a building used for school purposes.

3 (f) Offense based on use of a weapon or device. A person
4 commits aggravated battery when, in committing a battery, he or
5 she does any of the following:

6 (1) Uses a deadly weapon other than by discharge of a
7 firearm, or uses an air rifle as defined in the Air Rifle
8 Act.

9 (2) Wears a hood, robe, or mask to conceal his or her
10 identity.

11 (3) Knowingly and without lawful justification shines
12 or flashes a laser gunsight or other laser device attached
13 to a firearm, or used in concert with a firearm, so that
14 the laser beam strikes upon or against the person of
15 another.

16 (4) Knowingly video or audio records the offense with
17 the intent to disseminate the recording.

18 (g) Offense based on certain conduct. A person commits
19 aggravated battery when, other than by discharge of a firearm,
20 he or she does any of the following:

21 (1) Violates Section 401 of the Illinois Controlled
22 Substances Act by unlawfully delivering a controlled
23 substance to another and any user experiences great bodily
24 harm or permanent disability as a result of the injection,
25 inhalation, or ingestion of any amount of the controlled
26 substance.

1 (2) Knowingly administers to an individual or causes
2 him or her to take, without his or her consent or by threat
3 or deception, and for other than medical purposes, any
4 intoxicating, poisonous, stupefying, narcotic, anesthetic,
5 or controlled substance, or gives to another person any
6 food containing any substance or object intended to cause
7 physical injury if eaten.

8 (3) Knowingly causes or attempts to cause a
9 correctional institution employee or Department of Human
10 Services employee to come into contact with blood, seminal
11 fluid, urine, or feces by throwing, tossing, or expelling
12 the fluid or material, and the person is an inmate of a
13 penal institution or is a sexually dangerous person or
14 sexually violent person in the custody of the Department of
15 Human Services.

16 (h) Sentence. Unless otherwise provided, aggravated
17 battery is a Class 3 felony.

18 Aggravated battery as defined in subdivision (a)(4),
19 (d)(4), or (g)(3) is a Class 2 felony.

20 Aggravated battery as defined in subdivision (a)(3) or
21 (g)(1) is a Class 1 felony.

22 Aggravated battery as defined in subdivision (a)(1) is a
23 Class 1 felony when the aggravated battery was intentional and
24 involved the infliction of torture, as defined in paragraph
25 (14) of subsection (b) of Section 9-1 of this Code, as the
26 infliction of or subjection to extreme physical pain, motivated

1 by an intent to increase or prolong the pain, suffering, or
2 agony of the victim.

3 Aggravated battery under subdivision (a)(5) is a Class 1
4 felony if:

5 (A) the person used or attempted to use a dangerous
6 instrument while committing the offense; or

7 (B) the person caused great bodily harm or permanent
8 disability or disfigurement to the other person while
9 committing the offense; or

10 (C) the person has been previously convicted of a
11 violation of subdivision (a)(5) under the laws of this
12 State or laws similar to subdivision (a)(5) of any other
13 state.

14 Aggravated battery as defined in subdivision (e)(1) is a
15 Class X felony.

16 Aggravated battery as defined in subdivision (a)(2) is a
17 Class X felony for which a person shall be sentenced to a term
18 of imprisonment of a minimum of 6 years and a maximum of 45
19 years.

20 Aggravated battery as defined in subdivision (e)(5) is a
21 Class X felony for which a person shall be sentenced to a term
22 of imprisonment of a minimum of 12 years and a maximum of 45
23 years.

24 Aggravated battery as defined in subdivision (e)(2),
25 (e)(3), or (e)(4) is a Class X felony for which a person shall
26 be sentenced to a term of imprisonment of a minimum of 15 years

1 and a maximum of 60 years.

2 Aggravated battery as defined in subdivision (e)(6),
3 (e)(7), or (e)(8) is a Class X felony for which a person shall
4 be sentenced to a term of imprisonment of a minimum of 20 years
5 and a maximum of 60 years.

6 Aggravated battery as defined in subdivision (b)(1) is a
7 Class X felony, except that:

8 (1) if the person committed the offense while armed
9 with a firearm, 15 years shall be added to the term of
10 imprisonment imposed by the court;

11 (2) if, during the commission of the offense, the
12 person personally discharged a firearm, 20 years shall be
13 added to the term of imprisonment imposed by the court;

14 (3) if, during the commission of the offense, the
15 person personally discharged a firearm that proximately
16 caused great bodily harm, permanent disability, permanent
17 disfigurement, or death to another person, 25 years or up
18 to a term of natural life shall be added to the term of
19 imprisonment imposed by the court.

20 (i) Definitions. For the purposes of this Section:

21 "Building or other structure used to provide shelter" has
22 the meaning ascribed to "shelter" in Section 1 of the Domestic
23 Violence Shelters Act.

24 "Domestic violence" has the meaning ascribed to it in
25 Section 103 of the Illinois Domestic Violence Act of 1986.

26 "Domestic violence shelter" means any building or other

1 structure used to provide shelter or other services to victims
2 or to the dependent children of victims of domestic violence
3 pursuant to the Illinois Domestic Violence Act of 1986 or the
4 Domestic Violence Shelters Act, or any place within 500 feet of
5 such a building or other structure in the case of a person who
6 is going to or from such a building or other structure.

7 "Firearm" has the meaning provided under Section 1.1 of the
8 Firearm Owners Identification Card Act, and does not include an
9 air rifle as defined by Section 1 of the Air Rifle Act.

10 "Machine gun" has the meaning ascribed to it in Section
11 24-1 of this Code.

12 "Merchant" has the meaning ascribed to it in Section 16-0.1
13 of this Code.

14 "Strangle" means intentionally impeding the normal
15 breathing or circulation of the blood of an individual by
16 applying pressure on the throat or neck of that individual or
17 by blocking the nose or mouth of that individual.

18 (Source: P.A. 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
19 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-597, eff.
20 1-1-12; incorporates 97-227, eff. 1-1-12, 97-313, eff. 1-1-12,
21 and 97-467, eff. 1-1-12; revised 10-12-11.)

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

24 (730 ILCS 5/5-5-3.2)

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

3 (a) The following factors shall be accorded weight in favor
4 of imposing a term of imprisonment or may be considered by the
5 court as reasons to impose a more severe sentence under Section
6 5-8-1 or Article 4.5 of Chapter V:

7 (1) the defendant's conduct caused or threatened
8 serious harm;

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

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

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

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

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

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

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

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

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

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

22 (12) the defendant was convicted of a felony committed
23 while he was released on bail or his own recognizance
24 pending trial for a prior felony and was convicted of such
25 prior felony, or the defendant was convicted of a felony
26 committed while he was serving a period of probation,

1 conditional discharge, or mandatory supervised release
2 under subsection (d) of Section 5-8-1 for a prior felony;

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

8 (14) the defendant held a position of trust or
9 supervision such as, but not limited to, family member as
10 defined in Section 11-0.1 of the Criminal Code of 1961,
11 teacher, scout leader, baby sitter, or day care worker, in
12 relation to a victim under 18 years of age, and the
13 defendant committed an offense in violation of Section
14 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
15 11-14.4 except for an offense that involves keeping a place
16 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
17 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
18 or 12-16 of the Criminal Code of 1961 against that victim;

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

24 (16) the defendant committed an offense in violation of
25 one of the following Sections while in a school, regardless
26 of the time of day or time of year; on any conveyance

1 owned, leased, or contracted by a school to transport
2 students to or from school or a school related activity; on
3 the real property of a school; or on a public way within
4 1,000 feet of the real property comprising any school:
5 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
6 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
7 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
8 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
9 18-2, or 33A-2, or Section 12-3.05 except for subdivision
10 (a) (4) or (g) (1), of the Criminal Code of 1961;

11 (16.5) the defendant committed an offense in violation
12 of one of the following Sections while in a day care
13 center, regardless of the time of day or time of year; on
14 the real property of a day care center, regardless of the
15 time of day or time of year; or on a public way within
16 1,000 feet of the real property comprising any day care
17 center, regardless of the time of day or time of year:
18 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
19 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
20 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
21 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
22 18-2, or 33A-2, or Section 12-3.05 except for subdivision
23 (a) (4) or (g) (1), of the Criminal Code of 1961;

24 (17) the defendant committed the offense by reason of
25 any person's activity as a community policing volunteer or
26 to prevent any person from engaging in activity as a

1 community policing volunteer. For the purpose of this
2 Section, "community policing volunteer" has the meaning
3 ascribed to it in Section 2-3.5 of the Criminal Code of
4 1961;

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

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

19 (20) the defendant (i) committed the offense of
20 reckless homicide under Section 9-3 of the Criminal Code of
21 1961 or the offense of driving under the influence of
22 alcohol, other drug or drugs, intoxicating compound or
23 compounds or any combination thereof under Section 11-501
24 of the Illinois Vehicle Code or a similar provision of a
25 local ordinance and (ii) was operating a motor vehicle in
26 excess of 20 miles per hour over the posted speed limit as

1 provided in Article VI of Chapter 11 of the Illinois
2 Vehicle Code;

3 (21) the defendant (i) committed the offense of
4 reckless driving or aggravated reckless driving under
5 Section 11-503 of the Illinois Vehicle Code and (ii) was
6 operating a motor vehicle in excess of 20 miles per hour
7 over the posted speed limit as provided in Article VI of
8 Chapter 11 of the Illinois Vehicle Code;

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

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

21 (24) the defendant committed any offense under Section
22 11-20.1 of the Criminal Code of 1961 and possessed 100 or
23 more images;

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

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

15 (27) the defendant committed the offense of first
16 degree murder, assault, aggravated assault, battery,
17 aggravated battery, robbery, armed robbery, or aggravated
18 robbery against a person who was a veteran and the
19 defendant knew, or reasonably should have known, that the
20 person was a veteran performing duties as a representative
21 of a veterans' organization. For the purposes of this
22 paragraph (27), "veteran" means an Illinois resident who
23 has served as a member of the United States Armed Forces, a
24 member of the Illinois National Guard, or a member of the
25 United States Reserve Forces; and "veterans' organization"
26 means an organization comprised of members of which

1 substantially all are individuals who are veterans or
2 spouses, widows, or widowers of veterans, the primary
3 purpose of which is to promote the welfare of its members
4 and to provide assistance to the general public in such a
5 way as to confer a public benefit.

6 For the purposes of this Section:

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

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

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

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

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

26 (2) When a defendant is convicted of any felony and the

1 court finds that the offense was accompanied by
2 exceptionally brutal or heinous behavior indicative of
3 wanton cruelty; or

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

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

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

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

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

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

20 (ii) the theft of human corpses;

21 (iii) the kidnapping of humans;

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

25 (v) ritualized abuse of a child; or

26 (5) When a defendant is convicted of a felony other

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

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

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

23 (8) When a defendant commits any felony and the
24 defendant used, possessed, exercised control over, or
25 otherwise directed an animal to assault a law enforcement
26 officer engaged in the execution of his or her official

1 duties or in furtherance of the criminal activities of an
2 organized gang in which the defendant is engaged.

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

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

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

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

24 (2) When a defendant is convicted of voluntary
25 manslaughter, second degree murder, involuntary
26 manslaughter, or reckless homicide in which the defendant

1 has been convicted of causing the death of more than one
2 individual.

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

13 (4) If the victim was under 18 years of age at the time
14 of the commission of the offense, when a defendant is
15 convicted of aggravated criminal sexual assault or
16 predatory criminal sexual assault of a child under
17 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
18 of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS
19 5/11-1.40 or 5/12-14.1).

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

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

1 readily distinguishable as one of the weapons enumerated in
2 Section 24-1 of the Criminal Code of 1961 (720 ILCS
3 5/24-1).

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

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

26 (e) The court may impose an extended term sentence under

1 Article 4.5 of Chapter V upon an offender who has been
2 convicted of a felony violation of Section 12-13, 12-14,
3 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the
4 victim of the offense is under 18 years of age at the time of
5 the commission of the offense and, during the commission of the
6 offense, the victim was under the influence of alcohol,
7 regardless of whether or not the alcohol was supplied by the
8 offender; and the offender, at the time of the commission of
9 the offense, knew or should have known that the victim had
10 consumed alcohol.

11 (Source: P.A. 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328,
12 eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10;
13 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff.
14 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551,
15 Article 2, Section 1065, eff. 7-1-11; 97-38, eff. 6-28-11,
16 97-227, eff. 1-1-12; 97-333, eff. 8-12-11; revised 9-14-11.)