



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3104

Introduced 2/15/2018, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-30
730 ILCS 130/3.1
730 ILCS 150/2

was 720 ILCS 5/11-9
from Ch. 75, par. 32.1
from Ch. 38, par. 222

Amends the Criminal Code of 2012. Provides that public indecency also includes committing the proscribed acts while confined in a penal institution. Provides that a person convicted of a second or subsequent violation for public indecency while confined in a penal institution is guilty of a Class 4 felony. Amends the Sex Offender Registration Act. Includes in the definition of "sex offense", a second violation or attempted violation of public indecency while confined in a penal institution committed on or after the effective date of the amendatory Act. Amends the County Jail Good Behavior Allowance Act. Provides that if an inmate while in custody of the warden is convicted of public indecency, his or her day for day good behavior allowance shall be revoked for each day the allowance was earned while the inmate was in custody of the warden. Effective immediately.

LRB100 19860 RLC 35139 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 2012 is amended by changing
5 Section 11-30 as follows:

6 (720 ILCS 5/11-30) (was 720 ILCS 5/11-9)

7 Sec. 11-30. Public indecency.

8 (a) Any person of the age of 17 years and upwards who
9 performs any of the following acts in a public place or while
10 confined in a penal institution, commits a public indecency:

11 (1) An act of sexual penetration or sexual conduct; or

12 (2) A lewd exposure of the body done with intent to
13 arouse or to satisfy the sexual desire of the person.

14 Breast-feeding of infants is not an act of public
15 indecency.

16 (b) "Public place" for purposes of this Section means any
17 place where the conduct may reasonably be expected to be viewed
18 by others.

19 (c) Sentence.

20 Public indecency is a Class A misdemeanor. A person
21 convicted of a third or subsequent violation for public
22 indecency is guilty of a Class 4 felony. A person convicted of
23 a second or subsequent violation for public indecency while

1 confined in a penal institution is guilty of a Class 4 felony.

2 Public indecency is a Class 4 felony if committed by a person
3 18 years of age or older who is on or within 500 feet of
4 elementary or secondary school grounds when children are
5 present on the grounds.

6 (Source: P.A. 96-1098, eff. 1-1-11; 96-1551, eff. 7-1-11.)

7 Section 10. The County Jail Good Behavior Allowance Act is
8 amended by changing Section 3.1 as follows:

9 (730 ILCS 130/3.1) (from Ch. 75, par. 32.1)

10 Sec. 3.1. (a) Within 3 months after the effective date of
11 this amendatory Act of 1986, the wardens who supervise
12 institutions under this Act shall meet and agree upon uniform
13 rules and regulations for behavior and conduct, penalties, and
14 the awarding, denying and revocation of good behavior
15 allowance, in such institutions; and such rules and regulations
16 shall be immediately promulgated and consistent with the
17 provisions of this Act. Interim rules shall be provided by each
18 warden consistent with the provision of this Act and shall be
19 effective until the promulgation of uniform rules. All
20 disciplinary action shall be consistent with the provisions of
21 this Act. Committed persons shall be informed of rules of
22 behavior and conduct, the penalties for violation thereof, and
23 the disciplinary procedure by which such penalties may be
24 imposed. Any rules, penalties and procedures shall be posted

1 and made available to the committed persons.

2 (b) Whenever a person is alleged to have violated a rule of
3 behavior, a written report of the infraction shall be filed
4 with the warden within 72 hours of the occurrence of the
5 infraction or the discovery of it, and such report shall be
6 placed in the file of the institution or facility. No
7 disciplinary proceeding shall be commenced more than 8 days
8 after the infraction or the discovery of it, unless the
9 committed person is unable or unavailable for any reason to
10 participate in the disciplinary proceeding.

11 (c) All or any of the good behavior allowance earned may be
12 revoked by the warden, unless he initiates the charge, and in
13 that case by the disciplinary board, for violations of rules of
14 behavior at any time prior to discharge from the institution,
15 consistent with the provisions of this Act.

16 (d) In disciplinary cases that may involve the loss of good
17 behavior allowance or eligibility to earn good behavior
18 allowance, the warden shall establish disciplinary procedures
19 consistent with the following principles:

20 (1) The warden may establish one or more disciplinary
21 boards, made up of one or more persons, to hear and
22 determine charges. Any person who initiates a disciplinary
23 charge against a committed person shall not serve on the
24 disciplinary board that will determine the disposition of
25 the charge. In those cases in which the charge was
26 initiated by the warden, he shall establish a disciplinary

1 board which will have the authority to impose any
2 appropriate discipline.

3 (2) Any committed person charged with a violation of
4 rules of behavior shall be given notice of the charge,
5 including a statement of the misconduct alleged and of the
6 rules this conduct is alleged to violate, no less than 24
7 hours before the disciplinary hearing.

8 (3) Any committed person charged with a violation of
9 rules is entitled to a hearing on that charge, at which
10 time he shall have an opportunity to appear before and
11 address the warden or disciplinary board deciding the
12 charge.

13 (4) The person or persons determining the disposition
14 of the charge may also summon to testify any witnesses or
15 other persons with relevant knowledge of the incident. The
16 person charged may be permitted to question any person so
17 summoned.

18 (5) If the charge is sustained, the person charged is
19 entitled to a written statement, within 14 days after the
20 hearing, of the decision by the warden or the disciplinary
21 board which determined the disposition of the charge, and
22 the statement shall include the basis for the decision and
23 the disciplinary action, if any, to be imposed.

24 (6) The warden may impose the discipline recommended by
25 the disciplinary board, or may reduce the discipline
26 recommended; however, no committed person may be penalized

1 more than 30 days of good behavior allowance for any one
2 infraction unless the infraction is the second or
3 subsequent infraction within any 30-day period in which
4 case the committed person may not be penalized more than 60
5 days of good behavior allowance.

6 (7) The warden, in appropriate cases, may restore good
7 behavior allowance that has been revoked, suspended or
8 reduced.

9 (e) The warden, or his or her designee, may revoke the good
10 behavior allowance specified in Section 3 of this Act of an
11 inmate who is sentenced to the Illinois Department of
12 Corrections for misconduct committed by the inmate while in
13 custody of the warden. If an inmate while in custody of the
14 warden is convicted of assault or battery on a peace officer,
15 correctional employee, or another inmate, or for criminal
16 damage to property or for bringing into or possessing
17 contraband in the penal institution in violation of Section
18 31A-1.1 of the Criminal Code of 1961 or the Criminal Code of
19 2012, or for public indecency, his or her day for day good
20 behavior allowance shall be revoked for each day such allowance
21 was earned while the inmate was in custody of the warden.

22 (Source: P.A. 99-259, eff. 1-1-16.)

23 Section 15. The Sex Offender Registration Act is amended by
24 changing Section 2 as follows:

1 (730 ILCS 150/2) (from Ch. 38, par. 222)

2 Sec. 2. Definitions.

3 (A) As used in this Article, "sex offender" means any
4 person who is:

5 (1) charged pursuant to Illinois law, or any
6 substantially similar federal, Uniform Code of Military
7 Justice, sister state, or foreign country law, with a sex
8 offense set forth in subsection (B) of this Section or the
9 attempt to commit an included sex offense, and:

10 (a) is convicted of such offense or an attempt to
11 commit such offense; or

12 (b) is found not guilty by reason of insanity of
13 such offense or an attempt to commit such offense; or

14 (c) is found not guilty by reason of insanity
15 pursuant to Section 104-25(c) of the Code of Criminal
16 Procedure of 1963 of such offense or an attempt to
17 commit such offense; or

18 (d) is the subject of a finding not resulting in an
19 acquittal at a hearing conducted pursuant to Section
20 104-25(a) of the Code of Criminal Procedure of 1963 for
21 the alleged commission or attempted commission of such
22 offense; or

23 (e) is found not guilty by reason of insanity
24 following a hearing conducted pursuant to a federal,
25 Uniform Code of Military Justice, sister state, or
26 foreign country law substantially similar to Section

1 104-25(c) of the Code of Criminal Procedure of 1963 of
2 such offense or of the attempted commission of such
3 offense; or

4 (f) is the subject of a finding not resulting in an
5 acquittal at a hearing conducted pursuant to a federal,
6 Uniform Code of Military Justice, sister state, or
7 foreign country law substantially similar to Section
8 104-25(a) of the Code of Criminal Procedure of 1963 for
9 the alleged violation or attempted commission of such
10 offense; or

11 (2) declared as a sexually dangerous person pursuant to
12 the Illinois Sexually Dangerous Persons Act, or any
13 substantially similar federal, Uniform Code of Military
14 Justice, sister state, or foreign country law; or

15 (3) subject to the provisions of Section 2 of the
16 Interstate Agreements on Sexually Dangerous Persons Act;
17 or

18 (4) found to be a sexually violent person pursuant to
19 the Sexually Violent Persons Commitment Act or any
20 substantially similar federal, Uniform Code of Military
21 Justice, sister state, or foreign country law; or

22 (5) adjudicated a juvenile delinquent as the result of
23 committing or attempting to commit an act which, if
24 committed by an adult, would constitute any of the offenses
25 specified in item (B), (C), or (C-5) of this Section or a
26 violation of any substantially similar federal, Uniform

1 Code of Military Justice, sister state, or foreign country
2 law, or found guilty under Article V of the Juvenile Court
3 Act of 1987 of committing or attempting to commit an act
4 which, if committed by an adult, would constitute any of
5 the offenses specified in item (B), (C), or (C-5) of this
6 Section or a violation of any substantially similar
7 federal, Uniform Code of Military Justice, sister state, or
8 foreign country law.

9 Convictions that result from or are connected with the same
10 act, or result from offenses committed at the same time, shall
11 be counted for the purpose of this Article as one conviction.
12 Any conviction set aside pursuant to law is not a conviction
13 for purposes of this Article.

14 For purposes of this Section, "convicted" shall have the
15 same meaning as "adjudicated".

16 (B) As used in this Article, "sex offense" means:

17 (1) A violation of any of the following Sections of the
18 Criminal Code of 1961 or the Criminal Code of 2012:

19 11-20.1 (child pornography),
20 11-20.1B or 11-20.3 (aggravated child
21 pornography),
22 11-6 (indecent solicitation of a child),
23 11-9.1 (sexual exploitation of a child),
24 11-9.2 (custodial sexual misconduct),
25 11-9.5 (sexual misconduct with a person with a
26 disability),

1 11-14.4 (promoting juvenile prostitution),
2 11-15.1 (soliciting for a juvenile prostitute),
3 11-18.1 (patronizing a juvenile prostitute),
4 11-17.1 (keeping a place of juvenile
5 prostitution),
6 11-19.1 (juvenile pimping),
7 11-19.2 (exploitation of a child),
8 11-25 (grooming),
9 11-26 (traveling to meet a minor or traveling to
10 meet a child),
11 11-1.20 or 12-13 (criminal sexual assault),
12 11-1.30 or 12-14 (aggravated criminal sexual
13 assault),
14 11-1.40 or 12-14.1 (predatory criminal sexual
15 assault of a child),
16 11-1.50 or 12-15 (criminal sexual abuse),
17 11-1.60 or 12-16 (aggravated criminal sexual
18 abuse),
19 12-33 (ritualized abuse of a child).

20 An attempt to commit any of these offenses.

21 (1.5) A violation of any of the following Sections of
22 the Criminal Code of 1961 or the Criminal Code of 2012,
23 when the victim is a person under 18 years of age, the
24 defendant is not a parent of the victim, the offense was
25 sexually motivated as defined in Section 10 of the Sex
26 Offender Evaluation and Treatment Act, and the offense was

1 committed on or after January 1, 1996:

2 10-1 (kidnapping),

3 10-2 (aggravated kidnapping),

4 10-3 (unlawful restraint),

5 10-3.1 (aggravated unlawful restraint).

6 If the offense was committed before January 1, 1996, it
7 is a sex offense requiring registration only when the
8 person is convicted of any felony after July 1, 2011, and
9 paragraph (2.1) of subsection (c) of Section 3 of this Act
10 applies.

11 (1.6) First degree murder under Section 9-1 of the
12 Criminal Code of 1961 or the Criminal Code of 2012,
13 provided the offense was sexually motivated as defined in
14 Section 10 of the Sex Offender Management Board Act.

15 (1.7) (Blank).

16 (1.8) A violation or attempted violation of Section
17 11-11 (sexual relations within families) of the Criminal
18 Code of 1961 or the Criminal Code of 2012, and the offense
19 was committed on or after June 1, 1997. If the offense was
20 committed before June 1, 1997, it is a sex offense
21 requiring registration only when the person is convicted of
22 any felony after July 1, 2011, and paragraph (2.1) of
23 subsection (c) of Section 3 of this Act applies.

24 (1.9) Child abduction under paragraph (10) of
25 subsection (b) of Section 10-5 of the Criminal Code of 1961
26 or the Criminal Code of 2012 committed by luring or

1 attempting to lure a child under the age of 16 into a motor
2 vehicle, building, house trailer, or dwelling place
3 without the consent of the parent or lawful custodian of
4 the child for other than a lawful purpose and the offense
5 was committed on or after January 1, 1998, provided the
6 offense was sexually motivated as defined in Section 10 of
7 the Sex Offender Management Board Act. If the offense was
8 committed before January 1, 1998, it is a sex offense
9 requiring registration only when the person is convicted of
10 any felony after July 1, 2011, and paragraph (2.1) of
11 subsection (c) of Section 3 of this Act applies.

12 (1.10) A violation or attempted violation of any of the
13 following Sections of the Criminal Code of 1961 or the
14 Criminal Code of 2012 when the offense was committed on or
15 after July 1, 1999:

16 10-4 (forcible detention, if the victim is under 18
17 years of age), provided the offense was sexually
18 motivated as defined in Section 10 of the Sex Offender
19 Management Board Act,

20 11-6.5 (indecent solicitation of an adult),

21 11-14.3 that involves soliciting for a prostitute,
22 or 11-15 (soliciting for a prostitute, if the victim is
23 under 18 years of age),

24 subdivision (a)(2)(A) or (a)(2)(B) of Section
25 11-14.3, or Section 11-16 (pandering, if the victim is
26 under 18 years of age),

1 11-18 (patronizing a prostitute, if the victim is
2 under 18 years of age),

3 subdivision (a)(2)(C) of Section 11-14.3, or
4 Section 11-19 (pimping, if the victim is under 18 years
5 of age).

6 If the offense was committed before July 1, 1999, it is
7 a sex offense requiring registration only when the person
8 is convicted of any felony after July 1, 2011, and
9 paragraph (2.1) of subsection (c) of Section 3 of this Act
10 applies.

11 (1.11) A violation or attempted violation of any of the
12 following Sections of the Criminal Code of 1961 or the
13 Criminal Code of 2012 when the offense was committed on or
14 after August 22, 2002:

15 11-9 or 11-30 (public indecency for a third or
16 subsequent conviction).

17 If the third or subsequent conviction was imposed
18 before August 22, 2002, it is a sex offense requiring
19 registration only when the person is convicted of any
20 felony after July 1, 2011, and paragraph (2.1) of
21 subsection (c) of Section 3 of this Act applies.

22 (1.12) A violation or attempted violation of Section
23 5.1 of the Wrongs to Children Act or Section 11-9.1A of the
24 Criminal Code of 1961 or the Criminal Code of 2012
25 (permitting sexual abuse) when the offense was committed on
26 or after August 22, 2002. If the offense was committed

1 before August 22, 2002, it is a sex offense requiring
2 registration only when the person is convicted of any
3 felony after July 1, 2011, and paragraph (2.1) of
4 subsection (c) of Section 3 of this Act applies.

5 (1.13) A second violation or attempted violation of
6 Section 11-30 (public indecency while confined in a penal
7 institution) of the Criminal Code of 2012 committed on or
8 after the effective date of this amendatory Act of the
9 100th General Assembly.

10 (2) A violation of any former law of this State
11 substantially equivalent to any offense listed in
12 subsection (B) of this Section.

13 (C) A conviction for an offense of federal law, Uniform
14 Code of Military Justice, or the law of another state or a
15 foreign country that is substantially equivalent to any offense
16 listed in subsections (B), (C), (E), and (E-5) of this Section
17 shall constitute a conviction for the purpose of this Article.
18 A finding or adjudication as a sexually dangerous person or a
19 sexually violent person under any federal law, Uniform Code of
20 Military Justice, or the law of another state or foreign
21 country that is substantially equivalent to the Sexually
22 Dangerous Persons Act or the Sexually Violent Persons
23 Commitment Act shall constitute an adjudication for the
24 purposes of this Article.

25 (C-5) A person at least 17 years of age at the time of the
26 commission of the offense who is convicted of first degree

1 murder under Section 9-1 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, against a person under 18 years of age,
3 shall be required to register for natural life. A conviction
4 for an offense of federal, Uniform Code of Military Justice,
5 sister state, or foreign country law that is substantially
6 equivalent to any offense listed in subsection (C-5) of this
7 Section shall constitute a conviction for the purpose of this
8 Article. This subsection (C-5) applies to a person who
9 committed the offense before June 1, 1996 if: (i) the person is
10 incarcerated in an Illinois Department of Corrections facility
11 on August 20, 2004 (the effective date of Public Act 93-977),
12 or (ii) subparagraph (i) does not apply and the person is
13 convicted of any felony after July 1, 2011, and paragraph (2.1)
14 of subsection (c) of Section 3 of this Act applies.

15 (C-6) A person who is convicted or adjudicated delinquent
16 of first degree murder as defined in Section 9-1 of the
17 Criminal Code of 1961 or the Criminal Code of 2012, against a
18 person 18 years of age or over, shall be required to register
19 for his or her natural life. A conviction for an offense of
20 federal, Uniform Code of Military Justice, sister state, or
21 foreign country law that is substantially equivalent to any
22 offense listed in subsection (C-6) of this Section shall
23 constitute a conviction for the purpose of this Article. This
24 subsection (C-6) does not apply to those individuals released
25 from incarceration more than 10 years prior to January 1, 2012
26 (the effective date of Public Act 97-154).

1 (D) As used in this Article, "law enforcement agency having
2 jurisdiction" means the Chief of Police in each of the
3 municipalities in which the sex offender expects to reside,
4 work, or attend school (1) upon his or her discharge, parole or
5 release or (2) during the service of his or her sentence of
6 probation or conditional discharge, or the Sheriff of the
7 county, in the event no Police Chief exists or if the offender
8 intends to reside, work, or attend school in an unincorporated
9 area. "Law enforcement agency having jurisdiction" includes
10 the location where out-of-state students attend school and
11 where out-of-state employees are employed or are otherwise
12 required to register.

13 (D-1) As used in this Article, "supervising officer" means
14 the assigned Illinois Department of Corrections parole agent or
15 county probation officer.

16 (E) As used in this Article, "sexual predator" means any
17 person who, after July 1, 1999, is:

18 (1) Convicted for an offense of federal, Uniform Code
19 of Military Justice, sister state, or foreign country law
20 that is substantially equivalent to any offense listed in
21 subsection (E) or (E-5) of this Section shall constitute a
22 conviction for the purpose of this Article. Convicted of a
23 violation or attempted violation of any of the following
24 Sections of the Criminal Code of 1961 or the Criminal Code
25 of 2012:

26 10-5.1 (luring of a minor),

1 11-14.4 that involves keeping a place of juvenile
2 prostitution, or 11-17.1 (keeping a place of juvenile
3 prostitution),

4 subdivision (a)(2) or (a)(3) of Section 11-14.4,
5 or Section 11-19.1 (juvenile pimping),

6 subdivision (a)(4) of Section 11-14.4, or Section
7 11-19.2 (exploitation of a child),

8 11-20.1 (child pornography),

9 11-20.1B or 11-20.3 (aggravated child
10 pornography),

11 11-1.20 or 12-13 (criminal sexual assault),

12 11-1.30 or 12-14 (aggravated criminal sexual
13 assault),

14 11-1.40 or 12-14.1 (predatory criminal sexual
15 assault of a child),

16 11-1.60 or 12-16 (aggravated criminal sexual
17 abuse),

18 12-33 (ritualized abuse of a child);

19 (2) (blank);

20 (3) declared as a sexually dangerous person pursuant to
21 the Sexually Dangerous Persons Act or any substantially
22 similar federal, Uniform Code of Military Justice, sister
23 state, or foreign country law;

24 (4) found to be a sexually violent person pursuant to
25 the Sexually Violent Persons Commitment Act or any
26 substantially similar federal, Uniform Code of Military

1 Justice, sister state, or foreign country law;

2 (5) convicted of a second or subsequent offense which
3 requires registration pursuant to this Act. For purposes of
4 this paragraph (5), "convicted" shall include a conviction
5 under any substantially similar Illinois, federal, Uniform
6 Code of Military Justice, sister state, or foreign country
7 law;

8 (6) (blank); or

9 (7) if the person was convicted of an offense set forth
10 in this subsection (E) on or before July 1, 1999, the
11 person is a sexual predator for whom registration is
12 required only when the person is convicted of a felony
13 offense after July 1, 2011, and paragraph (2.1) of
14 subsection (c) of Section 3 of this Act applies.

15 (E-5) As used in this Article, "sexual predator" also means
16 a person convicted of a violation or attempted violation of any
17 of the following Sections of the Criminal Code of 1961 or the
18 Criminal Code of 2012:

19 (1) Section 9-1 (first degree murder, when the victim
20 was a person under 18 years of age and the defendant was at
21 least 17 years of age at the time of the commission of the
22 offense, provided the offense was sexually motivated as
23 defined in Section 10 of the Sex Offender Management Board
24 Act);

25 (2) Section 11-9.5 (sexual misconduct with a person
26 with a disability);

1 (3) when the victim is a person under 18 years of age,
2 the defendant is not a parent of the victim, the offense
3 was sexually motivated as defined in Section 10 of the Sex
4 Offender Management Board Act, and the offense was
5 committed on or after January 1, 1996: (A) Section 10-1
6 (kidnapping), (B) Section 10-2 (aggravated kidnapping),
7 (C) Section 10-3 (unlawful restraint), and (D) Section
8 10-3.1 (aggravated unlawful restraint); and

9 (4) Section 10-5(b)(10) (child abduction committed by
10 luring or attempting to lure a child under the age of 16
11 into a motor vehicle, building, house trailer, or dwelling
12 place without the consent of the parent or lawful custodian
13 of the child for other than a lawful purpose and the
14 offense was committed on or after January 1, 1998, provided
15 the offense was sexually motivated as defined in Section 10
16 of the Sex Offender Management Board Act).

17 (E-10) As used in this Article, "sexual predator" also
18 means a person required to register in another State due to a
19 conviction, adjudication or other action of any court
20 triggering an obligation to register as a sex offender, sexual
21 predator, or substantially similar status under the laws of
22 that State.

23 (F) As used in this Article, "out-of-state student" means
24 any sex offender, as defined in this Section, or sexual
25 predator who is enrolled in Illinois, on a full-time or
26 part-time basis, in any public or private educational

1 institution, including, but not limited to, any secondary
2 school, trade or professional institution, or institution of
3 higher learning.

4 (G) As used in this Article, "out-of-state employee" means
5 any sex offender, as defined in this Section, or sexual
6 predator who works in Illinois, regardless of whether the
7 individual receives payment for services performed, for a
8 period of time of 10 or more days or for an aggregate period of
9 time of 30 or more days during any calendar year. Persons who
10 operate motor vehicles in the State accrue one day of
11 employment time for any portion of a day spent in Illinois.

12 (H) As used in this Article, "school" means any public or
13 private educational institution, including, but not limited
14 to, any elementary or secondary school, trade or professional
15 institution, or institution of higher education.

16 (I) As used in this Article, "fixed residence" means any
17 and all places that a sex offender resides for an aggregate
18 period of time of 5 or more days in a calendar year.

19 (J) As used in this Article, "Internet protocol address"
20 means the string of numbers by which a location on the Internet
21 is identified by routers or other computers connected to the
22 Internet.

23 (Source: P.A. 100-428, eff. 1-1-18.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.