

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 Unified Code of Corrections is amended by  
5 changing Section 5-5-3.2 as follows:

6 (730 ILCS 5/5-5-3.2)

7 Sec. 5-5-3.2. Factors in aggravation and extended-term  
8 sentencing.

9 (a) The following factors shall be accorded weight in favor  
10 of imposing a term of imprisonment or may be considered by the  
11 court as reasons to impose a more severe sentence under Section  
12 5-8-1 or Article 4.5 of Chapter V:

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

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

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

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

23 (5) the defendant held public office at the time of the

1 offense, and the offense related to the conduct of that  
2 office;

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

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

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

10 (9) the defendant committed the offense against a  
11 person who has a physical disability or such person's  
12 property;

13 (10) by reason of another individual's actual or  
14 perceived race, color, creed, religion, ancestry, gender,  
15 sexual orientation, physical or mental disability, or  
16 national origin, the defendant committed the offense  
17 against (i) the person or property of that individual; (ii)  
18 the person or property of a person who has an association  
19 with, is married to, or has a friendship with the other  
20 individual; or (iii) the person or property of a relative  
21 (by blood or marriage) of a person described in clause (i)  
22 or (ii). For the purposes of this Section, "sexual  
23 orientation" has the meaning ascribed to it in paragraph  
24 (b-1) of Section 1-103 of the Illinois Human Rights Act;

25 (11) the offense took place in a place of worship or on  
26 the grounds of a place of worship, immediately prior to,

1 during or immediately following worship services. For  
2 purposes of this subparagraph, "place of worship" shall  
3 mean any church, synagogue or other building, structure or  
4 place used primarily for religious worship;

5 (12) the defendant was convicted of a felony committed  
6 while he was released on bail or his own recognizance  
7 pending trial for a prior felony and was convicted of such  
8 prior felony, or the defendant was convicted of a felony  
9 committed while he was serving a period of probation,  
10 conditional discharge, or mandatory supervised release  
11 under subsection (d) of Section 5-8-1 for a prior felony;

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

17 (14) the defendant held a position of trust or  
18 supervision such as, but not limited to, family member as  
19 defined in Section 11-0.1 of the Criminal Code of 2012,  
20 teacher, scout leader, baby sitter, or day care worker, in  
21 relation to a victim under 18 years of age, and the  
22 defendant committed an offense in violation of Section  
23 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,  
24 11-14.4 except for an offense that involves keeping a place  
25 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,  
26 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15

1 or 12-16 of the Criminal Code of 1961 or the Criminal Code  
2 of 2012 against that victim;

3 (15) the defendant committed an offense related to the  
4 activities of an organized gang. For the purposes of this  
5 factor, "organized gang" has the meaning ascribed to it in  
6 Section 10 of the Streetgang Terrorism Omnibus Prevention  
7 Act;

8 (16) the defendant committed an offense in violation of  
9 one of the following Sections while in a school, regardless  
10 of the time of day or time of year; on any conveyance  
11 owned, leased, or contracted by a school to transport  
12 students to or from school or a school related activity; on  
13 the real property of a school; or on a public way within  
14 1,000 feet of the real property comprising any school:  
15 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
16 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
17 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
18 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
19 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
20 (a)(4) or (g)(1), of the Criminal Code of 1961 or the  
21 Criminal Code of 2012;

22 (16.5) the defendant committed an offense in violation  
23 of one of the following Sections while in a day care  
24 center, regardless of the time of day or time of year; on  
25 the real property of a day care center, regardless of the  
26 time of day or time of year; or on a public way within

1 1,000 feet of the real property comprising any day care  
2 center, regardless of the time of day or time of year:  
3 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
4 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
5 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
6 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
7 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
8 (a)(4) or (g)(1), of the Criminal Code of 1961 or the  
9 Criminal Code of 2012;

10 (17) the defendant committed the offense by reason of  
11 any person's activity as a community policing volunteer or  
12 to prevent any person from engaging in activity as a  
13 community policing volunteer. For the purpose of this  
14 Section, "community policing volunteer" has the meaning  
15 ascribed to it in Section 2-3.5 of the Criminal Code of  
16 2012;

17 (18) the defendant committed the offense in a nursing  
18 home or on the real property comprising a nursing home. For  
19 the purposes of this paragraph (18), "nursing home" means a  
20 skilled nursing or intermediate long term care facility  
21 that is subject to license by the Illinois Department of  
22 Public Health under the Nursing Home Care Act, the  
23 Specialized Mental Health Rehabilitation Act of 2013, the  
24 ID/DD Community Care Act, or the MC/DD Act;

25 (19) the defendant was a federally licensed firearm  
26 dealer and was previously convicted of a violation of

1 subsection (a) of Section 3 of the Firearm Owners  
2 Identification Card Act and has now committed either a  
3 felony violation of the Firearm Owners Identification Card  
4 Act or an act of armed violence while armed with a firearm;

5 (20) the defendant (i) committed the offense of  
6 reckless homicide under Section 9-3 of the Criminal Code of  
7 1961 or the Criminal Code of 2012 or the offense of driving  
8 under the influence of alcohol, other drug or drugs,  
9 intoxicating compound or compounds or any combination  
10 thereof under Section 11-501 of the Illinois Vehicle Code  
11 or a similar provision of a local ordinance and (ii) was  
12 operating a motor vehicle in excess of 20 miles per hour  
13 over the posted speed limit as provided in Article VI of  
14 Chapter 11 of the Illinois Vehicle Code;

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

21 (22) the defendant committed the offense against a  
22 person that the defendant knew, or reasonably should have  
23 known, was a member of the Armed Forces of the United  
24 States serving on active duty. For purposes of this clause  
25 (22), the term "Armed Forces" means any of the Armed Forces  
26 of the United States, including a member of any reserve

1 component thereof or National Guard unit called to active  
2 duty;

3 (23) the defendant committed the offense against a  
4 person who was elderly or infirm or who was a person with a  
5 disability by taking advantage of a family or fiduciary  
6 relationship with the elderly or infirm person or person  
7 with a disability;

8 (24) the defendant committed any offense under Section  
9 11-20.1 of the Criminal Code of 1961 or the Criminal Code  
10 of 2012 and possessed 100 or more images;

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

14 (26) the defendant committed the offense of child  
15 pornography or aggravated child pornography, specifically  
16 including paragraph (1), (2), (3), (4), (5), or (7) of  
17 subsection (a) of Section 11-20.1 of the Criminal Code of  
18 1961 or the Criminal Code of 2012 where a child engaged in,  
19 solicited for, depicted in, or posed in any act of sexual  
20 penetration or bound, fettered, or subject to sadistic,  
21 masochistic, or sadomasochistic abuse in a sexual context  
22 and specifically including paragraph (1), (2), (3), (4),  
23 (5), or (7) of subsection (a) of Section 11-20.1B or  
24 Section 11-20.3 of the Criminal Code of 1961 where a child  
25 engaged in, solicited for, depicted in, or posed in any act  
26 of sexual penetration or bound, fettered, or subject to

1 sadistic, masochistic, or sadomasochistic abuse in a  
2 sexual context;

3 (27) the defendant committed the offense of first  
4 degree murder, assault, aggravated assault, battery,  
5 aggravated battery, robbery, armed robbery, or aggravated  
6 robbery against a person who was a veteran and the  
7 defendant knew, or reasonably should have known, that the  
8 person was a veteran performing duties as a representative  
9 of a veterans' organization. For the purposes of this  
10 paragraph (27), "veteran" means an Illinois resident who  
11 has served as a member of the United States Armed Forces, a  
12 member of the Illinois National Guard, or a member of the  
13 United States Reserve Forces; and "veterans' organization"  
14 means an organization comprised of members of which  
15 substantially all are individuals who are veterans or  
16 spouses, widows, or widowers of veterans, the primary  
17 purpose of which is to promote the welfare of its members  
18 and to provide assistance to the general public in such a  
19 way as to confer a public benefit;

20 (28) the defendant committed the offense of assault,  
21 aggravated assault, battery, aggravated battery, robbery,  
22 armed robbery, or aggravated robbery against a person that  
23 the defendant knew or reasonably should have known was a  
24 letter carrier or postal worker while that person was  
25 performing his or her duties delivering mail for the United  
26 States Postal Service;



1 (29) the defendant committed the offense of criminal  
2 sexual assault, aggravated criminal sexual assault,  
3 criminal sexual abuse, or aggravated criminal sexual abuse  
4 against a victim with an intellectual disability, and the  
5 defendant holds a position of trust, authority, or  
6 supervision in relation to the victim;

7 (30) the defendant committed the offense of promoting  
8 juvenile prostitution, patronizing a prostitute, or  
9 patronizing a minor engaged in prostitution and at the time  
10 of the commission of the offense knew that the prostitute  
11 or minor engaged in prostitution was in the custody or  
12 guardianship of the Department of Children and Family  
13 Services; ~~or~~

14 (31) the defendant (i) committed the offense of driving  
15 while under the influence of alcohol, other drug or drugs,  
16 intoxicating compound or compounds or any combination  
17 thereof in violation of Section 11-501 of the Illinois  
18 Vehicle Code or a similar provision of a local ordinance  
19 and (ii) the defendant during the commission of the offense  
20 was driving his or her vehicle upon a roadway designated  
21 for one-way traffic in the opposite direction of the  
22 direction indicated by official traffic control devices;  
23 or ~~or~~

24 (32) the defendant was found guilty of an  
25 administrative infraction related to an act or acts of  
26 public indecency or sexual misconduct in the penal

1 institution. In this paragraph (32), "penal institution"  
2 has the same meaning as in Section 2-14 of the Criminal  
3 Code of 2012.

4 For the purposes of this Section:

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

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

11 "Intellectual disability" means significantly subaverage  
12 intellectual functioning which exists concurrently with  
13 impairment in adaptive behavior.

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

17 "Traffic control devices" means all signs, signals,  
18 markings, and devices that conform to the Illinois Manual on  
19 Uniform Traffic Control Devices, placed or erected by authority  
20 of a public body or official having jurisdiction, for the  
21 purpose of regulating, warning, or guiding traffic.

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

25 (1) When a defendant is convicted of any felony, after  
26 having been previously convicted in Illinois or any other

1 jurisdiction of the same or similar class felony or greater  
2 class felony, when such conviction has occurred within 10  
3 years after the previous conviction, excluding time spent  
4 in custody, and such charges are separately brought and  
5 tried and arise out of different series of acts; or

6 (2) When a defendant is convicted of any felony and the  
7 court finds that the offense was accompanied by  
8 exceptionally brutal or heinous behavior indicative of  
9 wanton cruelty; or

10 (3) When a defendant is convicted of any felony  
11 committed against:

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

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

16 (iii) a person who had a physical disability at the  
17 time of the offense or such person's property; or

18 (4) When a defendant is convicted of any felony and the  
19 offense involved any of the following types of specific  
20 misconduct committed as part of a ceremony, rite,  
21 initiation, observance, performance, practice or activity  
22 of any actual or ostensible religious, fraternal, or social  
23 group:

24 (i) the brutalizing or torturing of humans or  
25 animals;

26 (ii) the theft of human corpses;

1 (iii) the kidnapping of humans;

2 (iv) the desecration of any cemetery, religious,  
3 fraternal, business, governmental, educational, or  
4 other building or property; or

5 (v) ritualized abuse of a child; or

6 (5) When a defendant is convicted of a felony other  
7 than conspiracy and the court finds that the felony was  
8 committed under an agreement with 2 or more other persons  
9 to commit that offense and the defendant, with respect to  
10 the other individuals, occupied a position of organizer,  
11 supervisor, financier, or any other position of management  
12 or leadership, and the court further finds that the felony  
13 committed was related to or in furtherance of the criminal  
14 activities of an organized gang or was motivated by the  
15 defendant's leadership in an organized gang; or

16 (6) When a defendant is convicted of an offense  
17 committed while using a firearm with a laser sight attached  
18 to it. For purposes of this paragraph, "laser sight" has  
19 the meaning ascribed to it in Section 26-7 of the Criminal  
20 Code of 2012; or

21 (7) When a defendant who was at least 17 years of age  
22 at the time of the commission of the offense is convicted  
23 of a felony and has been previously adjudicated a  
24 delinquent minor under the Juvenile Court Act of 1987 for  
25 an act that if committed by an adult would be a Class X or  
26 Class 1 felony when the conviction has occurred within 10

1 years after the previous adjudication, excluding time  
2 spent in custody; or

3 (8) When a defendant commits any felony and the  
4 defendant used, possessed, exercised control over, or  
5 otherwise directed an animal to assault a law enforcement  
6 officer engaged in the execution of his or her official  
7 duties or in furtherance of the criminal activities of an  
8 organized gang in which the defendant is engaged; or

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

12 (c) The following factors may be considered by the court as  
13 reasons to impose an extended term sentence under Section 5-8-2  
14 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

15 (1) When a defendant is convicted of first degree  
16 murder, after having been previously convicted in Illinois  
17 of any offense listed under paragraph (c)(2) of Section  
18 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
19 within 10 years after the previous conviction, excluding  
20 time spent in custody, and the charges are separately  
21 brought and tried and arise out of different series of  
22 acts.

23 (1.5) When a defendant is convicted of first degree  
24 murder, after having been previously convicted of domestic  
25 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
26 (720 ILCS 5/12-3.3) committed on the same victim or after

1           having been previously convicted of violation of an order  
2           of protection (720 ILCS 5/12-30) in which the same victim  
3           was the protected person.

4           (2) When a defendant is convicted of voluntary  
5           manslaughter, second degree murder, involuntary  
6           manslaughter, or reckless homicide in which the defendant  
7           has been convicted of causing the death of more than one  
8           individual.

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

19          (4) If the victim was under 18 years of age at the time  
20          of the commission of the offense, when a defendant is  
21          convicted of aggravated criminal sexual assault or  
22          predatory criminal sexual assault of a child under  
23          subsection (a)(1) of Section 11-1.40 or subsection (a)(1)  
24          of Section 12-14.1 of the Criminal Code of 1961 or the  
25          Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

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

1 of Section 24-1 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a  
3 finding that the defendant is a member of an organized  
4 gang.

5 (6) When a defendant was convicted of unlawful use of  
6 weapons under Section 24-1 of the Criminal Code of 1961 or  
7 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing  
8 a weapon that is not readily distinguishable as one of the  
9 weapons enumerated in Section 24-1 of the Criminal Code of  
10 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

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

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

4 (8) When the defendant is convicted of attempted mob  
5 action, solicitation to commit mob action, or conspiracy to  
6 commit mob action under Section 8-1, 8-2, or 8-4 of the  
7 Criminal Code of 2012, where the criminal object is a  
8 violation of Section 25-1 of the Criminal Code of 2012, and  
9 an electronic communication is used in the commission of  
10 the offense. For the purposes of this paragraph (8),  
11 "electronic communication" shall have the meaning provided  
12 in Section 26.5-0.1 of the Criminal Code of 2012.

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

16 (e) The court may impose an extended term sentence under  
17 Article 4.5 of Chapter V upon an offender who has been  
18 convicted of a felony violation of Section 11-1.20, 11-1.30,  
19 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or  
20 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012  
21 when the victim of the offense is under 18 years of age at the  
22 time of the commission of the offense and, during the  
23 commission of the offense, the victim was under the influence  
24 of alcohol, regardless of whether or not the alcohol was  
25 supplied by the offender; and the offender, at the time of the  
26 commission of the offense, knew or should have known that the



1 victim had consumed alcohol.

2 (Source: P.A. 99-77, eff. 1-1-16; 99-143, eff. 7-27-15; 99-180,  
3 eff. 7-29-15; 99-283, eff. 1-1-16; 99-347, eff. 1-1-16; 99-642,  
4 eff. 7-28-16; 100-1053, eff. 1-1-19.)