

SB3258



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3258

Introduced 2/1/2012, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3
720 ILCS 5/11-9.4-1

Amends the Criminal Code of 1961 in relation to child sex offenders residing or being present near certain places. Changes the definition of "child sex offender" to provide that the victim is a person under 18 years of age at the time of the offense. Changes the definition of "sex offense" to include forcible detention, custodial sexual misconduct, sexual misconduct with a person with a disability, sexual relations within families, promoting prostitution (other than arranging or offering to arrange a situation in which a person may practice prostitution), grooming, traveling to meet a minor, and permitting sexual abuse of a child. Changes cross references to conform to Public Act 96-1551.

LRB097 15082 RLC 60175 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 11-9.3 and 11-9.4-1 as follows:

6 (720 ILCS 5/11-9.3)

7 Sec. 11-9.3. Presence within school zone by child sex
8 offenders prohibited; approaching, contacting, residing with,
9 or communicating with a child within certain places by child
10 sex offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be
12 present in any school building, on real property comprising any
13 school, or in any conveyance owned, leased, or contracted by a
14 school to transport students to or from school or a school
15 related activity when persons under the age of 18 are present
16 in the building, on the grounds or in the conveyance, unless
17 the offender is a parent or guardian of a student attending the
18 school and the parent or guardian is: (i) attending a
19 conference at the school with school personnel to discuss the
20 progress of his or her child academically or socially, (ii)
21 participating in child review conferences in which evaluation
22 and placement decisions may be made with respect to his or her
23 child regarding special education services, or (iii) attending

1 conferences to discuss other student issues concerning his or
2 her child such as retention and promotion and notifies the
3 principal of the school of his or her presence at the school or
4 unless the offender has permission to be present from the
5 superintendent or the school board or in the case of a private
6 school from the principal. In the case of a public school, if
7 permission is granted, the superintendent or school board
8 president must inform the principal of the school where the sex
9 offender will be present. Notification includes the nature of
10 the sex offender's visit and the hours in which the sex
11 offender will be present in the school. The sex offender is
12 responsible for notifying the principal's office when he or she
13 arrives on school property and when he or she departs from
14 school property. If the sex offender is to be present in the
15 vicinity of children, the sex offender has the duty to remain
16 under the direct supervision of a school official.

17 (a-5) It is unlawful for a child sex offender to knowingly
18 be present within 100 feet of a site posted as a pick-up or
19 discharge stop for a conveyance owned, leased, or contracted by
20 a school to transport students to or from school or a school
21 related activity when one or more persons under the age of 18
22 are present at the site.

23 (a-10) It is unlawful for a child sex offender to knowingly
24 be present in any public park building or on real property
25 comprising any public park when persons under the age of 18 are
26 present in the building or on the grounds and to approach,

1 contact, or communicate with a child under 18 years of age,
2 unless the offender is a parent or guardian of a person under
3 18 years of age present in the building or on the grounds.

4 (b) It is unlawful for a child sex offender to knowingly
5 loiter within 500 feet of a school building or real property
6 comprising any school while persons under the age of 18 are
7 present in the building or on the grounds, unless the offender
8 is a parent or guardian of a student attending the school and
9 the parent or guardian is: (i) attending a conference at the
10 school with school personnel to discuss the progress of his or
11 her child academically or socially, (ii) participating in child
12 review conferences in which evaluation and placement decisions
13 may be made with respect to his or her child regarding special
14 education services, or (iii) attending conferences to discuss
15 other student issues concerning his or her child such as
16 retention and promotion and notifies the principal of the
17 school of his or her presence at the school or has permission
18 to be present from the superintendent or the school board or in
19 the case of a private school from the principal. In the case of
20 a public school, if permission is granted, the superintendent
21 or school board president must inform the principal of the
22 school where the sex offender will be present. Notification
23 includes the nature of the sex offender's visit and the hours
24 in which the sex offender will be present in the school. The
25 sex offender is responsible for notifying the principal's
26 office when he or she arrives on school property and when he or

1 she departs from school property. If the sex offender is to be
2 present in the vicinity of children, the sex offender has the
3 duty to remain under the direct supervision of a school
4 official.

5 (b-2) It is unlawful for a child sex offender to knowingly
6 loiter on a public way within 500 feet of a public park
7 building or real property comprising any public park while
8 persons under the age of 18 are present in the building or on
9 the grounds and to approach, contact, or communicate with a
10 child under 18 years of age, unless the offender is a parent or
11 guardian of a person under 18 years of age present in the
12 building or on the grounds.

13 (b-5) It is unlawful for a child sex offender to knowingly
14 reside within 500 feet of a school building or the real
15 property comprising any school that persons under the age of 18
16 attend. Nothing in this subsection (b-5) prohibits a child sex
17 offender from residing within 500 feet of a school building or
18 the real property comprising any school that persons under 18
19 attend if the property is owned by the child sex offender and
20 was purchased before July 7, 2000 (the effective date of Public
21 Act 91-911) ~~this amendatory Act of the 91st General Assembly.~~

22 (b-10) It is unlawful for a child sex offender to knowingly
23 reside within 500 feet of a playground, child care institution,
24 day care center, part day child care facility, day care home,
25 group day care home, or a facility providing programs or
26 services exclusively directed toward persons under 18 years of

1 age. Nothing in this subsection (b-10) prohibits a child sex
2 offender from residing within 500 feet of a playground or a
3 facility providing programs or services exclusively directed
4 toward persons under 18 years of age if the property is owned
5 by the child sex offender and was purchased before July 7,
6 2000. Nothing in this subsection (b-10) prohibits a child sex
7 offender from residing within 500 feet of a child care
8 institution, day care center, or part day child care facility
9 if the property is owned by the child sex offender and was
10 purchased before June 26, 2006. Nothing in this subsection
11 (b-10) prohibits a child sex offender from residing within 500
12 feet of a day care home or group day care home if the property
13 is owned by the child sex offender and was purchased before
14 August 14, 2008 (the effective date of Public Act 95-821).

15 (b-15) It is unlawful for a child sex offender to knowingly
16 reside within 500 feet of the victim of the sex offense.
17 Nothing in this subsection (b-15) prohibits a child sex
18 offender from residing within 500 feet of the victim if the
19 property in which the child sex offender resides is owned by
20 the child sex offender and was purchased before August 22,
21 2002.

22 This subsection (b-15) does not apply if the victim of the
23 sex offense is 21 years of age or older.

24 (b-20) It is unlawful for a child sex offender to knowingly
25 communicate, other than for a lawful purpose under Illinois
26 law, using the Internet or any other digital media, with a

1 person under 18 years of age or with a person whom he or she
2 believes to be a person under 18 years of age, unless the
3 offender is a parent or guardian of the person under 18 years
4 of age.

5 (c) It is unlawful for a child sex offender to knowingly
6 operate, manage, be employed by, volunteer at, be associated
7 with, or knowingly be present at any: (i) facility providing
8 programs or services exclusively directed toward persons under
9 the age of 18; (ii) day care center; (iii) part day child care
10 facility; (iv) child care institution; (v) school providing
11 before and after school programs for children under 18 years of
12 age; (vi) day care home; or (vii) group day care home. This
13 does not prohibit a child sex offender from owning the real
14 property upon which the programs or services are offered or
15 upon which the day care center, part day child care facility,
16 child care institution, or school providing before and after
17 school programs for children under 18 years of age is located,
18 provided the child sex offender refrains from being present on
19 the premises for the hours during which: (1) the programs or
20 services are being offered or (2) the day care center, part day
21 child care facility, child care institution, or school
22 providing before and after school programs for children under
23 18 years of age, day care home, or group day care home is
24 operated.

25 (c-5) It is unlawful for a child sex offender to knowingly
26 operate, manage, be employed by, or be associated with any

1 county fair when persons under the age of 18 are present.

2 (c-6) It is unlawful for a child sex offender who owns and
3 resides at residential real estate to knowingly rent any
4 residential unit within the same building in which he or she
5 resides to a person who is the parent or guardian of a child or
6 children under 18 years of age. This subsection shall apply
7 only to leases or other rental arrangements entered into after
8 January 1, 2009 (the effective date of Public Act 95-820).

9 (c-7) It is unlawful for a child sex offender to knowingly
10 offer or provide any programs or services to persons under 18
11 years of age in his or her residence or the residence of
12 another or in any facility for the purpose of offering or
13 providing such programs or services, whether such programs or
14 services are offered or provided by contract, agreement,
15 arrangement, or on a volunteer basis.

16 (c-8) It is unlawful for a child sex offender to knowingly
17 operate, whether authorized to do so or not, any of the
18 following vehicles: (1) a vehicle which is specifically
19 designed, constructed or modified and equipped to be used for
20 the retail sale of food or beverages, including but not limited
21 to an ice cream truck; (2) an authorized emergency vehicle; or
22 (3) a rescue vehicle.

23 (d) Definitions. In this Section:

24 (1) "Child sex offender" means any person who:

25 (i) has been charged under Illinois law, or any
26 substantially similar federal law or law of another

1 state, with a sex offense set forth in paragraph (2) of
2 this subsection (d) or the attempt to commit an
3 included sex offense, and the victim is a person under
4 18 years of age at the time of the offense; and:

5 (A) is convicted of such offense or an attempt
6 to commit such offense; or

7 (B) is found not guilty by reason of insanity
8 of such offense or an attempt to commit such
9 offense; or

10 (C) is found not guilty by reason of insanity
11 pursuant to subsection (c) of Section 104-25 of the
12 Code of Criminal Procedure of 1963 of such offense
13 or an attempt to commit such offense; or

14 (D) is the subject of a finding not resulting
15 in an acquittal at a hearing conducted pursuant to
16 subsection (a) of Section 104-25 of the Code of
17 Criminal Procedure of 1963 for the alleged
18 commission or attempted commission of such
19 offense; or

20 (E) is found not guilty by reason of insanity
21 following a hearing conducted pursuant to a
22 federal law or the law of another state
23 substantially similar to subsection (c) of Section
24 104-25 of the Code of Criminal Procedure of 1963 of
25 such offense or of the attempted commission of such
26 offense; or

1 (F) is the subject of a finding not resulting
2 in an acquittal at a hearing conducted pursuant to
3 a federal law or the law of another state
4 substantially similar to subsection (a) of Section
5 104-25 of the Code of Criminal Procedure of 1963
6 for the alleged violation or attempted commission
7 of such offense; or

8 (ii) is certified as a sexually dangerous person
9 pursuant to the Illinois Sexually Dangerous Persons
10 Act, or any substantially similar federal law or the
11 law of another state, when any conduct giving rise to
12 such certification is committed or attempted against a
13 person less than 18 years of age; or

14 (iii) is subject to the provisions of Section 2 of
15 the Interstate Agreements on Sexually Dangerous
16 Persons Act.

17 Convictions that result from or are connected with the
18 same act, or result from offenses committed at the same
19 time, shall be counted for the purpose of this Section as
20 one conviction. Any conviction set aside pursuant to law is
21 not a conviction for purposes of this Section.

22 (2) Except as otherwise provided in paragraph (2.5),
23 "sex offense" means:

24 (i) A violation of any of the following Sections of
25 the Criminal Code of 1961: 10-4 (forcible detention),
26 10-7 (aiding or abetting child abduction under Section

1 10-5(b)(10)), 10-5(b)(10) (child luring), 11-1.40
2 (predatory criminal sexual assault of a child), 11-6
3 (indecent solicitation of a child), 11-6.5 (indecent
4 solicitation of an adult), 11-9.1 (sexual exploitation
5 of a child), 11-9.2 (custodial sexual misconduct),
6 11-9.5 (sexual misconduct with a person with a
7 disability), 11-11 (sexual relations within families),
8 11-14.3(a)(1) (promoting prostitution by advancing
9 prostitution), 11-14.3(a)(2)(A) (promoting
10 prostitution by profiting from prostitution by
11 compelling a person to be a prostitute),
12 11-14.3(a)(2)(C) (promoting prostitution by profiting
13 from prostitution by means other than as described in
14 subparagraphs (A) and (B) of paragraph (2) of
15 subsection (a) of Section 11-14.3), 11-14.4 (promoting
16 juvenile prostitution), 11-18 (patronizing a
17 prostitute), 11-18.1 (patronizing a juvenile
18 prostitute), 11-20.1 (child pornography), 11-20.1B
19 (aggravated child pornography), 11-21 (harmful
20 material), 11-25 (grooming), 11-26 (traveling to meet
21 a minor), 12-33 (ritualized abuse of a child), 11-20
22 (obscenity) (when that offense was committed in any
23 school, on real property comprising any school, in any
24 conveyance owned, leased, or contracted by a school to
25 transport students to or from school or a school
26 related activity, or in a public park), 11-30 (public

1 indecency) (when committed in a school, on real
2 property comprising a school, in any conveyance owned,
3 leased, or contracted by a school to transport students
4 to or from school or a school related activity, or in a
5 public park). An attempt to commit any of these
6 offenses.

7 (ii) A violation of any of the following Sections
8 of the Criminal Code of 1961, when the victim is a
9 person under 18 years of age: 11-1.20 (criminal sexual
10 assault), 11-1.30 (aggravated criminal sexual
11 assault), 11-1.50 (criminal sexual abuse), 11-1.60
12 (aggravated criminal sexual abuse). An attempt to
13 commit any of these offenses.

14 (iii) A violation of any of the following Sections
15 of the Criminal Code of 1961, when the victim is a
16 person under 18 years of age and the defendant is not a
17 parent of the victim:

18 10-1 (kidnapping),

19 10-2 (aggravated kidnapping),

20 10-3 (unlawful restraint),

21 10-3.1 (aggravated unlawful restraint) ~~10-3.1~~

22 11-9.1(A) (permitting sexual abuse of a child).

23 An attempt to commit any of these offenses.

24 (iv) A violation of any former law of this State
25 substantially equivalent to any offense listed in
26 clause (2) (i) of subsection (d) of this Section.

1 (2.5) For the purposes of subsections (b-5) and (b-10)
2 only, a sex offense means:

3 (i) A violation of any of the following Sections of
4 the Criminal Code of 1961:

5 10-5(b)(10) (child luring), 10-7 (aiding or
6 abetting child abduction under Section 10-5(b)(10)),
7 11-1.40 (predatory criminal sexual assault of a
8 child), 11-6 (indecent solicitation of a child),
9 11-6.5 (indecent solicitation of an adult), 11-9.2
10 (custodial sexual misconduct), 11-9.5 (sexual
11 misconduct with a person with a disability), 11-11
12 (sexual relations within families), 11-14.3(a)(1)
13 (promoting prostitution by advancing prostitution),
14 11-14.3(a)(2)(A) (promoting prostitution by profiting
15 from prostitution by compelling a person to be a
16 prostitute), 11-14.3(a)(2)(C) (promoting prostitution
17 by profiting from prostitution by means other than as
18 described in subparagraphs (A) and (B) of paragraph (2)
19 of subsection (a) of Section 11-14.3), 11-14.4
20 (promoting juvenile prostitution), 11-18 (patronizing
21 a prostitute), 11-18.1 (patronizing a juvenile
22 prostitute), 11-20.1 (child pornography), 11-20.1B
23 (aggravated child pornography), 11-25 (grooming),
24 11-26 (traveling to meet a minor), or 12-33 (ritualized
25 abuse of a child). An attempt to commit any of these
26 offenses.

1 (ii) A violation of any of the following Sections
2 of the Criminal Code of 1961, when the victim is a
3 person under 18 years of age: 11-1.20 (criminal sexual
4 assault), 11-1.30 (aggravated criminal sexual
5 assault), 11-1.60 (aggravated criminal sexual abuse),
6 and subsection (a) of Section 11-1.50 (criminal sexual
7 abuse). An attempt to commit any of these offenses.

8 (iii) A violation of any of the following Sections
9 of the Criminal Code of 1961, when the victim is a
10 person under 18 years of age and the defendant is not a
11 parent of the victim:

12 10-1 (kidnapping),

13 10-2 (aggravated kidnapping),

14 10-3 (unlawful restraint),

15 10-3.1 (aggravated unlawful restraint) ~~and~~

16 11-9.1(A) (permitting sexual abuse of a child).

17 An attempt to commit any of these offenses.

18 (iv) A violation of any former law of this State
19 substantially equivalent to any offense listed in this
20 paragraph (2.5) of this subsection.

21 (3) A conviction for an offense of federal law or the
22 law of another state that is substantially equivalent to
23 any offense listed in paragraph (2) of subsection (d) of
24 this Section shall constitute a conviction for the purpose
25 of this Section. A finding or adjudication as a sexually
26 dangerous person under any federal law or law of another

1 state that is substantially equivalent to the Sexually
2 Dangerous Persons Act shall constitute an adjudication for
3 the purposes of this Section.

4 (4) "Authorized emergency vehicle", "rescue vehicle",
5 and "vehicle" have the meanings ascribed to them in
6 Sections 1-105, 1-171.8 and 1-217, respectively, of the
7 Illinois Vehicle Code.

8 (5) "Child care institution" has the meaning ascribed
9 to it in Section 2.06 of the Child Care Act of 1969.

10 (6) "Day care center" has the meaning ascribed to it in
11 Section 2.09 of the Child Care Act of 1969.

12 (7) "Day care home" has the meaning ascribed to it in
13 Section 2.18 of the Child Care Act of 1969.

14 (8) "Facility providing programs or services directed
15 towards persons under the age of 18" means any facility
16 providing programs or services exclusively directed
17 towards persons under the age of 18.

18 (9) "Group day care home" has the meaning ascribed to
19 it in Section 2.20 of the Child Care Act of 1969.

20 (10) "Internet" has the meaning set forth in Section
21 16J-5 of this Code.

22 (11) "Loiter" means:

23 (i) Standing, sitting idly, whether or not the
24 person is in a vehicle, or remaining in or around
25 school or public park property.

26 (ii) Standing, sitting idly, whether or not the

1 person is in a vehicle, or remaining in or around
2 school or public park property, for the purpose of
3 committing or attempting to commit a sex offense.

4 (iii) Entering or remaining in a building in or
5 around school property, other than the offender's
6 residence.

7 (12) "Part day child care facility" has the meaning
8 ascribed to it in Section 2.10 of the Child Care Act of
9 1969.

10 (13) "Playground" means a piece of land owned or
11 controlled by a unit of local government that is designated
12 by the unit of local government for use solely or primarily
13 for children's recreation.

14 (14) "Public park" includes a park, forest preserve, or
15 conservation area under the jurisdiction of the State or a
16 unit of local government.

17 (15) "School" means a public or private preschool or
18 elementary or secondary school.

19 (16) "School official" means the principal, a teacher,
20 or any other certified employee of the school, the
21 superintendent of schools or a member of the school board.

22 (e) For the purposes of this Section, the 500 feet distance
23 shall be measured from: (1) the edge of the property of the
24 school building or the real property comprising the school that
25 is closest to the edge of the property of the child sex
26 offender's residence or where he or she is loitering, and (2)

1 the edge of the property comprising the public park building or
2 the real property comprising the public park, playground, child
3 care institution, day care center, part day child care
4 facility, or facility providing programs or services
5 exclusively directed toward persons under 18 years of age, or a
6 victim of the sex offense who is under 21 years of age, to the
7 edge of the child sex offender's place of residence or place
8 where he or she is loitering.

9 (f) Sentence. A person who violates this Section is guilty
10 of a Class 4 felony.

11 (Source: P.A. 95-331, eff. 8-21-07; 95-440, eff. 8-27-07;
12 95-640, eff. 6-1-08; 95-819, eff. 1-1-09; 95-876, eff. 8-21-08;
13 96-328, eff. 8-11-09; 96-710, eff. 1-1-10; 96-1551, eff.
14 7-1-11.)

15 (720 ILCS 5/11-9.4-1)

16 Sec. 11-9.4-1. Sexual predator and child sex offender;
17 presence or loitering in or near public parks prohibited.

18 (a) For the purposes of this Section:

19 "Child sex offender" has the meaning ascribed to it in
20 subsection (d) of Section 11-9.3 ~~11-9.4~~ of this Code, but
21 does not include as a sex offense under paragraph (2) of
22 subsection (d) of Section 11-9.3 ~~11-9.4~~, the offenses under
23 subsections (b) and (c) of Section 11-1.50 or subsections
24 (b) and (c) of Section 11-1.50 12-15 of this Code.

25 "Public park" includes a park, forest preserve, or

1 conservation area under the jurisdiction of the State or a
2 unit of local government.

3 "Loiter" means:

4 (i) Standing, sitting idly, whether or not the
5 person is in a vehicle or remaining in or around public
6 park property.

7 (ii) Standing, sitting idly, whether or not the
8 person is in a vehicle or remaining in or around public
9 park property, for the purpose of committing or
10 attempting to commit a sex offense.

11 "Sexual predator" has the meaning ascribed to it in
12 subsection (E) of Section 2 of the Sex Offender
13 Registration Act.

14 (b) It is unlawful for a sexual predator or a child sex
15 offender to knowingly be present in any public park building or
16 on real property comprising any public park.

17 (c) It is unlawful for a sexual predator or a child sex
18 offender to knowingly loiter on a public way within 500 feet of
19 a public park building or real property comprising any public
20 park. For the purposes of this subsection (c), the 500 feet
21 distance shall be measured from the edge of the property
22 comprising the public park building or the real property
23 comprising the public park.

24 (d) Sentence. A person who violates this Section is guilty
25 of a Class A misdemeanor, except that a second or subsequent
26 violation is a Class 4 felony.

1 (Source: P.A. 96-1099, eff. 1-1-11; revised 10-12-11.)