



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2876

by Rep. Martin J. Moylan

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3.2

Amends the Unified Code of Corrections. Provides that it is an aggravating factor in sentencing that the defendant committed a crime of violence or criminal damage to property in a woman's health clinic or on the real property comprising the clinic or who intimidates persons attending the clinic or physicians or nurses at the clinic performing services at the clinic. Provides for the aggravating factor to be applicable, the offense of intimidation against persons attending a woman's health clinic or physicians or nurses at the clinic who perform services at the clinic is limited to intimidation committed by: (1) inflicting physical harm on the person threatened or any other person or on property; (2) subjecting any person to physical confinement or restraint; or (3) committing a felony or Class A misdemeanor. Defines "woman's health clinic", "health care services", and "crime of violence".

LRB101 06987 SLF 52020 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 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 committed a crime of violence or
25 criminal damage to property in a woman's health clinic or
26 on the real property comprising the clinic or the defendant

1 committed the offense of intimidation under paragraph (1),
2 (2), or (3) of subsection (a) of Section 12-6 of the
3 Criminal Code of 2012 against persons attending a woman's
4 health clinic or physicians or nurses at the clinic who
5 perform services at the clinic.

6 For the purposes of this Section:

7 "Crime of violence" has the meaning ascribed to it in
8 Section 2 of the Crime Victims Compensation Act.

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

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

15 "Health care services" means any services included in the
16 furnishing to a person of medical care.

17 "Intellectual disability" means significantly subaverage
18 intellectual functioning which exists concurrently with
19 impairment in adaptive behavior.

20 "Public transportation" means the transportation or
21 conveyance of persons by means available to the general public,
22 and includes paratransit services.

23 "Woman's health clinic" means an outpatient facility that
24 provides health care services, including a facility that
25 provides reproductive health care, primarily to female
26 patients.

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

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

9 (1) When a defendant is convicted of any felony, after
10 having been previously convicted in Illinois or any other
11 jurisdiction of the same or similar class felony or greater
12 class felony, when such conviction has occurred within 10
13 years after the previous conviction, excluding time spent
14 in custody, and such charges are separately brought and
15 tried and arise out of different series of acts; or

16 (2) When a defendant is convicted of any felony and the
17 court finds that the offense was accompanied by
18 exceptionally brutal or heinous behavior indicative of
19 wanton cruelty; or

20 (3) When a defendant is convicted of any felony
21 committed against:

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

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

26 (iii) a person who had a physical disability at the

1 time of the offense or such person's property; or

2 (4) When a defendant is convicted of any felony and the
3 offense involved any of the following types of specific
4 misconduct committed as part of a ceremony, rite,
5 initiation, observance, performance, practice or activity
6 of any actual or ostensible religious, fraternal, or social
7 group:

8 (i) the brutalizing or torturing of humans or
9 animals;

10 (ii) the theft of human corpses;

11 (iii) the kidnapping of humans;

12 (iv) the desecration of any cemetery, religious,
13 fraternal, business, governmental, educational, or
14 other building or property; or

15 (v) ritualized abuse of a child; or

16 (5) When a defendant is convicted of a felony other
17 than conspiracy and the court finds that the felony was
18 committed under an agreement with 2 or more other persons
19 to commit that offense and the defendant, with respect to
20 the other individuals, occupied a position of organizer,
21 supervisor, financier, or any other position of management
22 or leadership, and the court further finds that the felony
23 committed was related to or in furtherance of the criminal
24 activities of an organized gang or was motivated by the
25 defendant's leadership in an organized gang; or

26 (6) When a defendant is convicted of an offense

1 committed while using a firearm with a laser sight attached
2 to it. For purposes of this paragraph, "laser sight" has
3 the meaning ascribed to it in Section 26-7 of the Criminal
4 Code of 2012; or

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

13 (8) When a defendant commits any felony and the
14 defendant used, possessed, exercised control over, or
15 otherwise directed an animal to assault a law enforcement
16 officer engaged in the execution of his or her official
17 duties or in furtherance of the criminal activities of an
18 organized gang in which the defendant is engaged; or

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

22 (c) The following factors may be considered by the court as
23 reasons to impose an extended term sentence under Section 5-8-2
24 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

25 (1) When a defendant is convicted of first degree
26 murder, after having been previously convicted in Illinois

1 of any offense listed under paragraph (c)(2) of Section
2 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
3 within 10 years after the previous conviction, excluding
4 time spent in custody, and the charges are separately
5 brought and tried and arise out of different series of
6 acts.

7 (1.5) When a defendant is convicted of first degree
8 murder, after having been previously convicted of domestic
9 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
10 (720 ILCS 5/12-3.3) committed on the same victim or after
11 having been previously convicted of violation of an order
12 of protection (720 ILCS 5/12-30) in which the same victim
13 was the protected person.

14 (2) When a defendant is convicted of voluntary
15 manslaughter, second degree murder, involuntary
16 manslaughter, or reckless homicide in which the defendant
17 has been convicted of causing the death of more than one
18 individual.

19 (3) When a defendant is convicted of aggravated
20 criminal sexual assault or criminal sexual assault, when
21 there is a finding that aggravated criminal sexual assault
22 or criminal sexual assault was also committed on the same
23 victim by one or more other individuals, and the defendant
24 voluntarily participated in the crime with the knowledge of
25 the participation of the others in the crime, and the
26 commission of the crime was part of a single course of

1 conduct during which there was no substantial change in the
2 nature of the criminal objective.

3 (4) If the victim was under 18 years of age at the time
4 of the commission of the offense, when a defendant is
5 convicted of aggravated criminal sexual assault or
6 predatory criminal sexual assault of a child under
7 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
8 of Section 12-14.1 of the Criminal Code of 1961 or the
9 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

10 (5) When a defendant is convicted of a felony violation
11 of Section 24-1 of the Criminal Code of 1961 or the
12 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
13 finding that the defendant is a member of an organized
14 gang.

15 (6) When a defendant was convicted of unlawful use of
16 weapons under Section 24-1 of the Criminal Code of 1961 or
17 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
18 a weapon that is not readily distinguishable as one of the
19 weapons enumerated in Section 24-1 of the Criminal Code of
20 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

21 (7) When a defendant is convicted of an offense
22 involving the illegal manufacture of a controlled
23 substance under Section 401 of the Illinois Controlled
24 Substances Act (720 ILCS 570/401), the illegal manufacture
25 of methamphetamine under Section 25 of the Methamphetamine
26 Control and Community Protection Act (720 ILCS 646/25), or

1 the illegal possession of explosives and an emergency
2 response officer in the performance of his or her duties is
3 killed or injured at the scene of the offense while
4 responding to the emergency caused by the commission of the
5 offense. In this paragraph, "emergency" means a situation
6 in which a person's life, health, or safety is in jeopardy;
7 and "emergency response officer" means a peace officer,
8 community policing volunteer, fireman, emergency medical
9 technician-ambulance, emergency medical
10 technician-intermediate, emergency medical
11 technician-paramedic, ambulance driver, other medical
12 assistance or first aid personnel, or hospital emergency
13 room personnel.

14 (8) When the defendant is convicted of attempted mob
15 action, solicitation to commit mob action, or conspiracy to
16 commit mob action under Section 8-1, 8-2, or 8-4 of the
17 Criminal Code of 2012, where the criminal object is a
18 violation of Section 25-1 of the Criminal Code of 2012, and
19 an electronic communication is used in the commission of
20 the offense. For the purposes of this paragraph (8),
21 "electronic communication" shall have the meaning provided
22 in Section 26.5-0.1 of the Criminal Code of 2012.

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 11-1.20, 11-1.30,
3 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
4 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
5 when the victim of the offense is under 18 years of age at the
6 time of the commission of the offense and, during the
7 commission of the offense, the victim was under the influence
8 of alcohol, regardless of whether or not the alcohol was
9 supplied by the offender; and the offender, at the time of the
10 commission of the offense, knew or should have known that the
11 victim had consumed alcohol.

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