



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1462

Introduced 2/13/2019, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

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

was 720 ILCS 5/11-9
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. Excludes from the definition of "penal institution" a facility of the Department of Juvenile Justice or a juvenile detention facility. 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.

LRB101 09372 RLC 54470 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 (a-5) For purposes of this Section, "penal institution"
17 does not include a facility of the Department of Juvenile
18 Justice or a juvenile detention facility.

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

22 (c) Sentence.

23 Public indecency is a Class A misdemeanor. A person

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

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

7 Section 10. The Sex Offender Registration Act is amended by
8 changing Section 2 as follows:

9 (730 ILCS 150/2) (from Ch. 38, par. 222)

10 Sec. 2. Definitions.

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

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

18 (a) is convicted of such offense or an attempt to
19 commit such offense; or

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

22 (c) is found not guilty by reason of insanity
23 pursuant to Section 104-25(c) of the Code of Criminal
24 Procedure of 1963 of such offense or an attempt to

1 commit such offense; or

2 (d) is the subject of a finding not resulting in an
3 acquittal at a hearing conducted pursuant to Section
4 104-25(a) of the Code of Criminal Procedure of 1963 for
5 the alleged commission or attempted commission of such
6 offense; or

7 (e) is found not guilty by reason of insanity
8 following a hearing conducted pursuant to a federal,
9 Uniform Code of Military Justice, sister state, or
10 foreign country law substantially similar to Section
11 104-25(c) of the Code of Criminal Procedure of 1963 of
12 such offense or of the attempted commission of such
13 offense; or

14 (f) is the subject of a finding not resulting in an
15 acquittal at a hearing conducted pursuant to a federal,
16 Uniform Code of Military Justice, sister state, or
17 foreign country law substantially similar to Section
18 104-25(a) of the Code of Criminal Procedure of 1963 for
19 the alleged violation or attempted commission of such
20 offense; or

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

25 (3) subject to the provisions of Section 2 of the
26 Interstate Agreements on Sexually Dangerous Persons Act;

1 or

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

6 (5) adjudicated a juvenile delinquent as the result of
7 committing or attempting to commit an act which, if
8 committed by an adult, would constitute any of the offenses
9 specified in item (B), (C), or (C-5) of this Section or a
10 violation of any substantially similar federal, Uniform
11 Code of Military Justice, sister state, or foreign country
12 law, or found guilty under Article V of the Juvenile Court
13 Act of 1987 of committing or attempting to commit an act
14 which, if committed by an adult, would constitute any of
15 the offenses specified in item (B), (C), or (C-5) of this
16 Section or a violation of any substantially similar
17 federal, Uniform Code of Military Justice, sister state, or
18 foreign country law.

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

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

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

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

3 11-20.1 (child pornography),
4 11-20.1B or 11-20.3 (aggravated child
5 pornography),

6 11-6 (indecent solicitation of a child),

7 11-9.1 (sexual exploitation of a child),

8 11-9.2 (custodial sexual misconduct),

9 11-9.5 (sexual misconduct with a person with a
10 disability),

11 11-14.4 (promoting juvenile prostitution),

12 11-15.1 (soliciting for a juvenile prostitute),

13 11-18.1 (patronizing a juvenile prostitute),

14 11-17.1 (keeping a place of juvenile
15 prostitution),

16 11-19.1 (juvenile pimping),

17 11-19.2 (exploitation of a child),

18 11-25 (grooming),

19 11-26 (traveling to meet a minor or traveling to
20 meet a child),

21 11-1.20 or 12-13 (criminal sexual assault),

22 11-1.30 or 12-14 (aggravated criminal sexual
23 assault),

24 11-1.40 or 12-14.1 (predatory criminal sexual
25 assault of a child),

26 11-1.50 or 12-15 (criminal sexual abuse),

1 11-1.60 or 12-16 (aggravated criminal sexual
2 abuse),

3 12-33 (ritualized abuse of a child).

4 An attempt to commit any of these offenses.

5 (1.5) A violation of any of the following Sections of
6 the Criminal Code of 1961 or the Criminal Code of 2012,
7 when the victim is a person under 18 years of age, the
8 defendant is not a parent of the victim, the offense was
9 sexually motivated as defined in Section 10 of the Sex
10 Offender Evaluation and Treatment Act, and the offense was
11 committed on or after January 1, 1996:

12 10-1 (kidnapping),

13 10-2 (aggravated kidnapping),

14 10-3 (unlawful restraint),

15 10-3.1 (aggravated unlawful restraint).

16 If the offense was committed before January 1, 1996, it
17 is a sex offense requiring registration only when the
18 person is convicted of any felony after July 1, 2011, and
19 paragraph (2.1) of subsection (c) of Section 3 of this Act
20 applies.

21 (1.6) First degree murder under Section 9-1 of the
22 Criminal Code of 1961 or the Criminal Code of 2012,
23 provided the offense was sexually motivated as defined in
24 Section 10 of the Sex Offender Management Board Act.

25 (1.7) (Blank).

26 (1.8) A violation or attempted violation of Section

1 11-11 (sexual relations within families) of the Criminal
2 Code of 1961 or the Criminal Code of 2012, and the offense
3 was committed on or after June 1, 1997. If the offense was
4 committed before June 1, 1997, it is a sex offense
5 requiring registration only when the person is convicted of
6 any felony after July 1, 2011, and paragraph (2.1) of
7 subsection (c) of Section 3 of this Act applies.

8 (1.9) Child abduction under paragraph (10) of
9 subsection (b) of Section 10-5 of the Criminal Code of 1961
10 or the Criminal Code of 2012 committed by luring or
11 attempting to lure a child under the age of 16 into a motor
12 vehicle, building, house trailer, or dwelling place
13 without the consent of the parent or lawful custodian of
14 the child for other than a lawful purpose and the offense
15 was committed on or after January 1, 1998, provided the
16 offense was sexually motivated as defined in Section 10 of
17 the Sex Offender Management Board Act. If the offense was
18 committed before January 1, 1998, it is a sex offense
19 requiring registration only when the person is convicted of
20 any felony after July 1, 2011, and paragraph (2.1) of
21 subsection (c) of Section 3 of this Act applies.

22 (1.10) A violation or attempted violation of any of the
23 following Sections of the Criminal Code of 1961 or the
24 Criminal Code of 2012 when the offense was committed on or
25 after July 1, 1999:

26 10-4 (forcible detention, if the victim is under 18

1 years of age), provided the offense was sexually
2 motivated as defined in Section 10 of the Sex Offender
3 Management Board Act,

4 11-6.5 (indecent solicitation of an adult),

5 11-14.3 that involves soliciting for a prostitute,
6 or 11-15 (soliciting for a prostitute, if the victim is
7 under 18 years of age),

8 subdivision (a) (2) (A) or (a) (2) (B) of Section
9 11-14.3, or Section 11-16 (pandering, if the victim is
10 under 18 years of age),

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

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

16 If the offense was committed before July 1, 1999, it is
17 a sex offense requiring registration only when the person
18 is convicted of any felony after July 1, 2011, and
19 paragraph (2.1) of subsection (c) of Section 3 of this Act
20 applies.

21 (1.11) A violation or attempted violation of any of the
22 following Sections of the Criminal Code of 1961 or the
23 Criminal Code of 2012 when the offense was committed on or
24 after August 22, 2002:

25 11-9 or 11-30 (public indecency for a third or
26 subsequent conviction).

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

6 (1.12) A violation or attempted violation of Section
7 5.1 of the Wrongs to Children Act or Section 11-9.1A of the
8 Criminal Code of 1961 or the Criminal Code of 2012
9 (permitting sexual abuse) when the offense was committed on
10 or after August 22, 2002. If the offense was committed
11 before August 22, 2002, it is a sex offense requiring
12 registration only when the person is convicted of any
13 felony after July 1, 2011, and paragraph (2.1) of
14 subsection (c) of Section 3 of this Act applies.

15 (1.13) A second violation or attempted violation of
16 Section 11-30 (public indecency while confined in a penal
17 institution) of the Criminal Code of 2012 committed on or
18 after the effective date of this amendatory Act of the
19 101st General Assembly.

20 (2) A violation of any former law of this State
21 substantially equivalent to any offense listed in
22 subsection (B) of this Section.

23 (C) A conviction for an offense of federal law, Uniform
24 Code of Military Justice, or the law of another state or a
25 foreign country that is substantially equivalent to any offense
26 listed in subsections (B), (C), (E), and (E-5) of this Section

1 shall constitute a conviction for the purpose of this Article.
2 A finding or adjudication as a sexually dangerous person or a
3 sexually violent person under any federal law, Uniform Code of
4 Military Justice, or the law of another state or foreign
5 country that is substantially equivalent to the Sexually
6 Dangerous Persons Act or the Sexually Violent Persons
7 Commitment Act shall constitute an adjudication for the
8 purposes of this Article.

9 (C-5) A person at least 17 years of age at the time of the
10 commission of the offense who is convicted of first degree
11 murder under Section 9-1 of the Criminal Code of 1961 or the
12 Criminal Code of 2012, against a person under 18 years of age,
13 shall be required to register for natural life. A conviction
14 for an offense of federal, Uniform Code of Military Justice,
15 sister state, or foreign country law that is substantially
16 equivalent to any offense listed in subsection (C-5) of this
17 Section shall constitute a conviction for the purpose of this
18 Article. This subsection (C-5) applies to a person who
19 committed the offense before June 1, 1996 if: (i) the person is
20 incarcerated in an Illinois Department of Corrections facility
21 on August 20, 2004 (the effective date of Public Act 93-977),
22 or (ii) subparagraph (i) does not apply and the person is
23 convicted of any felony after July 1, 2011, and paragraph (2.1)
24 of subsection (c) of Section 3 of this Act applies.

25 (C-6) A person who is convicted or adjudicated delinquent
26 of first degree murder as defined in Section 9-1 of the

1 Criminal Code of 1961 or the Criminal Code of 2012, against a
2 person 18 years of age or over, shall be required to register
3 for his or her natural life. A conviction for an offense of
4 federal, Uniform Code of Military Justice, sister state, or
5 foreign country law that is substantially equivalent to any
6 offense listed in subsection (C-6) of this Section shall
7 constitute a conviction for the purpose of this Article. This
8 subsection (C-6) does not apply to those individuals released
9 from incarceration more than 10 years prior to January 1, 2012
10 (the effective date of Public Act 97-154).

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

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

26 (E) As used in this Article, "sexual predator" means any

1 person who, after July 1, 1999, is:

2 (1) Convicted for an offense of federal, Uniform Code
3 of Military Justice, sister state, or foreign country law
4 that is substantially equivalent to any offense listed in
5 subsection (E) or (E-5) of this Section shall constitute a
6 conviction for the purpose of this Article. Convicted of a
7 violation or attempted violation of any of the following
8 Sections of the Criminal Code of 1961 or the Criminal Code
9 of 2012:

10 10-5.1 (luring of a minor),

11 11-14.4 that involves keeping a place of juvenile
12 prostitution, or 11-17.1 (keeping a place of juvenile
13 prostitution),

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

16 subdivision (a) (4) of Section 11-14.4, or Section
17 11-19.2 (exploitation of a child),

18 11-20.1 (child pornography),

19 11-20.1B or 11-20.3 (aggravated child
20 pornography),

21 11-1.20 or 12-13 (criminal sexual assault),

22 11-1.30 or 12-14 (aggravated criminal sexual
23 assault),

24 11-1.40 or 12-14.1 (predatory criminal sexual
25 assault of a child),

26 11-1.60 or 12-16 (aggravated criminal sexual

1 abuse),

2 12-33 (ritualized abuse of a child);

3 (2) (blank);

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

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

12 (5) convicted of a second or subsequent offense which
13 requires registration pursuant to this Act. For purposes of
14 this paragraph (5), "convicted" shall include a conviction
15 under any substantially similar Illinois, federal, Uniform
16 Code of Military Justice, sister state, or foreign country
17 law;

18 (6) (blank); or

19 (7) if the person was convicted of an offense set forth
20 in this subsection (E) on or before July 1, 1999, the
21 person is a sexual predator for whom registration is
22 required only when the person is convicted of a felony
23 offense after July 1, 2011, and paragraph (2.1) of
24 subsection (c) of Section 3 of this Act applies.

25 (E-5) As used in this Article, "sexual predator" also means
26 a person convicted of a violation or attempted violation of any

1 of the following Sections of the Criminal Code of 1961 or the
2 Criminal Code of 2012:

3 (1) Section 9-1 (first degree murder, when the victim
4 was a person under 18 years of age and the defendant was at
5 least 17 years of age at the time of the commission of the
6 offense, provided the offense was sexually motivated as
7 defined in Section 10 of the Sex Offender Management Board
8 Act);

9 (2) Section 11-9.5 (sexual misconduct with a person
10 with a disability);

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

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

1 (E-10) As used in this Article, "sexual predator" also
2 means a person required to register in another State due to a
3 conviction, adjudication or other action of any court
4 triggering an obligation to register as a sex offender, sexual
5 predator, or substantially similar status under the laws of
6 that State.

7 (F) As used in this Article, "out-of-state student" means
8 any sex offender, as defined in this Section, or sexual
9 predator who is enrolled in Illinois, on a full-time or
10 part-time basis, in any public or private educational
11 institution, including, but not limited to, any secondary
12 school, trade or professional institution, or institution of
13 higher learning.

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

22 (H) As used in this Article, "school" means any public or
23 private educational institution, including, but not limited
24 to, any elementary or secondary school, trade or professional
25 institution, or institution of higher education.

26 (I) As used in this Article, "fixed residence" means any

1 and all places that a sex offender resides for an aggregate
2 period of time of 5 or more days in a calendar year.

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

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