



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0867

Introduced 2/10/2009, by Rep. Harry Osterman

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-4.2	from Ch. 38, par. 12-4.2
720 ILCS 5/24-1	from Ch. 38, par. 24-1
730 ILCS 5/5-5-3.2	from Ch. 38, par. 1005-5-3.2

Amends the Criminal Code of 1961. Provides that the offense of aggravated battery with a firearm is also committed if the firearm is discharged on school grounds at a person known to be a student and causes injury to that student. Provides for enhanced penalties for carrying or possessing firearms or other dangerous weapons in a conveyance owned, leased, or contracted by a public transportation agency or on a public way within 1,000 feet of the real property comprising a public transportation facility. Amends the Unified Code of Corrections. Provides that it is an aggravating factor in sentencing that the defendant committed an offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation.

LRB096 04169 RLC 18839 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 12-4.2 and 24-1 as follows:

6 (720 ILCS 5/12-4.2) (from Ch. 38, par. 12-4.2)

7 Sec. 12-4.2. Aggravated Battery with a firearm.

8 (a) A person commits aggravated battery with a firearm when
9 he, in committing a battery, knowingly or intentionally by
10 means of the discharging of a firearm (1) causes any injury to
11 another person, or (2) causes any injury to a person he knows
12 to be a peace officer, a private security officer, a community
13 policing volunteer, a correctional institution employee or a
14 fireman while the officer, volunteer, employee or fireman is
15 engaged in the execution of any of his official duties, or to
16 prevent the officer, volunteer, employee or fireman from
17 performing his official duties, or in retaliation for the
18 officer, volunteer, employee or fireman performing his
19 official duties, or (3) causes any injury to a person he knows
20 to be an emergency medical technician - ambulance, emergency
21 medical technician - intermediate, emergency medical
22 technician - paramedic, ambulance driver, or other medical
23 assistance or first aid personnel, employed by a municipality

1 or other governmental unit, while the emergency medical
2 technician - ambulance, emergency medical technician -
3 intermediate, emergency medical technician - paramedic,
4 ambulance driver, or other medical assistance or first aid
5 personnel is engaged in the execution of any of his official
6 duties, or to prevent the emergency medical technician -
7 ambulance, emergency medical technician - intermediate,
8 emergency medical technician - paramedic, ambulance driver, or
9 other medical assistance or first aid personnel from performing
10 his official duties, or in retaliation for the emergency
11 medical technician - ambulance, emergency medical technician -
12 intermediate, emergency medical technician - paramedic,
13 ambulance driver, or other medical assistance or first aid
14 personnel performing his official duties, (4) causes any injury
15 to a person he or she knows to be a teacher or other person
16 employed in a school or a student in a school and the teacher
17 or other employee or student is upon grounds of a school or
18 grounds adjacent to a school, or is in any part of a building
19 used for school purposes, or (5) causes any injury to a person
20 he or she knows to be an emergency management worker while the
21 emergency management worker is engaged in the execution of any
22 of his or her official duties, or to prevent the emergency
23 management worker from performing his or her official duties,
24 or in retaliation for the emergency management worker
25 performing his or her official duties.

26 (b) A violation of subsection (a)(1) of this Section is a

1 Class X felony. A violation of subsection (a)(2), subsection
2 (a)(3), subsection (a)(4), ~~or~~ subsection (a)(5) of this Section
3 is a Class X felony for which the sentence shall be a term of
4 imprisonment of no less than 15 years and no more than 60
5 years.

6 (c) For purposes of this Section:

7 "Firearm" is defined as in the Firearm Owners
8 Identification Card Act.

9 "Private security officer" means a registered employee
10 of a private security contractor agency under the Private
11 Detective, Private Alarm, Private Security, Fingerprint
12 Vendor, and Locksmith Act of 2004.

13 (Source: P.A. 94-243, eff. 1-1-06; 95-236, eff. 1-1-08; revised
14 1-22-08.)

15 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

16 Sec. 24-1. Unlawful Use of Weapons.

17 (a) A person commits the offense of unlawful use of weapons
18 when he knowingly:

19 (1) Sells, manufactures, purchases, possesses or
20 carries any bludgeon, black-jack, slung-shot, sand-club,
21 sand-bag, metal knuckles or other knuckle weapon
22 regardless of its composition, throwing star, or any knife,
23 commonly referred to as a switchblade knife, which has a
24 blade that opens automatically by hand pressure applied to
25 a button, spring or other device in the handle of the

1 knife, or a ballistic knife, which is a device that propels
2 a knifelike blade as a projectile by means of a coil
3 spring, elastic material or compressed gas; or

4 (2) Carries or possesses with intent to use the same
5 unlawfully against another, a dagger, dirk, billy,
6 dangerous knife, razor, stiletto, broken bottle or other
7 piece of glass, stun gun or taser or any other dangerous or
8 deadly weapon or instrument of like character; or

9 (3) Carries on or about his person or in any vehicle, a
10 tear gas gun projector or bomb or any object containing
11 noxious liquid gas or substance, other than an object
12 containing a non-lethal noxious liquid gas or substance
13 designed solely for personal defense carried by a person 18
14 years of age or older; or

15 (4) Carries or possesses in any vehicle or concealed on
16 or about his person except when on his land or in his own
17 abode or fixed place of business any pistol, revolver, stun
18 gun or taser or other firearm, except that this subsection
19 (a) (4) does not apply to or affect transportation of
20 weapons that meet one of the following conditions:

21 (i) are broken down in a non-functioning state; or

22 (ii) are not immediately accessible; or

23 (iii) are unloaded and enclosed in a case, firearm
24 carrying box, shipping box, or other container by a
25 person who has been issued a currently valid Firearm
26 Owner's Identification Card; or

1 (5) Sets a spring gun; or

2 (6) Possesses any device or attachment of any kind
3 designed, used or intended for use in silencing the report
4 of any firearm; or

5 (7) Sells, manufactures, purchases, possesses or
6 carries:

7 (i) a machine gun, which shall be defined for the
8 purposes of this subsection as any weapon, which
9 shoots, is designed to shoot, or can be readily
10 restored to shoot, automatically more than one shot
11 without manually reloading by a single function of the
12 trigger, including the frame or receiver of any such
13 weapon, or sells, manufactures, purchases, possesses,
14 or carries any combination of parts designed or
15 intended for use in converting any weapon into a
16 machine gun, or any combination or parts from which a
17 machine gun can be assembled if such parts are in the
18 possession or under the control of a person;

19 (ii) any rifle having one or more barrels less than
20 16 inches in length or a shotgun having one or more
21 barrels less than 18 inches in length or any weapon
22 made from a rifle or shotgun, whether by alteration,
23 modification, or otherwise, if such a weapon as
24 modified has an overall length of less than 26 inches;
25 or

26 (iii) any bomb, bomb-shell, grenade, bottle or

1 other container containing an explosive substance of
2 over one-quarter ounce for like purposes, such as, but
3 not limited to, black powder bombs and Molotov
4 cocktails or artillery projectiles; or

5 (8) Carries or possesses any firearm, stun gun or taser
6 or other deadly weapon in any place which is licensed to
7 sell intoxicating beverages, or at any public gathering
8 held pursuant to a license issued by any governmental body
9 or any public gathering at which an admission is charged,
10 excluding a place where a showing, demonstration or lecture
11 involving the exhibition of unloaded firearms is
12 conducted.

13 This subsection (a) (8) does not apply to any auction or
14 raffle of a firearm held pursuant to a license or permit
15 issued by a governmental body, nor does it apply to persons
16 engaged in firearm safety training courses; or

17 (9) Carries or possesses in a vehicle or on or about
18 his person any pistol, revolver, stun gun or taser or
19 firearm or ballistic knife, when he is hooded, robed or
20 masked in such manner as to conceal his identity; or

21 (10) Carries or possesses on or about his person, upon
22 any public street, alley, or other public lands within the
23 corporate limits of a city, village or incorporated town,
24 except when an invitee thereon or therein, for the purpose
25 of the display of such weapon or the lawful commerce in
26 weapons, or except when on his land or in his own abode or

1 fixed place of business, any pistol, revolver, stun gun or
2 taser or other firearm, except that this subsection (a)
3 (10) does not apply to or affect transportation of weapons
4 that meet one of the following conditions:

5 (i) are broken down in a non-functioning state; or

6 (ii) are not immediately accessible; or

7 (iii) are unloaded and enclosed in a case, firearm
8 carrying box, shipping box, or other container by a
9 person who has been issued a currently valid Firearm
10 Owner's Identification Card.

11 A "stun gun or taser", as used in this paragraph (a)
12 means (i) any device which is powered by electrical
13 charging units, such as, batteries, and which fires one or
14 several barbs attached to a length of wire and which, upon
15 hitting a human, can send out a current capable of
16 disrupting the person's nervous system in such a manner as
17 to render him incapable of normal functioning or (ii) any
18 device which is powered by electrical charging units, such
19 as batteries, and which, upon contact with a human or
20 clothing worn by a human, can send out current capable of
21 disrupting the person's nervous system in such a manner as
22 to render him incapable of normal functioning; or

23 (11) Sells, manufactures or purchases any explosive
24 bullet. For purposes of this paragraph (a) "explosive
25 bullet" means the projectile portion of an ammunition
26 cartridge which contains or carries an explosive charge

1 which will explode upon contact with the flesh of a human
2 or an animal. "Cartridge" means a tubular metal case having
3 a projectile affixed at the front thereof and a cap or
4 primer at the rear end thereof, with the propellant
5 contained in such tube between the projectile and the cap;
6 or

7 (12) (Blank); or

8 (13) Carries or possesses on or about his or her person
9 while in a building occupied by a unit of government, a
10 billy club, other weapon of like character, or other
11 instrument of like character intended for use as a weapon.
12 For the purposes of this Section, "billy club" means a
13 short stick or club commonly carried by police officers
14 which is either telescopic or constructed of a solid piece
15 of wood or other man-made material.

16 (b) Sentence. A person convicted of a violation of
17 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
18 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
19 Class A misdemeanor. A person convicted of a violation of
20 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
21 person convicted of a violation of subsection 24-1(a)(6) or
22 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person
23 convicted of a violation of subsection 24-1(a)(7)(i) commits a
24 Class 2 felony and shall be sentenced to a term of imprisonment
25 of not less than 3 years and not more than 7 years, unless the
26 weapon is possessed in the passenger compartment of a motor

1 vehicle as defined in Section 1-146 of the Illinois Vehicle
2 Code, or on the person, while the weapon is loaded, in which
3 case it shall be a Class X felony. A person convicted of a
4 second or subsequent violation of subsection 24-1(a)(4),
5 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3
6 felony. The possession of each weapon in violation of this
7 Section constitutes a single and separate violation.

8 (c) Violations in specific places.

9 (1) A person who violates subsection 24-1(a)(6) or
10 24-1(a)(7) in any school, regardless of the time of day or
11 the time of year, in residential property owned, operated
12 or managed by a public housing agency or leased by a public
13 housing agency as part of a scattered site or mixed-income
14 development, in a public park, in a courthouse, on the real
15 property comprising any school, regardless of the time of
16 day or the time of year, on residential property owned,
17 operated or managed by a public housing agency or leased by
18 a public housing agency as part of a scattered site or
19 mixed-income development, on the real property comprising
20 any public park, on the real property comprising any
21 courthouse, in any conveyance owned, leased or contracted
22 by a school to transport students to or from school or a
23 school related activity, in any conveyance owned, leased,
24 or contracted by a public transportation agency, or on any
25 public way within 1,000 feet of the real property
26 comprising any school, public park, courthouse, public

1 transportation facility, or residential property owned,
2 operated, or managed by a public housing agency or leased
3 by a public housing agency as part of a scattered site or
4 mixed-income development commits a Class 2 felony and shall
5 be sentenced to a term of imprisonment of not less than 3
6 years and not more than 7 years.

7 (1.5) A person who violates subsection 24-1(a)(4),
8 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
9 time of day or the time of year, in residential property
10 owned, operated, or managed by a public housing agency or
11 leased by a public housing agency as part of a scattered
12 site or mixed-income development, in a public park, in a
13 courthouse, on the real property comprising any school,
14 regardless of the time of day or the time of year, on
15 residential property owned, operated, or managed by a
16 public housing agency or leased by a public housing agency
17 as part of a scattered site or mixed-income development, on
18 the real property comprising any public park, on the real
19 property comprising any courthouse, in any conveyance
20 owned, leased, or contracted by a school to transport
21 students to or from school or a school related activity, in
22 any conveyance owned, leased, or contracted by a public
23 transportation agency, or on any public way within 1,000
24 feet of the real property comprising any school, public
25 park, courthouse, public transportation facility, or
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency
2 as part of a scattered site or mixed-income development
3 commits a Class 3 felony.

4 (2) A person who violates subsection 24-1(a)(1),
5 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
6 time of day or the time of year, in residential property
7 owned, operated or managed by a public housing agency or
8 leased by a public housing agency as part of a scattered
9 site or mixed-income development, in a public park, in a
10 courthouse, on the real property comprising any school,
11 regardless of the time of day or the time of year, on
12 residential property owned, operated or managed by a public
13 housing agency or leased by a public housing agency as part
14 of a scattered site or mixed-income development, on the
15 real property comprising any public park, on the real
16 property comprising any courthouse, in any conveyance
17 owned, leased or contracted by a school to transport
18 students to or from school or a school related activity, in
19 any conveyance owned, leased, or contracted by a public
20 transportation agency, or on any public way within 1,000
21 feet of the real property comprising any school, public
22 park, courthouse, public transportation facility, or
23 residential property owned, operated, or managed by a
24 public housing agency or leased by a public housing agency
25 as part of a scattered site or mixed-income development
26 commits a Class 4 felony. "Courthouse" means any building

1 that is used by the Circuit, Appellate, or Supreme Court of
2 this State for the conduct of official business.

3 (3) Paragraphs (1), (1.5), and (2) of this subsection
4 (c) shall not apply to law enforcement officers or security
5 officers of such school, college, or university or to
6 students carrying or possessing firearms for use in
7 training courses, parades, hunting, target shooting on
8 school ranges, or otherwise with the consent of school
9 authorities and which firearms are transported unloaded
10 enclosed in a suitable case, box, or transportation
11 package.

12 (4) For the purposes of this subsection (c), "school"
13 means any public or private elementary or secondary school,
14 community college, college, or university.

15 (5) For the purposes of this subsection (c), "public
16 transportation agency" means a public or private agency
17 that provides for the transportation or conveyance of
18 persons by means available to the general public, except
19 for transportation by automobiles not used for conveyance
20 of the general public as passengers; and "public
21 transportation facility" means a terminal or other place
22 where one may obtain public transportation.

23 (d) The presence in an automobile other than a public
24 omnibus of any weapon, instrument or substance referred to in
25 subsection (a)(7) is prima facie evidence that it is in the
26 possession of, and is being carried by, all persons occupying

1 such automobile at the time such weapon, instrument or
2 substance is found, except under the following circumstances:
3 (i) if such weapon, instrument or instrumentality is found upon
4 the person of one of the occupants therein; or (ii) if such
5 weapon, instrument or substance is found in an automobile
6 operated for hire by a duly licensed driver in the due, lawful
7 and proper pursuit of his trade, then such presumption shall
8 not apply to the driver.

9 (e) Exemptions. Crossbows, Common or Compound bows and
10 Underwater Spearguns are exempted from the definition of
11 ballistic knife as defined in paragraph (1) of subsection (a)
12 of this Section.

13 (Source: P.A. 94-72, eff. 1-1-06; 94-284, eff. 7-21-05; 95-331,
14 eff. 8-21-07; 95-809, eff. 1-1-09; 95-885, eff. 1-1-09; revised
15 9-5-08.)

16 Section 10. The Unified Code of Corrections is amended by
17 changing Section 5-5-3.2 as follows:

18 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

19 Sec. 5-5-3.2. Factors in Aggravation.

20 (a) The following factors shall be accorded weight in favor
21 of imposing a term of imprisonment or may be considered by the
22 court as reasons to impose a more severe sentence under Section
23 5-8-1:

24 (1) the defendant's conduct caused or threatened

1 serious harm;

2 (2) the defendant received compensation for committing
3 the offense;

4 (3) the defendant has a history of prior delinquency or
5 criminal activity;

6 (4) the defendant, by the duties of his office or by
7 his position, was obliged to prevent the particular offense
8 committed or to bring the offenders committing it to
9 justice;

10 (5) the defendant held public office at the time of the
11 offense, and the offense related to the conduct of that
12 office;

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

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

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

20 (9) the defendant committed the offense against a
21 person who is physically handicapped or such person's
22 property;

23 (10) by reason of another individual's actual or
24 perceived race, color, creed, religion, ancestry, gender,
25 sexual orientation, physical or mental disability, or
26 national origin, the defendant committed the offense

1 against (i) the person or property of that individual; (ii)
2 the person or property of a person who has an association
3 with, is married to, or has a friendship with the other
4 individual; or (iii) the person or property of a relative
5 (by blood or marriage) of a person described in clause (i)
6 or (ii). For the purposes of this Section, "sexual
7 orientation" means heterosexuality, homosexuality, or
8 bisexuality;

9 (11) the offense took place in a place of worship or on
10 the grounds of a place of worship, immediately prior to,
11 during or immediately following worship services. For
12 purposes of this subparagraph, "place of worship" shall
13 mean any church, synagogue or other building, structure or
14 place used primarily for religious worship;

15 (12) the defendant was convicted of a felony committed
16 while he was released on bail or his own recognizance
17 pending trial for a prior felony and was convicted of such
18 prior felony, or the defendant was convicted of a felony
19 committed while he was serving a period of probation,
20 conditional discharge, or mandatory supervised release
21 under subsection (d) of Section 5-8-1 for a prior felony;

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

1 (14) the defendant held a position of trust or
2 supervision such as, but not limited to, family member as
3 defined in Section 12-12 of the Criminal Code of 1961,
4 teacher, scout leader, baby sitter, or day care worker, in
5 relation to a victim under 18 years of age, and the
6 defendant committed an offense in violation of Section
7 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
8 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
9 against that victim;

10 (15) the defendant committed an offense related to the
11 activities of an organized gang. For the purposes of this
12 factor, "organized gang" has the meaning ascribed to it in
13 Section 10 of the Streetgang Terrorism Omnibus Prevention
14 Act;

15 (16) the defendant committed an offense in violation of
16 one of the following Sections while in a school, regardless
17 of the time of day or time of year; on any conveyance
18 owned, leased, or contracted by a school to transport
19 students to or from school or a school related activity; on
20 the real property of a school; or on a public way within
21 1,000 feet of the real property comprising any school:
22 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
23 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
24 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
25 33A-2 of the Criminal Code of 1961;

26 (16.5) the defendant committed an offense in violation

1 of one of the following Sections while in a day care
2 center, regardless of the time of day or time of year; on
3 the real property of a day care center, regardless of the
4 time of day or time of year; or on a public way within
5 1,000 feet of the real property comprising any day care
6 center, regardless of the time of day or time of year:
7 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
9 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
10 33A-2 of the Criminal Code of 1961;

11 (17) the defendant committed the offense by reason of
12 any person's activity as a community policing volunteer or
13 to prevent any person from engaging in activity as a
14 community policing volunteer. For the purpose of this
15 Section, "community policing volunteer" has the meaning
16 ascribed to it in Section 2-3.5 of the Criminal Code of
17 1961;

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

24 (19) the defendant was a federally licensed firearm
25 dealer and was previously convicted of a violation of
26 subsection (a) of Section 3 of the Firearm Owners

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

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

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

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

1 duty; ~~or~~

2 (23) the defendant committed the offense against a
3 person who was elderly, disabled, or infirm by taking
4 advantage of a family or fiduciary relationship with the
5 elderly, disabled, or infirm person; ~~or~~

6 (24) ~~(22)~~ the defendant committed any offense under
7 Section 11-20.1 of the Criminal Code of 1961 and possessed
8 100 or more images; or ~~or~~

9 (25) the defendant committed the offense while the
10 defendant or the victim was in a train, bus, or other
11 vehicle used for public transportation.

12 For the purposes of this Section:

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

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

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

22 (b) The following factors may be considered by the court as
23 reasons to impose an extended term sentence under Section 5-8-2
24 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 voluntary
11 manslaughter, second degree murder, involuntary
12 manslaughter or reckless homicide in which the defendant
13 has been convicted of causing the death of more than one
14 individual; or

15 (4) When a defendant is convicted of any felony
16 committed against:

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

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

21 (iii) a person physically handicapped at the time
22 of the offense or such person's property; or

23 (5) In the case of a defendant convicted of aggravated
24 criminal sexual assault or criminal sexual assault, when
25 the court finds that aggravated criminal sexual assault or
26 criminal sexual assault was also committed on the same

1 victim by one or more other individuals, and the defendant
2 voluntarily participated in the crime with the knowledge of
3 the participation of the others in the crime, and the
4 commission of the crime was part of a single course of
5 conduct during which there was no substantial change in the
6 nature of the criminal objective; or

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

13 (i) the brutalizing or torturing of humans or
14 animals;

15 (ii) the theft of human corpses;

16 (iii) the kidnapping of humans;

17 (iv) the desecration of any cemetery, religious,
18 fraternal, business, governmental, educational, or
19 other building or property; or

20 (v) ritualized abuse of a child; or

21 (7) When a defendant is convicted of first degree
22 murder, after having been previously convicted in Illinois
23 of any offense listed under paragraph (c)(2) of Section
24 5-5-3, when such conviction has occurred within 10 years
25 after the previous conviction, excluding time spent in
26 custody, and such charges are separately brought and tried

1 and arise out of different series of acts; or

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

12 (9) When a defendant is convicted of a felony violation
13 of Section 24-1 of the Criminal Code of 1961 and the court
14 finds that the defendant is a member of an organized gang;
15 or

16 (10) When a defendant committed the offense using a
17 firearm with a laser sight attached to it. For purposes of
18 this paragraph (10), "laser sight" has the meaning ascribed
19 to it in Section 24.6-5 of the Criminal Code of 1961; or

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

1 spent in custody; or

2 (12) When a defendant commits an offense involving the
3 illegal manufacture of a controlled substance under
4 Section 401 of the Illinois Controlled Substances Act, the
5 illegal manufacture of methamphetamine under Section 25 of
6 the Methamphetamine Control and Community Protection Act,
7 or the illegal possession of explosives and an emergency
8 response officer in the performance of his or her duties is
9 killed or injured at the scene of the offense while
10 responding to the emergency caused by the commission of the
11 offense. In this paragraph (12), "emergency" means a
12 situation in which a person's life, health, or safety is in
13 jeopardy; and "emergency response officer" means a peace
14 officer, community policing volunteer, fireman, emergency
15 medical technician-ambulance, emergency medical
16 technician-intermediate, emergency medical
17 technician-paramedic, ambulance driver, other medical
18 assistance or first aid personnel, or hospital emergency
19 room personnel; or

20 (13) When a defendant commits any felony and the
21 defendant used, possessed, exercised control over, or
22 otherwise directed an animal to assault a law enforcement
23 officer engaged in the execution of his or her official
24 duties or in furtherance of the criminal activities of an
25 organized gang in which the defendant is engaged.

26 (b-1) For the purposes of this Section, "organized gang"

1 has the meaning ascribed to it in Section 10 of the Illinois
2 Streetgang Terrorism Omnibus Prevention Act.

3 (c) The court may impose an extended term sentence under
4 Section 5-8-2 upon any offender who was convicted of aggravated
5 criminal sexual assault or predatory criminal sexual assault of
6 a child under subsection (a)(1) of Section 12-14.1 of the
7 Criminal Code of 1961 where the victim was under 18 years of
8 age at the time of the commission of the offense.

9 (d) The court may impose an extended term sentence under
10 Section 5-8-2 upon any offender who was convicted of unlawful
11 use of weapons under Section 24-1 of the Criminal Code of 1961
12 for possessing a weapon that is not readily distinguishable as
13 one of the weapons enumerated in Section 24-1 of the Criminal
14 Code of 1961.

15 (e) The court may impose an extended term sentence under
16 Section 5-8-2 upon an offender who has been convicted of first
17 degree murder when the offender has previously been convicted
18 of domestic battery or aggravated domestic battery committed
19 against the murdered individual or has previously been
20 convicted of violation of an order of protection in which the
21 murdered individual was the protected person.

22 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
23 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,
24 eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942,
25 eff. 1-1-09; revised 9-23-08.)