

HB4770



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4770

Introduced 2/6/2024, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3.2

Amends the Unified Code of Corrections. In provisions listing factors that shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under specified provisions of the Code, deletes as a factor that the sentence is necessary to deter others from committing the same crime.

LRB103 37261 RLC 67381 b

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
10 favor of imposing a term of imprisonment or may be considered
11 by the court as reasons to impose a more severe sentence under
12 Section 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
18 or criminal activity;

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

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

1 the offense, and the offense related to the conduct of
2 that 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) (blank); ~~the sentence is necessary to deter others~~
7 ~~from 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;
18 (ii) the person or property of a person who has an
19 association with, is married to, or has a friendship with
20 the other individual; or (iii) the person or property of a
21 relative (by blood or marriage) of a person described in
22 clause (i) or (ii). For the purposes of this Section,
23 "sexual orientation" has the meaning ascribed to it in
24 paragraph (0-1) of Section 1-103 of the Illinois Human
25 Rights Act;

26 (11) the offense took place in a place of worship or on

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

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

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

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

1 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
2 or 12-16 of the Criminal Code of 1961 or the Criminal Code
3 of 2012 against that victim;

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

9 (16) the defendant committed an offense in violation
10 of one of the following Sections while in a school,
11 regardless of the time of day or time of year; on any
12 conveyance owned, leased, or contracted by a school to
13 transport students to or from school or a school related
14 activity; on the real property of a school; or on a public
15 way within 1,000 feet of the real property comprising any
16 school: Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30,
17 11-1.40, 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1,
18 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2,
19 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1,
20 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except
21 for subdivision (a)(4) or (g)(1), of the Criminal Code of
22 1961 or the Criminal Code of 2012;

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

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

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 2012;

18 (18) the defendant committed the offense in a nursing
19 home or on the real property comprising a nursing home.
20 For the purposes of this paragraph (18), "nursing home"
21 means a skilled nursing or intermediate long term care
22 facility that is subject to license by the Illinois
23 Department of Public Health under the Nursing Home Care
24 Act, the Specialized Mental Health Rehabilitation Act of
25 2013, the ID/DD Community Care Act, or the MC/DD Act;

26 (19) the defendant was a federally licensed firearm

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

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

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

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

1 Forces of the United States, including a member of any
2 reserve component thereof or National Guard unit called to
3 active duty;

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

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

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

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

1 act of sexual penetration or bound, fettered, or subject
2 to sadistic, masochistic, or sadomasochistic abuse in a
3 sexual context;

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

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

1 United States Postal Service;

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

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

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

25 (32) the defendant committed the offense of reckless
26 homicide while committing a violation of Section 11-907 of

1 the Illinois Vehicle Code;

2 (33) the defendant was found guilty of an
3 administrative infraction related to an act or acts of
4 public indecency or sexual misconduct in the penal
5 institution. In this paragraph (33), "penal institution"
6 has the same meaning as in Section 2-14 of the Criminal
7 Code of 2012; or

8 (34) the defendant committed the offense of leaving
9 the scene of a crash in violation of subsection (b) of
10 Section 11-401 of the Illinois Vehicle Code and the crash
11 resulted in the death of a person and at the time of the
12 offense, the defendant was: (i) driving under the
13 influence of alcohol, other drug or drugs, intoxicating
14 compound or compounds or any combination thereof as
15 defined by Section 11-501 of the Illinois Vehicle Code; or
16 (ii) operating the motor vehicle while using an electronic
17 communication device as defined in Section 12-610.2 of the
18 Illinois Vehicle Code.

19 For the purposes of this Section:

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

22 "Day care center" means a public or private State
23 certified and licensed day care center as defined in Section
24 2.09 of the Child Care Act of 1969 that displays a sign in
25 plain view stating that the property is a day care center.

26 "Intellectual disability" means significantly subaverage

1 intellectual functioning which exists concurrently with
2 impairment in adaptive behavior.

3 "Public transportation" means the transportation or
4 conveyance of persons by means available to the general
5 public, and includes paratransit services.

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

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

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

22 (2) When a defendant is convicted of any felony and
23 the court finds that the offense was accompanied by
24 exceptionally brutal or heinous behavior indicative of
25 wanton cruelty; or

26 (3) When a defendant is convicted of any felony

1 committed against:

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

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

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

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

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

16 (ii) the theft of human corpses;

17 (iii) the kidnapping of humans;

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

21 (v) ritualized abuse of a child; or

22 (5) When a defendant is convicted of a felony other
23 than conspiracy and the court finds that the felony was
24 committed under an agreement with 2 or more other persons
25 to commit that offense and the defendant, with respect to
26 the other individuals, occupied a position of organizer,

1 supervisor, financier, or any other position of management
2 or leadership, and the court further finds that the felony
3 committed was related to or in furtherance of the criminal
4 activities of an organized gang or was motivated by the
5 defendant's leadership in an organized gang; or

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

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

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

25 (9) When a defendant commits any felony and the
26 defendant knowingly video or audio records the offense

1 with the intent to disseminate the recording.

2 (c) The following factors may be considered by the court
3 as reasons to impose an extended term sentence under Section
4 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed
5 offenses:

6 (1) When a defendant is convicted of first degree
7 murder, after having been previously convicted in Illinois
8 of any offense listed under paragraph (c)(2) of Section
9 5-5-3 (730 ILCS 5/5-5-3), when that conviction has
10 occurred within 10 years after the previous conviction,
11 excluding time spent in custody, and the charges are
12 separately brought and tried and arise out of different
13 series of acts.

14 (1.5) When a defendant is convicted of first degree
15 murder, after having been previously convicted of domestic
16 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
17 (720 ILCS 5/12-3.3) committed on the same victim or after
18 having been previously convicted of violation of an order
19 of protection (720 ILCS 5/12-30) in which the same victim
20 was the protected person.

21 (2) When a defendant is convicted of voluntary
22 manslaughter, second degree murder, involuntary
23 manslaughter, or reckless homicide in which the defendant
24 has been convicted of causing the death of more than one
25 individual.

26 (3) When a defendant is convicted of aggravated

1 criminal sexual assault or criminal sexual assault, when
2 there is a finding that aggravated criminal sexual assault
3 or criminal sexual assault was also committed on the same
4 victim by one or more other individuals, and the defendant
5 voluntarily participated in the crime with the knowledge
6 of the participation of the others in the crime, and the
7 commission of the crime was part of a single course of
8 conduct during which there was no substantial change in
9 the nature of the criminal objective.

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

17 (5) When a defendant is convicted of a felony
18 violation of Section 24-1 of the Criminal Code of 1961 or
19 the Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
20 finding that the defendant is a member of an organized
21 gang.

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

1 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

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

21 (8) When the defendant is convicted of attempted mob
22 action, solicitation to commit mob action, or conspiracy
23 to commit mob action under Section 8-1, 8-2, or 8-4 of the
24 Criminal Code of 2012, where the criminal object is a
25 violation of Section 25-1 of the Criminal Code of 2012,
26 and an electronic communication is used in the commission

1 of the offense. For the purposes of this paragraph (8),
2 "electronic communication" shall have the meaning provided
3 in Section 26.5-0.1 of the Criminal Code of 2012.

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

7 (e) The court may impose an extended term sentence under
8 Article 4.5 of Chapter V upon an offender who has been
9 convicted of a felony violation of Section 11-1.20, 11-1.30,
10 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
11 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
12 when the victim of the offense is under 18 years of age at the
13 time of the commission of the offense and, during the
14 commission of the offense, the victim was under the influence
15 of alcohol, regardless of whether or not the alcohol was
16 supplied by the offender; and the offender, at the time of the
17 commission of the offense, knew or should have known that the
18 victim had consumed alcohol.

19 (Source: P.A. 101-173, eff. 1-1-20; 101-401, eff. 1-1-20;
20 101-417, eff. 1-1-20; 101-652, eff. 1-1-23; 102-558, eff.
21 8-20-21; 102-982, eff. 7-1-23.)