



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4259

Introduced 1/29/2004, by Dan Brady

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

Amends the Criminal Code of 1961. Provides that provisions prohibiting child sex offenders from being present in school buildings and from residing within 500 feet of the school also apply to institutions of higher education.

LRB093 17169 RLC 42835 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to 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 Section 11-9.3 as follows:

6 (720 ILCS 5/11-9.3)

7 Sec. 11-9.3. Presence within school zone by child sex
8 offenders prohibited.

9 (a) It is unlawful for a child sex offender to knowingly be
10 present in any institution of higher education or school
11 building, on real property comprising any institution of higher
12 education or school, or in any conveyance owned, leased, or
13 contracted by a school to transport students to or from school
14 or a school related activity when persons under the age of 18
15 are present in the building, on the grounds or in the
16 conveyance, unless the offender is a parent or guardian of a
17 student present in the building, on the grounds or in the
18 conveyance or unless the offender has permission to be present
19 from the superintendent or the school board or in the case of a
20 private school from the principal or in the case of an
21 institution of higher education, the administrator of the
22 institution. In the case of a public school, if permission is
23 granted, the superintendent or school board president must
24 inform the principal of the school or school security where the
25 sex offender will be present. In the case of an institution of
26 higher education, if permission is granted, the administrator
27 of the institution must inform security personnel of the
28 institution where the sex offender will be present.
29 Notification includes the nature of the sex offender's visit
30 and the hours in which the sex offender will be present in the
31 school or institution of higher education. The sex offender is
32 responsible for notifying the principal's office or security

1 personnel's office, or the administrator of the institution of
2 higher education when he or she arrives on school property and
3 when he or she departs from school or institution of higher
4 education property. If the sex offender is to be present in the
5 vicinity of children, the sex offender has the duty to remain
6 under the direct supervision of a school official. A child sex
7 offender who violates this provision is guilty of a Class 4
8 felony.

9 (1) (Blank; or)

10 (2) (Blank.)

11 (b) It is unlawful for a child sex offender to knowingly
12 loiter on a public way within 500 feet of a school building or
13 institution of higher education or real property comprising any
14 school or institution of higher education while persons under
15 the age of 18 are present in the building or on the grounds,
16 unless the offender is a parent or guardian of a student
17 present in the building or on the grounds or has permission to
18 be present from the superintendent or the school board or in
19 the case of a private school from the principal or in the case
20 of an institution of higher education, the administrator. In
21 the case of a public school, if permission is granted, the
22 superintendent or school board president must inform the
23 principal of the school where the sex offender will be present.
24 Notification includes the nature of the sex offender's visit
25 and the hours in which the sex offender will be present in the
26 school or institution of higher education. The sex offender is
27 responsible for notifying the principal's or security
28 personnel's office when he or she arrives on school or
29 institution of higher education property and when he or she
30 departs from school or institution of higher education
31 property. If the sex offender is to be present in the vicinity
32 of children, the sex offender has the duty to remain under the
33 direct supervision of a school official or institution of
34 higher education. A child sex offender who violates this
35 provision is guilty of a Class 4 felony.

36 (1) (Blank; or)

1 (2) (Blank.)

2 (b-5) It is unlawful for a child sex offender to knowingly
3 reside within 500 feet of a school building or an institution
4 of higher education or the real property comprising any school
5 or institution of higher education that persons under the age
6 of 18 attend. Nothing in this subsection (b-5) prohibits a
7 child sex offender from residing within 500 feet of a school
8 building or institution of higher education or the real
9 property comprising any school that persons under 18 attend if
10 the property is owned by the child sex offender and was
11 purchased before the effective date of this amendatory Act of
12 the 91st General Assembly or 93rd General Assembly,
13 respectively.

14 (c) Definitions. In this Section:

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

16 (i) has been charged under Illinois law, or any
17 substantially similar federal law or law of another
18 state, with a sex offense set forth in paragraph (2) of
19 this subsection (c) or the attempt to commit an
20 included sex offense, and:

21 (A) is convicted of such offense or an attempt
22 to commit such offense; or

23 (B) is found not guilty by reason of insanity
24 of such offense or an attempt to commit such
25 offense; or

26 (C) is found not guilty by reason of insanity
27 pursuant to subsection (c) of Section 104-25 of the
28 Code of Criminal Procedure of 1963 of such offense
29 or an attempt to commit such offense; or

30 (D) is the subject of a finding not resulting
31 in an acquittal at a hearing conducted pursuant to
32 subsection (a) of Section 104-25 of the Code of
33 Criminal Procedure of 1963 for the alleged
34 commission or attempted commission of such
35 offense; or

36 (E) is found not guilty by reason of insanity

1 following a hearing conducted pursuant to a
2 federal law or the law of another state
3 substantially similar to subsection (c) of Section
4 104-25 of the Code of Criminal Procedure of 1963 of
5 such offense or of the attempted commission of such
6 offense; or

7 (F) is the subject of a finding not resulting
8 in an acquittal at a hearing conducted pursuant to
9 a federal law or the law of another state
10 substantially similar to subsection (a) of Section
11 104-25 of the Code of Criminal Procedure of 1963
12 for the alleged violation or attempted commission
13 of such offense; or

14 (ii) is certified as a sexually dangerous person
15 pursuant to the Illinois Sexually Dangerous Persons
16 Act, or any substantially similar federal law or the
17 law of another state, when any conduct giving rise to
18 such certification is committed or attempted against a
19 person less than 18 years of age; or

20 (iii) is subject to the provisions of Section 2 of
21 the Interstate Agreements on Sexually Dangerous
22 Persons Act.

23 Convictions that result from or are connected with the
24 same act, or result from offenses committed at the same
25 time, shall be counted for the purpose of this Section as
26 one conviction. Any conviction set aside pursuant to law is
27 not a conviction for purposes of this Section.

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

30 (i) A violation of any of the following Sections of
31 the Criminal Code of 1961: 10-7 (aiding and abetting
32 child abduction under Section 10-5(b)(10)),
33 10-5(b)(10) (child luring), 11-6 (indecent
34 solicitation of a child), 11-6.5 (indecent
35 solicitation of an adult), 11-9 (public indecency when
36 committed in a school, on the real property comprising

1 a school, or on a conveyance, owned, leased, or
2 contracted by a school to transport students to or from
3 school or a school related activity), 11-9.1 (sexual
4 exploitation of a child), 11-15.1 (soliciting for a
5 juvenile prostitute), 11-17.1 (keeping a place of
6 juvenile prostitution), 11-18.1 (patronizing a
7 juvenile prostitute), 11-19.1 (juvenile pimping),
8 11-19.2 (exploitation of a child), 11-20.1 (child
9 pornography), 11-21 (harmful material), 12-14.1
10 (predatory criminal sexual assault of a child), 12-33
11 (ritualized abuse of a child), 11-20 (obscenity) (when
12 that offense was committed in any school, on real
13 property comprising any school, in any conveyance
14 owned, leased, or contracted by a school to transport
15 students to or from school or a school related
16 activity). An attempt to commit any of these offenses.

17 (ii) A violation of any of the following Sections
18 of the Criminal Code of 1961, when the victim is a
19 person under 18 years of age: 12-13 (criminal sexual
20 assault), 12-14 (aggravated criminal sexual assault),
21 12-15 (criminal sexual abuse), 12-16 (aggravated
22 criminal sexual abuse). An attempt to commit any of
23 these offenses.

24 (iii) A violation of any of the following Sections
25 of the Criminal Code of 1961, when the victim is a
26 person under 18 years of age and the defendant is not a
27 parent of the victim:

- 28 10-1 (kidnapping),
- 29 10-2 (aggravated kidnapping),
- 30 10-3 (unlawful restraint),
- 31 10-3.1 (aggravated unlawful restraint).

32 An attempt to commit any of these offenses.

33 (iv) A violation of any former law of this State
34 substantially equivalent to any offense listed in
35 clause (2)(i) of subsection (c) of this Section.

36 (2.5) For the purposes of subsection (b-5) only, a sex

1 offense means:

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

4 10-5(b)(10) (child luring), 10-7 (aiding and
5 abetting child abduction under Section
6 10-5(b)(10)), 11-6 (indecent solicitation of a
7 child), 11-6.5 (indecent solicitation of an
8 adult), 11-15.1 (soliciting for a juvenile
9 prostitute), 11-17.1 (keeping a place of juvenile
10 prostitution), 11-18.1 (patronizing a juvenile
11 prostitute), 11-19.1 (juvenile pimping), 11-19.2
12 (exploitation of a child), 11-20.1 (child
13 pornography), 12-14.1 (predatory criminal sexual
14 assault of a child), or 12-33 (ritualized abuse of
15 a child). An attempt to commit any of these
16 offenses.

17 (ii) A violation of any of the following Sections
18 of the Criminal Code of 1961, when the victim is a
19 person under 18 years of age: 12-13 (criminal sexual
20 assault), 12-14 (aggravated criminal sexual assault),
21 12-16 (aggravated criminal sexual abuse), and
22 subsection (a) of Section 12-15 (criminal sexual
23 abuse). An attempt to commit any of these offenses.

24 (iii) A violation of any of the following Sections
25 of the Criminal Code of 1961, when the victim is a
26 person under 18 years of age and the defendant is not a
27 parent of the victim:

28 10-1 (kidnapping),
29 10-2 (aggravated kidnapping),
30 10-3 (unlawful restraint),
31 10-3.1 (aggravated unlawful restraint).

32 An attempt to commit any of these offenses.

33 (iv) A violation of any former law of this State
34 substantially equivalent to any offense listed in this
35 paragraph (2.5) of this subsection.

36 (3) A conviction for an offense of federal law or the

1 law of another state that is substantially equivalent to
2 any offense listed in paragraph (2) of subsection (c) of
3 this Section shall constitute a conviction for the purpose
4 of this Article. A finding or adjudication as a sexually
5 dangerous person under any federal law or law of another
6 state that is substantially equivalent to the Sexually
7 Dangerous Persons Act shall constitute an adjudication for
8 the purposes of this Section.

9 (4) "School" means a public or private pre-school,
10 elementary, or secondary school.

11 (5) "Loiter" means:

12 (i) Standing, sitting idly, whether or not the
13 person is in a vehicle or remaining in or around school
14 property.

15 (ii) Standing, sitting idly, whether or not the
16 person is in a vehicle or remaining in or around school
17 property, for the purpose of committing or attempting
18 to commit a sex offense.

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

22 (7) "Institution of higher education" means a building
23 or facility of a university, college, community college, or
24 a laboratory or facility that trains teachers on how to
25 protect themselves and the students from sex offenders.

26 (d) Sentence. A person who violates this Section is guilty
27 of a Class 4 felony.

28 (Source: P.A. 90-234, eff. 1-1-98; 90-655, eff. 7-30-98;
29 91-356, eff. 1-1-00; 91-911, eff. 7-7-00.)