

**HB0023**



**94TH GENERAL ASSEMBLY**

**State of Illinois**

**2005 and 2006**

**HB0023**

Introduced 12/1/2004, by Rep. Jerry L. Mitchell - Roger L. Eddy  
- Sara Feigenholtz

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/11-9.3

Amends the Criminal Code of 1961. In provisions making it unlawful for a child sex offender to knowingly be present on school property or a school vehicle when persons under the age of 18 are present, eliminates an exception for an offender who is the parent or guardian of a student who is present. Effective immediately.

LRB094 01868 RLC 31868 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 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 school building, on real property comprising any  
11 school, or in any conveyance owned, leased, or contracted by a  
12 school to transport students to or from school or a school  
13 related activity when persons under the age of 18 are present  
14 in the building, on the grounds or in the conveyance, ~~unless~~  
15 ~~the offender is a parent or guardian of a student present in~~  
16 ~~the building, on the grounds or in the conveyance or~~ unless the  
17 offender has permission to be present from the superintendent  
18 or the school board or in the case of a private school from the  
19 principal. In the case of a public school, if permission is  
20 granted, the superintendent or school board president must  
21 inform the principal of the school where the sex offender will  
22 be present. Notification includes the nature of the sex  
23 offender's visit and the hours in which the sex offender will  
24 be present in the school. The sex offender is responsible for  
25 notifying the principal's office when he or she arrives on  
26 school property and when he or she departs from school  
27 property. If the sex offender is to be present in the vicinity  
28 of children, the sex offender has the duty to remain under the  
29 direct supervision of a school official. A child sex offender  
30 who violates this provision is guilty of a Class 4 felony.

31 (1) (Blank; or)

32 (2) (Blank.)

1 (b) It is unlawful for a child sex offender to knowingly  
2 loiter on a public way within 500 feet of a school building or  
3 real property comprising any school while persons under the age  
4 of 18 are present in the building or on the grounds, unless the  
5 offender ~~is a parent or guardian of a student present in the~~  
6 ~~building or on the grounds or~~ has permission to be present from  
7 the superintendent or the school board or in the case of a  
8 private school from the principal. In the case of a public  
9 school, if permission is granted, the superintendent or school  
10 board president must inform the principal of the school where  
11 the sex offender will be present. Notification includes the  
12 nature of the sex offender's visit and the hours in which the  
13 sex offender will be present in the school. The sex offender is  
14 responsible for notifying the principal's office when he or she  
15 arrives on school property and when he or she departs from  
16 school property. If the sex offender is to be present in the  
17 vicinity of children, the sex offender has the duty to remain  
18 under the direct supervision of a school official. A child sex  
19 offender who violates this provision is guilty of a Class 4  
20 felony.

21 (1) (Blank; or)

22 (2) (Blank.)

23 (b-5) It is unlawful for a child sex offender to knowingly  
24 reside within 500 feet of a school building or the real  
25 property comprising any school that persons under the age of 18  
26 attend. Nothing in this subsection (b-5) prohibits a child sex  
27 offender from residing within 500 feet of a school building or  
28 the real property comprising any school that persons under 18  
29 attend if the property is owned by the child sex offender and  
30 was purchased before the effective date of this amendatory Act  
31 of the 91st General Assembly.

32 (c) Definitions. In this Section:

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

34 (i) has been charged under Illinois law, or any  
35 substantially similar federal law or law of another  
36 state, with a sex offense set forth in paragraph (2) of

1 this subsection (c) or the attempt to commit an  
2 included sex offense, and:

3 (A) is convicted of such offense or an attempt  
4 to commit such offense; or

5 (B) is found not guilty by reason of insanity  
6 of such offense or an attempt to commit such  
7 offense; or

8 (C) is found not guilty by reason of insanity  
9 pursuant to subsection (c) of Section 104-25 of the  
10 Code of Criminal Procedure of 1963 of such offense  
11 or an attempt to commit such offense; or

12 (D) is the subject of a finding not resulting  
13 in an acquittal at a hearing conducted pursuant to  
14 subsection (a) of Section 104-25 of the Code of  
15 Criminal Procedure of 1963 for the alleged  
16 commission or attempted commission of such  
17 offense; or

18 (E) is found not guilty by reason of insanity  
19 following a hearing conducted pursuant to a  
20 federal law or the law of another state  
21 substantially similar to subsection (c) of Section  
22 104-25 of the Code of Criminal Procedure of 1963 of  
23 such offense or of the attempted commission of such  
24 offense; or

25 (F) is the subject of a finding not resulting  
26 in an acquittal at a hearing conducted pursuant to  
27 a federal law or the law of another state  
28 substantially similar to subsection (a) of Section  
29 104-25 of the Code of Criminal Procedure of 1963  
30 for the alleged violation or attempted commission  
31 of such offense; or

32 (ii) is certified as a sexually dangerous person  
33 pursuant to the Illinois Sexually Dangerous Persons  
34 Act, or any substantially similar federal law or the  
35 law of another state, when any conduct giving rise to  
36 such certification is committed or attempted against a

1 person less than 18 years of age; or

2 (iii) is subject to the provisions of Section 2 of  
3 the Interstate Agreements on Sexually Dangerous  
4 Persons Act.

5 Convictions that result from or are connected with the  
6 same act, or result from offenses committed at the same  
7 time, shall be counted for the purpose of this Section as  
8 one conviction. Any conviction set aside pursuant to law is  
9 not a conviction for purposes of this Section.

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

12 (i) A violation of any of the following Sections of  
13 the Criminal Code of 1961: 10-7 (aiding and abetting  
14 child abduction under Section 10-5(b)(10)),  
15 10-5(b)(10) (child luring), 11-6 (indecent  
16 solicitation of a child), 11-6.5 (indecent  
17 solicitation of an adult), 11-9 (public indecency when  
18 committed in a school, on the real property comprising  
19 a school, or on a conveyance, owned, leased, or  
20 contracted by a school to transport students to or from  
21 school or a school related activity), 11-9.1 (sexual  
22 exploitation of a child), 11-15.1 (soliciting for a  
23 juvenile prostitute), 11-17.1 (keeping a place of  
24 juvenile prostitution), 11-18.1 (patronizing a  
25 juvenile prostitute), 11-19.1 (juvenile pimping),  
26 11-19.2 (exploitation of a child), 11-20.1 (child  
27 pornography), 11-21 (harmful material), 12-14.1  
28 (predatory criminal sexual assault of a child), 12-33  
29 (ritualized abuse of a child), 11-20 (obscenity) (when  
30 that offense was committed in any school, on real  
31 property comprising any school, in any conveyance  
32 owned, leased, or contracted by a school to transport  
33 students to or from school or a school related  
34 activity). An attempt to commit any of these offenses.

35 (ii) A violation of any of the following Sections  
36 of the Criminal Code of 1961, when the victim is a

1 person under 18 years of age: 12-13 (criminal sexual  
2 assault), 12-14 (aggravated criminal sexual assault),  
3 12-15 (criminal sexual abuse), 12-16 (aggravated  
4 criminal sexual abuse). An attempt to commit any of  
5 these offenses.

6 (iii) A violation of any of the following Sections  
7 of the Criminal Code of 1961, when the victim is a  
8 person under 18 years of age and the defendant is not a  
9 parent of the victim:

10 10-1 (kidnapping),  
11 10-2 (aggravated kidnapping),  
12 10-3 (unlawful restraint),  
13 10-3.1 (aggravated unlawful restraint).

14 An attempt to commit any of these offenses.

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

18 (2.5) For the purposes of subsection (b-5) only, a sex  
19 offense means:

20 (i) A violation of any of the following Sections of  
21 the Criminal Code of 1961:

22 10-5(b)(10) (child luring), 10-7 (aiding and  
23 abetting child abduction under Section  
24 10-5(b)(10)), 11-6 (indecent solicitation of a  
25 child), 11-6.5 (indecent solicitation of an  
26 adult), 11-15.1 (soliciting for a juvenile  
27 prostitute), 11-17.1 (keeping a place of juvenile  
28 prostitution), 11-18.1 (patronizing a juvenile  
29 prostitute), 11-19.1 (juvenile pimping), 11-19.2  
30 (exploitation of a child), 11-20.1 (child  
31 pornography), 12-14.1 (predatory criminal sexual  
32 assault of a child), or 12-33 (ritualized abuse of  
33 a child). An attempt to commit any of these  
34 offenses.

35 (ii) A violation of any of the following Sections  
36 of the Criminal Code of 1961, when the victim is a

1 person under 18 years of age: 12-13 (criminal sexual  
2 assault), 12-14 (aggravated criminal sexual assault),  
3 12-16 (aggravated criminal sexual abuse), and  
4 subsection (a) of Section 12-15 (criminal sexual  
5 abuse). An attempt to commit any of these offenses.

6 (iii) A violation of any of the following Sections  
7 of the Criminal Code of 1961, when the victim is a  
8 person under 18 years of age and the defendant is not a  
9 parent of the victim:

- 10 10-1 (kidnapping),  
11 10-2 (aggravated kidnapping),  
12 10-3 (unlawful restraint),  
13 10-3.1 (aggravated unlawful restraint).

14 An attempt to commit any of these offenses.

15 (iv) A violation of any former law of this State  
16 substantially equivalent to any offense listed in this  
17 paragraph (2.5) of this subsection.

18 (3) A conviction for an offense of federal law or the  
19 law of another state that is substantially equivalent to  
20 any offense listed in paragraph (2) of subsection (c) of  
21 this Section shall constitute a conviction for the purpose  
22 of this Article. A finding or adjudication as a sexually  
23 dangerous person under any federal law or law of another  
24 state that is substantially equivalent to the Sexually  
25 Dangerous Persons Act shall constitute an adjudication for  
26 the purposes of this Section.

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

29 (5) "Loiter" means:

30 (i) Standing, sitting idly, whether or not the  
31 person is in a vehicle or remaining in or around school  
32 property.

33 (ii) Standing, sitting idly, whether or not the  
34 person is in a vehicle or remaining in or around school  
35 property, for the purpose of committing or attempting  
36 to commit a sex offense.

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

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

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

8           Section 99. Effective date. This Act takes effect upon  
9           becoming law.