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LRB094 05318 RLC 42797 a

1 AMENDMENT TO HOUSE BILL 767

2 AMENDMENT NO. _____. Amend House Bill 767 by replacing
3 everything after the enacting clause with the following:

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) (from Ch. 38, par. 1005-5-3.2)

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

8 (a) The following factors shall be accorded weight in favor
9 of imposing a term of imprisonment or may be considered by the
10 court as reasons to impose a more severe sentence under Section
11 5-8-1:

12 (1) the defendant's conduct caused or threatened
13 serious harm;

14 (2) the defendant received compensation for committing
15 the offense;

16 (3) the defendant has a history of prior delinquency or
17 criminal activity;

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

22 (5) the defendant held public office at the time of the
23 offense, and the offense related to the conduct of that
24 office;

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

4 (7) the sentence is necessary to deter others from
5 committing the same crime;

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

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

11 (10) by reason of another individual's actual or
12 perceived race, color, creed, religion, ancestry, gender,
13 sexual orientation, physical or mental disability, or
14 national origin, the defendant committed the offense
15 against (i) the person or property of that individual; (ii)
16 the person or property of a person who has an association
17 with, is married to, or has a friendship with the other
18 individual; or (iii) the person or property of a relative
19 (by blood or marriage) of a person described in clause (i)
20 or (ii). For the purposes of this Section, "sexual
21 orientation" means heterosexuality, homosexuality, or
22 bisexuality;

23 (11) the offense took place in a place of worship or on
24 the grounds of a place of worship, immediately prior to,
25 during or immediately following worship services. For
26 purposes of this subparagraph, "place of worship" shall
27 mean any church, synagogue or other building, structure or
28 place used primarily for religious worship;

29 (12) the defendant was convicted of a felony committed
30 while he was released on bail or his own recognizance
31 pending trial for a prior felony and was convicted of such
32 prior felony, or the defendant was convicted of a felony
33 committed while he was serving a period of probation,
34 conditional discharge, or mandatory supervised release

1 under subsection (d) of Section 5-8-1 for a prior felony;

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

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

16 (15) the defendant committed an offense related to the
17 activities of an organized gang. For the purposes of this
18 factor, "organized gang" has the meaning ascribed to it in
19 Section 10 of the Streetgang Terrorism Omnibus Prevention
20 Act;

21 (16) the defendant committed an offense in violation of
22 one of the following Sections while in a school, regardless
23 of the time of day or time of year; on any conveyance
24 owned, leased, or contracted by a school to transport
25 students to or from school or a school related activity; on
26 the real property of a school; or on a public way within
27 1,000 feet of the real property comprising any school:
28 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
29 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
30 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
31 33A-2 of the Criminal Code of 1961;

32 (16.5) the defendant committed an offense in violation
33 of one of the following Sections while in a day care
34 center, regardless of the time of day or time of year; on

1 the real property of a day care center, regardless of the
2 time of day or time of year; or on a public way within
3 1,000 feet of the real property comprising any day care
4 center, regardless of the time of day or time of year:
5 Section 10-1, 10-2, 10-5, 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, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
8 33A-2 of the Criminal Code of 1961;

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

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

22 (19) the defendant was a federally licensed firearm
23 dealer and was previously convicted of a violation of
24 subsection (a) of Section 3 of the Firearm Owners
25 Identification Card Act and has now committed either a
26 felony violation of the Firearm Owners Identification Card
27 Act or an act of armed violence while armed with a firearm;
28 or.

29 (20) the defendant (i) committed the offense of
30 reckless homicide under Section 9-3 of the Criminal Code of
31 1961 or the offense of driving under the influence of
32 alcohol, other drug or drugs, intoxicating compound or
33 compounds or any combination thereof under Section 11-501
34 of the Illinois Vehicle Code or a similar provision of a

1 local ordinance and (ii) was operating a motor vehicle in
2 excess of 20 miles per hour over the posted speed limit as
3 provided in Article VI of Chapter 11 of the Illinois
4 Vehicle Code.

5 For the purposes of this Section:

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

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

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

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

22 (2) When a defendant is convicted of any felony and the
23 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 voluntary
27 manslaughter, second degree murder, involuntary
28 manslaughter or reckless homicide in which the defendant
29 has been convicted of causing the death of more than one
30 individual; or

31 (4) When a defendant is convicted of any felony
32 committed against:

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

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

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

5 (5) In the case of a defendant convicted of aggravated
6 criminal sexual assault or criminal sexual assault, when
7 the court finds that aggravated criminal sexual assault or
8 criminal sexual assault was also committed on the same
9 victim by one or more other individuals, and the defendant
10 voluntarily participated in the crime with the knowledge of
11 the participation of the others in the crime, and the
12 commission of the crime was part of a single course of
13 conduct during which there was no substantial change in the
14 nature of the criminal objective; or

15 (6) When a defendant is convicted of any felony and the
16 offense involved any of the following types of specific
17 misconduct committed as part of a ceremony, rite,
18 initiation, observance, performance, practice or activity
19 of any actual or ostensible religious, fraternal, or social
20 group:

21 (i) the brutalizing or torturing of humans or
22 animals;

23 (ii) the theft of human corpses;

24 (iii) the kidnapping of humans;

25 (iv) the desecration of any cemetery, religious,
26 fraternal, business, governmental, educational, or
27 other building or property; or

28 (v) ritualized abuse of a child; or

29 (7) When a defendant is convicted of first degree
30 murder, after having been previously convicted in Illinois
31 of any offense listed under paragraph (c)(2) of Section
32 5-5-3, when such conviction has occurred within 10 years
33 after the previous conviction, excluding time spent in
34 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
27 spent in custody; or

28 (12) When a defendant commits an offense involving the
29 illegal manufacture of a controlled substance under
30 Section 401 of the Illinois Controlled Substances Act or
31 the illegal possession of explosives and an emergency
32 response officer in the performance of his or her duties is
33 killed or injured at the scene of the offense while
34 responding to the emergency caused by the commission of the

1 offense. In this paragraph (12), "emergency" means a
2 situation in which a person's life, health, or safety is in
3 jeopardy; and "emergency response officer" means a peace
4 officer, community policing volunteer, fireman, emergency
5 medical technician-ambulance, emergency medical
6 technician-intermediate, emergency medical
7 technician-paramedic, ambulance driver, other medical
8 assistance or first aid personnel, or hospital emergency
9 room personnel.

10 (b-1) For the purposes of this Section, "organized gang"
11 has the meaning ascribed to it in Section 10 of the Illinois
12 Streetgang Terrorism Omnibus Prevention Act.

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

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

25 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;
26 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00;
27 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff.
28 4-13-00; 92-266, eff. 1-1-02.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law."