

1 AN ACT concerning driving offenses, which may be referred
2 to as Matt's Law.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 5. The Unified Code of Corrections is amended by
6 changing Sections 5-5-3.2 and 5-6-1 as follows:

7 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

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

9 (a) The following factors shall be accorded weight in favor
10 of imposing a term of imprisonment or may be considered by the
11 court as reasons to impose a more severe sentence under Section
12 5-8-1:

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 or
18 criminal activity;

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

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

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

29 (7) the sentence is necessary to deter others from
30 committing the same crime;

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

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

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

16 (11) the offense took place in a place of worship or on
17 the grounds of a place of worship, immediately prior to,
18 during or immediately following worship services. For
19 purposes of this subparagraph, "place of worship" shall
20 mean any church, synagogue or other building, structure or
21 place used primarily for religious worship;

22 (12) the defendant was convicted of a felony committed
23 while he was released on bail or his own recognizance
24 pending trial for a prior felony and was convicted of such
25 prior felony, or the defendant was convicted of a felony
26 committed while he was serving a period of probation,
27 conditional discharge, or mandatory supervised release
28 under subsection (d) of Section 5-8-1 for a prior felony;

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

34 (14) the defendant held a position of trust or
35 supervision such as, but not limited to, family member as
36 defined in Section 12-12 of the Criminal Code of 1961,

1 teacher, scout leader, baby sitter, or day care worker, in
2 relation to a victim under 18 years of age, and the
3 defendant committed an offense in violation of Section
4 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
5 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
6 against that victim;

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

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

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
27 time of day or time of year; or on a public way within
28 1,000 feet of the real property comprising any day care
29 center, regardless of the time of day or time of year:
30 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
31 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
32 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
33 33A-2 of the Criminal Code of 1961;

34 (17) the defendant committed the offense by reason of
35 any person's activity as a community policing volunteer or
36 to prevent any person from engaging in activity as a

1 community policing volunteer. For the purpose of this
2 Section, "community policing volunteer" has the meaning
3 ascribed to it in Section 2-3.5 of the Criminal Code of
4 1961;

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

11 (19) the defendant was a federally licensed firearm
12 dealer and was previously convicted of a violation of
13 subsection (a) of Section 3 of the Firearm Owners
14 Identification Card Act and has now committed either a
15 felony violation of the Firearm Owners Identification Card
16 Act or an act of armed violence while armed with a firearm;
17 or ~~or~~

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

24 For the purposes of this Section:

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

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

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

34 (1) When a defendant is convicted of any felony, after
35 having been previously convicted in Illinois or any other
36 jurisdiction of the same or similar class felony or greater

1 class felony, when such conviction has occurred within 10
2 years after the previous conviction, excluding time spent
3 in custody, and such charges are separately brought and
4 tried and arise out of different series of acts; or

5 (2) When a defendant is convicted of any felony and the
6 court finds that the offense was accompanied by
7 exceptionally brutal or heinous behavior indicative of
8 wanton cruelty; or

9 (3) When a defendant is convicted of voluntary
10 manslaughter, second degree murder, involuntary
11 manslaughter or reckless homicide in which the defendant
12 has been convicted of causing the death of more than one
13 individual; or

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

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

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

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

22 (5) In the case of a defendant convicted of aggravated
23 criminal sexual assault or criminal sexual assault, when
24 the court finds that aggravated criminal sexual assault or
25 criminal sexual assault was also committed on the same
26 victim by one or more other individuals, and the defendant
27 voluntarily participated in the crime with the knowledge of
28 the participation of the others in the crime, and the
29 commission of the crime was part of a single course of
30 conduct during which there was no substantial change in the
31 nature of the criminal objective; or

32 (6) When a defendant is convicted of any felony and the
33 offense involved any of the following types of specific
34 misconduct committed as part of a ceremony, rite,
35 initiation, observance, performance, practice or activity
36 of any actual or ostensible religious, fraternal, or social

1 group:

2 (i) the brutalizing or torturing of humans or
3 animals;

4 (ii) the theft of human corpses;

5 (iii) the kidnapping of humans;

6 (iv) the desecration of any cemetery, religious,
7 fraternal, business, governmental, educational, or
8 other building or property; or

9 (v) ritualized abuse of a child; or

10 (7) When a defendant is convicted of first degree
11 murder, after having been previously convicted in Illinois
12 of any offense listed under paragraph (c)(2) of Section
13 5-5-3, when such conviction has occurred within 10 years
14 after the previous conviction, excluding time spent in
15 custody, and such charges are separately brought and tried
16 and arise out of different series of acts; or

17 (8) When a defendant is convicted of a felony other
18 than conspiracy and the court finds that the felony was
19 committed under an agreement with 2 or more other persons
20 to commit that offense and the defendant, with respect to
21 the other individuals, occupied a position of organizer,
22 supervisor, financier, or any other position of management
23 or leadership, and the court further finds that the felony
24 committed was related to or in furtherance of the criminal
25 activities of an organized gang or was motivated by the
26 defendant's leadership in an organized gang; or

27 (9) When a defendant is convicted of a felony violation
28 of Section 24-1 of the Criminal Code of 1961 and the court
29 finds that the defendant is a member of an organized gang;
30 or

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

35 (11) When a defendant who was at least 17 years of age
36 at the time of the commission of the offense is convicted

1 of a felony and has been previously adjudicated a
2 delinquent minor under the Juvenile Court Act of 1987 for
3 an act that if committed by an adult would be a Class X or
4 Class 1 felony when the conviction has occurred within 10
5 years after the previous adjudication, excluding time
6 spent in custody; or

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

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

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

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

1 Code of 1961.

2 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;
3 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00;
4 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff.
5 4-13-00; 92-266, eff. 1-1-02.)

6 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

7 Sec. 5-6-1. Sentences of Probation and of Conditional
8 Discharge and Disposition of Supervision. The General Assembly
9 finds that in order to protect the public, the criminal justice
10 system must compel compliance with the conditions of probation
11 by responding to violations with swift, certain and fair
12 punishments and intermediate sanctions. The Chief Judge of each
13 circuit shall adopt a system of structured, intermediate
14 sanctions for violations of the terms and conditions of a
15 sentence of probation, conditional discharge or disposition of
16 supervision.

17 (a) Except where specifically prohibited by other
18 provisions of this Code, the court shall impose a sentence of
19 probation or conditional discharge upon an offender unless,
20 having regard to the nature and circumstance of the offense,
21 and to the history, character and condition of the offender,
22 the court is of the opinion that:

23 (1) his imprisonment or periodic imprisonment is
24 necessary for the protection of the public; or

25 (2) probation or conditional discharge would deprecate
26 the seriousness of the offender's conduct and would be
27 inconsistent with the ends of justice; or

28 (3) a combination of imprisonment with concurrent or
29 consecutive probation when an offender has been admitted
30 into a drug court program under Section 20 of the Drug
31 Court Treatment Act is necessary for the protection of the
32 public and for the rehabilitation of the offender.

33 The court shall impose as a condition of a sentence of
34 probation, conditional discharge, or supervision, that the
35 probation agency may invoke any sanction from the list of

1 intermediate sanctions adopted by the chief judge of the
2 circuit court for violations of the terms and conditions of the
3 sentence of probation, conditional discharge, or supervision,
4 subject to the provisions of Section 5-6-4 of this Act.

5 (b) The court may impose a sentence of conditional
6 discharge for an offense if the court is of the opinion that
7 neither a sentence of imprisonment nor of periodic imprisonment
8 nor of probation supervision is appropriate.

9 (b-1) Subsections (a) and (b) of this Section do not apply
10 to a defendant charged with a misdemeanor or felony under the
11 Illinois Vehicle Code or reckless homicide under Section 9-3 of
12 the Criminal Code of 1961 if the defendant within the past 12
13 months has been convicted of or pleaded guilty to a misdemeanor
14 or felony under the Illinois Vehicle Code or reckless homicide
15 under Section 9-3 of the Criminal Code of 1961.

16 (c) The court may, upon a plea of guilty or a stipulation
17 by the defendant of the facts supporting the charge or a
18 finding of guilt, defer further proceedings and the imposition
19 of a sentence, and enter an order for supervision of the
20 defendant, if the defendant is not charged with: (i) a Class A
21 misdemeanor, as defined by the following provisions of the
22 Criminal Code of 1961: Sections 12-3.2; 12-15; 26-5; 31-1;
23 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph
24 (1) through (5), (8), (10), and (11) of subsection (a) of
25 Section 24-1; (ii) a Class A misdemeanor violation of Section
26 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or
27 (iii) felony. If the defendant is not barred from receiving an
28 order for supervision as provided in this subsection, the court
29 may enter an order for supervision after considering the
30 circumstances of the offense, and the history, character and
31 condition of the offender, if the court is of the opinion that:

32 (1) the offender is not likely to commit further
33 crimes;

34 (2) the defendant and the public would be best served
35 if the defendant were not to receive a criminal record; and

36 (3) in the best interests of justice an order of

1 supervision is more appropriate than a sentence otherwise
2 permitted under this Code.

3 (d) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Section 11-501 of the Illinois
5 Vehicle Code or a similar provision of a local ordinance when
6 the defendant has previously been:

7 (1) convicted for a violation of Section 11-501 of the
8 Illinois Vehicle Code or a similar provision of a local
9 ordinance or any similar law or ordinance of another state;
10 or

11 (2) assigned supervision for a violation of Section
12 11-501 of the Illinois Vehicle Code or a similar provision
13 of a local ordinance or any similar law or ordinance of
14 another state; or

15 (3) pleaded guilty to or stipulated to the facts
16 supporting a charge or a finding of guilty to a violation
17 of Section 11-503 of the Illinois Vehicle Code or a similar
18 provision of a local ordinance or any similar law or
19 ordinance of another state, and the plea or stipulation was
20 the result of a plea agreement.

21 The court shall consider the statement of the prosecuting
22 authority with regard to the standards set forth in this
23 Section.

24 (e) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating Section 16A-3 of the Criminal
26 Code of 1961 if said defendant has within the last 5 years
27 been:

28 (1) convicted for a violation of Section 16A-3 of the
29 Criminal Code of 1961; or

30 (2) assigned supervision for a violation of Section
31 16A-3 of the Criminal Code of 1961.

32 The court shall consider the statement of the prosecuting
33 authority with regard to the standards set forth in this
34 Section.

35 (f) The provisions of paragraph (c) shall not apply to a
36 defendant charged with violating Sections 15-111, 15-112,

1 15-301, paragraph (b) of Section 6-104, Section 11-605, or
2 Section 11-1414 of the Illinois Vehicle Code or a similar
3 provision of a local ordinance.

4 (g) Except as otherwise provided in paragraph (i) of this
5 Section, the provisions of paragraph (c) shall not apply to a
6 defendant charged with violating Section 3-707, 3-708, 3-710,
7 or 5-401.3 of the Illinois Vehicle Code or a similar provision
8 of a local ordinance if the defendant has within the last 5
9 years been:

10 (1) convicted for a violation of Section 3-707, 3-708,
11 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
12 provision of a local ordinance; or

13 (2) assigned supervision for a violation of Section
14 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
15 Code or a similar provision of a local ordinance.

16 The court shall consider the statement of the prosecuting
17 authority with regard to the standards set forth in this
18 Section.

19 (h) The provisions of paragraph (c) shall not apply to a
20 defendant under the age of 21 years charged with violating a
21 serious traffic offense as defined in Section 1-187.001 of the
22 Illinois Vehicle Code:

23 (1) unless the defendant, upon payment of the fines,
24 penalties, and costs provided by law, agrees to attend and
25 successfully complete a traffic safety program approved by
26 the court under standards set by the Conference of Chief
27 Circuit Judges. The accused shall be responsible for
28 payment of any traffic safety program fees. If the accused
29 fails to file a certificate of successful completion on or
30 before the termination date of the supervision order, the
31 supervision shall be summarily revoked and conviction
32 entered. The provisions of Supreme Court Rule 402 relating
33 to pleas of guilty do not apply in cases when a defendant
34 enters a guilty plea under this provision; or

35 (2) if the defendant has previously been sentenced
36 under the provisions of paragraph (c) on or after January

1 1, 1998 for any serious traffic offense as defined in
2 Section 1-187.001 of the Illinois Vehicle Code.

3 (i) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Section 3-707 of the Illinois
5 Vehicle Code or a similar provision of a local ordinance if the
6 defendant has been assigned supervision for a violation of
7 Section 3-707 of the Illinois Vehicle Code or a similar
8 provision of a local ordinance.

9 (j) The provisions of paragraph (c) shall not apply to a
10 defendant charged with violating Section 6-303 of the Illinois
11 Vehicle Code or a similar provision of a local ordinance when
12 the revocation or suspension was for a violation of Section
13 11-501 or a similar provision of a local ordinance, a violation
14 of Section 11-501.1 or paragraph (b) of Section 11-401 of the
15 Illinois Vehicle Code, or a violation of Section 9-3 of the
16 Criminal Code of 1961 if the defendant has within the last 10
17 years been:

18 (1) convicted for a violation of Section 6-303 of the
19 Illinois Vehicle Code or a similar provision of a local
20 ordinance; or

21 (2) assigned supervision for a violation of Section
22 6-303 of the Illinois Vehicle Code or a similar provision
23 of a local ordinance.

24 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05.)