

SB2462



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2462

Introduced 2/15/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-3.2

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

Amends the Unified Code of Corrections. Provides that it is an aggravating factor in sentencing that the defendant (i) committed reckless homicide or any violation of the Rules of the Road Chapter of the Illinois Vehicle Code and (ii) was sending an electronic text message or operating any electronic device not a part of the vehicle's original equipment, while operating a motor vehicle. Provides that the court may impose an extended term sentence when a defendant (i) is convicted of reckless homicide or is convicted of a felony violation of the Rules of the Road Chapter of the Illinois Vehicle Code and (ii) was sending an electronic text message or operating any electronic device not a part of the vehicle's original equipment, while operating a motor vehicle. Effective immediately.

LRB095 19533 RLC 45849 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 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 (Text of Section before amendment by P.A. 95-569)

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

1 offense, and the offense related to the conduct of that
2 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) the sentence is necessary to deter others from
7 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 is physically handicapped 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; (ii)
18 the person or property of a person who has an association
19 with, is married to, or has a friendship with the other
20 individual; or (iii) the person or property of a relative
21 (by blood or marriage) of a person described in clause (i)
22 or (ii). For the purposes of this Section, "sexual
23 orientation" means heterosexuality, homosexuality, or
24 bisexuality;

25 (11) the offense took place in a place of worship or on
26 the grounds of a place of worship, immediately prior to,

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

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

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

17 (14) the defendant held a position of trust or
18 supervision such as, but not limited to, family member as
19 defined in Section 12-12 of the Criminal Code of 1961,
20 teacher, scout leader, baby sitter, or day care worker, in
21 relation to a victim under 18 years of age, and the
22 defendant committed an offense in violation of Section
23 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
24 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
25 against that victim;

26 (15) the defendant committed an offense related to the

1 activities of an organized gang. For the purposes of this
2 factor, "organized gang" has the meaning ascribed to it in
3 Section 10 of the Streetgang Terrorism Omnibus Prevention
4 Act;

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

16 (16.5) the defendant committed an offense in violation
17 of one of the following Sections while in a day care
18 center, regardless of the time of day or time of year; on
19 the real property of a day care center, regardless of the
20 time of day or time of year; or on a public way within
21 1,000 feet of the real property comprising any day care
22 center, regardless of the time of day or time of year:
23 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
25 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
26 33A-2 of the Criminal Code of 1961;

1 (17) the defendant committed the offense by reason of
2 any person's activity as a community policing volunteer or
3 to prevent any person from engaging in activity as a
4 community policing volunteer. For the purpose of this
5 Section, "community policing volunteer" has the meaning
6 ascribed to it in Section 2-3.5 of the Criminal Code of
7 1961;

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

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

20 (20) the defendant (i) committed the offense of
21 reckless homicide under Section 9-3 of the Criminal Code of
22 1961 or the offense of driving under the influence of
23 alcohol, other drug or drugs, intoxicating compound or
24 compounds or any combination thereof under Section 11-501
25 of the Illinois Vehicle Code or a similar provision of a
26 local ordinance and (ii) was operating a motor vehicle in

1 excess of 20 miles per hour over the posted speed limit as
2 provided in Article VI of Chapter 11 of the Illinois
3 Vehicle Code;

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

10 (22) the defendant committed the offense against a
11 person that the defendant knew, or reasonably should have
12 known, was a member of the Armed Forces of the United
13 States serving on active duty. For purposes of this clause
14 (22), the term "Armed Forces" means any of the Armed Forces
15 of the United States, including a member of any reserve
16 component thereof or National Guard unit called to active
17 duty; or -

18 (24) the defendant (i) violated Section 9-3 of the
19 Criminal Code of 1961 or any Section in Chapter 11 of the
20 Illinois Vehicle Code and (ii) was sending an electronic
21 text message or operating any electronic device not a part
22 of the vehicle's original equipment, while operating a
23 motor vehicle.

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.

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

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

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

15 (2) When a defendant is convicted of any felony and the
16 court finds that the offense was accompanied by
17 exceptionally brutal or heinous behavior indicative of
18 wanton cruelty; or

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

24 (4) When a defendant is convicted of any felony
25 committed against:

26 (i) a person under 12 years of age at the time of

1 the offense or such person's property;

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

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

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

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

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

24 (ii) the theft of human corpses;

25 (iii) the kidnapping of humans;

26 (iv) the desecration of any cemetery, religious,

1 fraternal, business, governmental, educational, or
2 other building or property; or

3 (v) ritualized abuse of a child; or

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

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

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

25 (10) When a defendant committed the offense using a
26 firearm with a laser sight attached to it. For purposes of

1 this paragraph (10), "laser sight" has the meaning ascribed
2 to it in Section 24.6-5 of the Criminal Code of 1961; or

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

11 (12) When a defendant commits an offense involving the
12 illegal manufacture of a controlled substance under
13 Section 401 of the Illinois Controlled Substances Act, the
14 illegal manufacture of methamphetamine under Section 25 of
15 the Methamphetamine Control and Community Protection Act,
16 or the illegal possession of explosives and an emergency
17 response officer in the performance of his or her duties is
18 killed or injured at the scene of the offense while
19 responding to the emergency caused by the commission of the
20 offense. In this paragraph (12), "emergency" means a
21 situation in which a person's life, health, or safety is in
22 jeopardy; and "emergency response officer" means a peace
23 officer, community policing volunteer, fireman, emergency
24 medical technician-ambulance, emergency medical
25 technician-intermediate, emergency medical
26 technician-paramedic, ambulance driver, other medical

1 assistance or first aid personnel, or hospital emergency
2 room personnel; or

3 (13) When a defendant commits any felony and the
4 defendant used, possessed, exercised control over, or
5 otherwise directed an animal to assault a law enforcement
6 officer engaged in the execution of his or her official
7 duties or in furtherance of the criminal activities of an
8 organized gang in which the defendant is engaged; or -

9 (14) When a defendant (i) is convicted of violating
10 Section 9-3 of the Criminal Code of 1961 or is convicted of
11 a felony violation of any Section in Chapter 11 of the
12 Illinois Vehicle Code and (ii) was sending an electronic
13 text message or operating any electronic device not a part
14 of the vehicle's original equipment, while operating a
15 motor vehicle.

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

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

25 (d) The court may impose an extended term sentence under
26 Section 5-8-2 upon any offender who was convicted of unlawful

1 use of weapons under Section 24-1 of the Criminal Code of 1961
2 for possessing a weapon that is not readily distinguishable as
3 one of the weapons enumerated in Section 24-1 of the Criminal
4 Code of 1961.

5 (e) The court may impose an extended term sentence under
6 Section 5-8-2 upon an offender who has been convicted of first
7 degree murder when the offender has previously been convicted
8 of domestic battery or aggravated domestic battery committed
9 against the murdered individual or has previously been
10 convicted of violation of an order of protection in which the
11 murdered individual was the protected person.

12 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
13 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,
14 eff. 1-1-08; revised 11-19-07.)

15 (Text of Section after amendment by P.A. 95-569)

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

17 (a) The following factors shall be accorded weight in favor
18 of imposing a term of imprisonment or may be considered by the
19 court as reasons to impose a more severe sentence under Section
20 5-8-1:

21 (1) the defendant's conduct caused or threatened
22 serious harm;

23 (2) the defendant received compensation for committing
24 the offense;

25 (3) the defendant has a history of prior delinquency or

1 criminal activity;

2 (4) the defendant, by the duties of his office or by
3 his position, was obliged to prevent the particular offense
4 committed or to bring the offenders committing it to
5 justice;

6 (5) the defendant held public office at the time of the
7 offense, and the offense related to the conduct of that
8 office;

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

12 (7) the sentence is necessary to deter others from
13 committing the same crime;

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

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

19 (10) by reason of another individual's actual or
20 perceived race, color, creed, religion, ancestry, gender,
21 sexual orientation, physical or mental disability, or
22 national origin, the defendant committed the offense
23 against (i) the person or property of that individual; (ii)
24 the person or property of a person who has an association
25 with, is married to, or has a friendship with the other
26 individual; or (iii) the person or property of a relative

1 (by blood or marriage) of a person described in clause (i)
2 or (ii). For the purposes of this Section, "sexual
3 orientation" means heterosexuality, homosexuality, or
4 bisexuality;

5 (11) the offense took place in a place of worship or on
6 the grounds of a place of worship, immediately prior to,
7 during or immediately following worship services. For
8 purposes of this subparagraph, "place of worship" shall
9 mean any church, synagogue or other building, structure or
10 place used primarily for religious worship;

11 (12) the defendant was convicted of a felony committed
12 while he was released on bail or his own recognizance
13 pending trial for a prior felony and was convicted of such
14 prior felony, or the defendant was convicted of a felony
15 committed while he was serving a period of probation,
16 conditional discharge, or mandatory supervised release
17 under subsection (d) of Section 5-8-1 for a prior felony;

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

23 (14) the defendant held a position of trust or
24 supervision such as, but not limited to, family member as
25 defined in Section 12-12 of the Criminal Code of 1961,
26 teacher, scout leader, baby sitter, or day care worker, in

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

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

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

22 (16.5) the defendant committed an offense in violation
23 of one of the following Sections while in a day care
24 center, regardless of the time of day or time of year; on
25 the real property of a day care center, regardless of the
26 time of day or time of year; or on a public way within

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

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

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

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

26 (20) the defendant (i) committed the offense of

1 reckless homicide under Section 9-3 of the Criminal Code of
2 1961 or the offense of driving under the influence of
3 alcohol, other drug or drugs, intoxicating compound or
4 compounds or any combination thereof under Section 11-501
5 of the Illinois Vehicle Code or a similar provision of a
6 local ordinance and (ii) was operating a motor vehicle in
7 excess of 20 miles per hour over the posted speed limit as
8 provided in Article VI of Chapter 11 of the Illinois
9 Vehicle Code;

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

16 (22) the defendant committed the offense against a
17 person that the defendant knew, or reasonably should have
18 known, was a member of the Armed Forces of the United
19 States serving on active duty. For purposes of this clause
20 (22), the term "Armed Forces" means any of the Armed Forces
21 of the United States, including a member of any reserve
22 component thereof or National Guard unit called to active
23 duty; ~~or~~

24 (23) ~~(22)~~ the defendant committed the offense against a
25 person who was elderly, disabled, or infirm by taking
26 advantage of a family or fiduciary relationship with the

1 elderly, disabled, or infirm person; or -

2 (24) the defendant (i) violated Section 9-3 of the
3 Criminal Code of 1961 or any Section in Chapter 11 of the
4 Illinois Vehicle Code and (ii) was sending an electronic
5 text message or operating any electronic device not a part
6 of the vehicle's original equipment, while operating a
7 motor vehicle.

8 For the purposes of this Section:

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

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

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

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

25 (2) When a defendant is convicted of any felony and the
26 court finds that the offense was accompanied by

1 exceptionally brutal or heinous behavior indicative of
2 wanton cruelty; or

3 (3) When a defendant is convicted of voluntary
4 manslaughter, second degree murder, involuntary
5 manslaughter or reckless homicide in which the defendant
6 has been convicted of causing the death of more than one
7 individual; or

8 (4) When a defendant is convicted of any felony
9 committed against:

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

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

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

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

26 (6) When a defendant is convicted of any felony and the

1 offense involved any of the following types of specific
2 misconduct committed as part of a ceremony, rite,
3 initiation, observance, performance, practice or activity
4 of any actual or ostensible religious, fraternal, or social
5 group:

6 (i) the brutalizing or torturing of humans or
7 animals;

8 (ii) the theft of human corpses;

9 (iii) the kidnapping of humans;

10 (iv) the desecration of any cemetery, religious,
11 fraternal, business, governmental, educational, or
12 other building or property; or

13 (v) ritualized abuse of a child; or

14 (7) When a defendant is convicted of first degree
15 murder, after having been previously convicted in Illinois
16 of any offense listed under paragraph (c)(2) of Section
17 5-5-3, when such conviction has occurred within 10 years
18 after the previous conviction, excluding time spent in
19 custody, and such charges are separately brought and tried
20 and arise out of different series of acts; or

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

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

5 (9) When a defendant is convicted of a felony violation
6 of Section 24-1 of the Criminal Code of 1961 and the court
7 finds that the defendant is a member of an organized gang;
8 or

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

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

21 (12) When a defendant commits an offense involving the
22 illegal manufacture of a controlled substance under
23 Section 401 of the Illinois Controlled Substances Act, the
24 illegal manufacture of methamphetamine under Section 25 of
25 the Methamphetamine Control and Community Protection Act,
26 or the illegal possession of explosives and an emergency

1 response officer in the performance of his or her duties is
2 killed or injured at the scene of the offense while
3 responding to the emergency caused by the commission of the
4 offense. In this paragraph (12), "emergency" means a
5 situation in which a person's life, health, or safety is in
6 jeopardy; and "emergency response officer" means a peace
7 officer, community policing volunteer, fireman, emergency
8 medical technician-ambulance, emergency medical
9 technician-intermediate, emergency medical
10 technician-paramedic, ambulance driver, other medical
11 assistance or first aid personnel, or hospital emergency
12 room personnel; or

13 (13) When a defendant commits any felony and the
14 defendant used, possessed, exercised control over, or
15 otherwise directed an animal to assault a law enforcement
16 officer engaged in the execution of his or her official
17 duties or in furtherance of the criminal activities of an
18 organized gang in which the defendant is engaged; or -

19 (14) When a defendant (i) is convicted of violating
20 Section 9-3 of the Criminal Code of 1961 or is convicted of
21 a felony violation of any Section in Chapter 11 of the
22 Illinois Vehicle Code and (ii) was sending an electronic
23 text message or operating any electronic device not a part
24 of the vehicle's original equipment, while operating a
25 motor vehicle.

26 (b-1) For the purposes of this Section, "organized gang"

1 has the meaning ascribed to it in Section 10 of the Illinois
2 Streetgang Terrorism Omnibus Prevention Act.

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

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

15 (e) The court may impose an extended term sentence under
16 Section 5-8-2 upon an offender who has been convicted of first
17 degree murder when the offender has previously been convicted
18 of domestic battery or aggravated domestic battery committed
19 against the murdered individual or has previously been
20 convicted of violation of an order of protection in which the
21 murdered individual was the protected person.

22 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
23 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,
24 eff. 1-1-08; 95-569, eff. 6-1-08; revised 11-19-07.)

25 Section 95. No acceleration or delay. Where this Act makes

1 changes in a statute that is represented in this Act by text
2 that is not yet or no longer in effect (for example, a Section
3 represented by multiple versions), the use of that text does
4 not accelerate or delay the taking effect of (i) the changes
5 made by this Act or (ii) provisions derived from any other
6 Public Act.

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