

# SB1294



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1294

Introduced 2/10/2009, by Sen. Louis S. Viverito

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.4

Amends the Criminal Code of 1961. Provides that it is a Class 4 felony for a child sex offender to knowingly be present at any portion or area of a public library facility designated by the library's governing board of library trustees or by the library commission for use primarily by children under the age of 18, as well as any program in the public library facility directed towards children under the age of 18.

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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 11-9.4 as follows:

6 (720 ILCS 5/11-9.4)

7 (Text of Section after amendment by P.A. 95-983)

8 Sec. 11-9.4. Approaching, contacting, residing, or  
9 communicating with a child within certain places by child sex  
10 offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be  
12 present in any public park building or on real property  
13 comprising any public park when persons under the age of 18 are  
14 present in the building or on the grounds and to approach,  
15 contact, or communicate with a child under 18 years of age,  
16 unless the offender is a parent or guardian of a person under  
17 18 years of age present in the building or on the grounds.

18 (b) It is unlawful for a child sex offender to knowingly  
19 loiter on a public way within 500 feet of a public park  
20 building or real property comprising any public park while  
21 persons under the age of 18 are present in the building or on  
22 the grounds and to approach, contact, or communicate with a  
23 child under 18 years of age, unless the offender is a parent or

1 guardian of a person under 18 years of age present in the  
2 building or on the grounds.

3 (b-5) It is unlawful for a child sex offender to knowingly  
4 reside within 500 feet of a playground, child care institution,  
5 day care center, part day child care facility, day care home,  
6 group day care home, or a facility providing programs or  
7 services exclusively directed toward persons under 18 years of  
8 age. Nothing in this subsection (b-5) prohibits a child sex  
9 offender from residing within 500 feet of a playground or a  
10 facility providing programs or services exclusively directed  
11 toward persons under 18 years of age if the property is owned  
12 by the child sex offender and was purchased before the  
13 effective date of this amendatory Act of the 91st General  
14 Assembly. Nothing in this subsection (b-5) prohibits a child  
15 sex offender from residing within 500 feet of a child care  
16 institution, day care center, or part day child care facility  
17 if the property is owned by the child sex offender and was  
18 purchased before the effective date of this amendatory Act of  
19 the 94th General Assembly. Nothing in this subsection (b-5)  
20 prohibits a child sex offender from residing within 500 feet of  
21 a day care home or group day care home if the property is owned  
22 by the child sex offender and was purchased before August 14,  
23 2008 (the effective date of Public Act 95-821) ~~this amendatory~~  
24 ~~Act of the 95th General Assembly.~~

25 (b-6) It is unlawful for a child sex offender to knowingly  
26 reside within 500 feet of the victim of the sex offense.

1 Nothing in this subsection (b-6) prohibits a child sex offender  
2 from residing within 500 feet of the victim if the property in  
3 which the child sex offender resides is owned by the child sex  
4 offender and was purchased before the effective date of this  
5 amendatory Act of the 92nd General Assembly.

6 This subsection (b-6) does not apply if the victim of the  
7 sex offense is 21 years of age or older.

8 (b-7) It is unlawful for a child sex offender to knowingly  
9 communicate, other than for a lawful purpose under Illinois  
10 law, using the Internet or any other digital media, with a  
11 person under 18 years of age or with a person whom he or she  
12 believes to be a person under 18 years of age, unless the  
13 offender is a parent or guardian of the person under 18 years  
14 of age.

15 (c) It is unlawful for a child sex offender to knowingly  
16 operate, manage, be employed by, volunteer at, be associated  
17 with, or knowingly be present at any: (i) facility providing  
18 programs or services exclusively directed towards persons  
19 under the age of 18, including the presence of the child sex  
20 offender in any portion or area of a public library facility  
21 designated by the library's governing board of library trustees  
22 or by the library commission for use primarily by children  
23 under the age of 18, as well as any program in the public  
24 library facility directed towards children under the age of 18;  
25 (ii) day care center; (iii) part day child care facility; (iv)  
26 child care institution; (v) school providing before and after

1 school programs for children under 18 years of age; (vi) day  
2 care home; or (vii) group day care home. This does not prohibit  
3 a child sex offender from owning the real property upon which  
4 the programs or services are offered or upon which the day care  
5 center, part day child care facility, child care institution,  
6 or school providing before and after school programs for  
7 children under 18 years of age is located, provided the child  
8 sex offender refrains from being present on the premises for  
9 the hours during which: (1) the programs or services are being  
10 offered or (2) the day care center, part day child care  
11 facility, child care institution, school providing before and  
12 after school programs for children under 18 years of age, day  
13 care home, or group day care home is operated.

14 (c-5) It is unlawful for a child sex offender to knowingly  
15 operate, manage, be employed by, or be associated with any  
16 county fair when persons under the age of 18 are present.

17 (c-6) It is unlawful for a child sex offender who owns and  
18 resides at residential real estate to knowingly rent any  
19 residential unit within the same building in which he or she  
20 resides to a person who is the parent or guardian of a child or  
21 children under 18 years of age. This subsection shall apply  
22 only to leases or other rental arrangements entered into after  
23 January 1, 2009 (the effective date of Public Act 95-820) ~~this~~  
24 ~~amendatory Act of the 95th General Assembly.~~

25 (c-7) ~~(c-6)~~ It is unlawful for a child sex offender to  
26 knowingly offer or provide any programs or services to persons

1 under 18 years of age in his or her residence or the residence  
2 of another or in any facility for the purpose of offering or  
3 providing such programs or services, whether such programs or  
4 services are offered or provided by contract, agreement,  
5 arrangement, or on a volunteer basis.

6 (d) Definitions. In this Section:

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

8 (i) has been charged under Illinois law, or any  
9 substantially similar federal law or law of another  
10 state, with a sex offense set forth in paragraph (2) of  
11 this subsection (d) or the attempt to commit an  
12 included sex offense, and:

13 (A) is convicted of such offense or an attempt  
14 to commit such offense; or

15 (B) is found not guilty by reason of insanity  
16 of such offense or an attempt to commit such  
17 offense; or

18 (C) is found not guilty by reason of insanity  
19 pursuant to subsection (c) of Section 104-25 of the  
20 Code of Criminal Procedure of 1963 of such offense  
21 or an attempt to commit such offense; or

22 (D) is the subject of a finding not resulting  
23 in an acquittal at a hearing conducted pursuant to  
24 subsection (a) of Section 104-25 of the Code of  
25 Criminal Procedure of 1963 for the alleged  
26 commission or attempted commission of such

1 offense; or

2 (E) is found not guilty by reason of insanity  
3 following a hearing conducted pursuant to a  
4 federal law or the law of another state  
5 substantially similar to subsection (c) of Section  
6 104-25 of the Code of Criminal Procedure of 1963 of  
7 such offense or of the attempted commission of such  
8 offense; or

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

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

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

25 Convictions that result from or are connected with the  
26 same act, or result from offenses committed at the same

1 time, shall be counted for the purpose of this Section as  
2 one conviction. Any conviction set aside pursuant to law is  
3 not a conviction for purposes of this Section.

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

6 (i) A violation of any of the following Sections of  
7 the Criminal Code of 1961: 10-7 (aiding and abetting  
8 child abduction under Section 10-5(b)(10)),  
9 10-5(b)(10) (child luring), 11-6 (indecent  
10 solicitation of a child), 11-6.5 (indecent  
11 solicitation of an adult), 11-9 (public indecency when  
12 committed in a school, on the real property comprising  
13 a school, on a conveyance owned, leased, or contracted  
14 by a school to transport students to or from school or  
15 a school related activity, or in a public park), 11-9.1  
16 (sexual exploitation of a child), 11-15.1 (soliciting  
17 for a juvenile prostitute), 11-17.1 (keeping a place of  
18 juvenile prostitution), 11-18.1 (patronizing a  
19 juvenile prostitute), 11-19.1 (juvenile pimping),  
20 11-19.2 (exploitation of a child), 11-20.1 (child  
21 pornography), 11-20.3 (aggravated child pornography),  
22 11-21 (harmful material), 12-14.1 (predatory criminal  
23 sexual assault of a child), 12-33 (ritualized abuse of  
24 a child), 11-20 (obscenity) (when that offense was  
25 committed in any school, on real property comprising  
26 any school, on any conveyance owned, leased, or



1 contracted by a school to transport students to or from  
2 school or a school related activity, or in a public  
3 park). An attempt to commit any of these offenses.

4 (ii) A violation of any of the following Sections  
5 of the Criminal Code of 1961, when the victim is a  
6 person under 18 years of age: 12-13 (criminal sexual  
7 assault), 12-14 (aggravated criminal sexual assault),  
8 12-15 (criminal sexual abuse), 12-16 (aggravated  
9 criminal sexual abuse). An attempt to commit any of  
10 these offenses.

11 (iii) A violation of any of the following Sections  
12 of the Criminal Code of 1961, when the victim is a  
13 person under 18 years of age and the defendant is not a  
14 parent of the victim:

15 10-1 (kidnapping),

16 10-2 (aggravated kidnapping),

17 10-3 (unlawful restraint),

18 10-3.1 (aggravated unlawful restraint).

19 An attempt to commit any of these offenses.

20 (iv) A violation of any former law of this State  
21 substantially equivalent to any offense listed in  
22 clause (2)(i) of this subsection (d).

23 (2.5) For the purposes of subsection (b-5) only, a sex  
24 offense means:

25 (i) A violation of any of the following Sections of  
26 the Criminal Code of 1961:

1           10-5(b)(10) (child luring), 10-7 (aiding and  
2           abetting child abduction under Section  
3           10-5(b)(10)), 11-6 (indecent solicitation of a  
4           child), 11-6.5 (indecent solicitation of an  
5           adult), 11-15.1 (soliciting for a juvenile  
6           prostitute), 11-17.1 (keeping a place of juvenile  
7           prostitution), 11-18.1 (patronizing a juvenile  
8           prostitute), 11-19.1 (juvenile pimping), 11-19.2  
9           (exploitation of a child), 11-20.1 (child  
10          pornography), 11-20.3 (aggravated child  
11          pornography), 12-14.1 (predatory criminal sexual  
12          assault of a child), or 12-33 (ritualized abuse of  
13          a child). An attempt to commit any of these  
14          offenses.

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

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

26           10-1 (kidnapping),

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

4           An attempt to commit any of these offenses.

5           (iv) A violation of any former law of this State  
6           substantially equivalent to any offense listed in this  
7           paragraph (2.5) of this subsection.

8           (3) A conviction for an offense of federal law or the  
9           law of another state that is substantially equivalent to  
10          any offense listed in paragraph (2) of this subsection (d)  
11          shall constitute a conviction for the purpose of this  
12          Section. A finding or adjudication as a sexually dangerous  
13          person under any federal law or law of another state that  
14          is substantially equivalent to the Sexually Dangerous  
15          Persons Act shall constitute an adjudication for the  
16          purposes of this Section.

17          (4) "Public park" includes a park, forest preserve, or  
18          conservation area under the jurisdiction of the State or a  
19          unit of local government.

20          (5) "Facility providing programs or services directed  
21          towards persons under the age of 18" means any facility  
22          providing programs or services exclusively directed  
23          towards persons under the age of 18.

24          (6) "Loiter" means:

25                 (i) Standing, sitting idly, whether or not the  
26                 person is in a vehicle or remaining in or around public

1 park property.

2 (ii) Standing, sitting idly, whether or not the  
3 person is in a vehicle or remaining in or around public  
4 park property, for the purpose of committing or  
5 attempting to commit a sex offense.

6 (7) "Playground" means a piece of land owned or  
7 controlled by a unit of local government that is designated  
8 by the unit of local government for use solely or primarily  
9 for children's recreation.

10 (8) "Child care institution" has the meaning ascribed  
11 to it in Section 2.06 of the Child Care Act of 1969.

12 (9) "Day care center" has the meaning ascribed to it in  
13 Section 2.09 of the Child Care Act of 1969.

14 (10) "Part day child care facility" has the meaning  
15 ascribed to it in Section 2.10 of the Child Care Act of  
16 1969.

17 (11) "Day care home" has the meaning ascribed to it in  
18 Section 2.18 of the Child Care Act of 1969.

19 (12) "Group day care home" has the meaning ascribed to  
20 it in Section 2.20 of the Child Care Act of 1969.

21 (13) ~~(11)~~ "Internet" means an interactive computer  
22 service or system or an information service, system, or  
23 access software provider that provides or enables computer  
24 access by multiple users to a computer server, and  
25 includes, but is not limited to, an information service,  
26 system, or access software provider that provides access to

1 a network system commonly known as the Internet, or any  
2 comparable system or service and also includes, but is not  
3 limited to, a World Wide Web page, newsgroup, message  
4 board, mailing list, or chat area on any interactive  
5 computer service or system or other online service.

6 (d-5) For the purposes of this Section, the 500 feet  
7 distance shall be measured from the edge of the property  
8 comprising the public park building or the real property  
9 comprising the public park, playground, child care  
10 institution, day care center, part day child care facility, or  
11 a facility providing programs or services exclusively directed  
12 toward persons under 18 years of age, or a victim of the sex  
13 offense who is under 21 years of age to the edge of the child  
14 sex offender's place of residence or where he or she is  
15 loitering.

16 (e) Sentence. A person who violates this Section is guilty  
17 of a Class 4 felony.

18 (Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640,  
19 eff. 6-1-08; 95-819, eff. 1-1-09; 95-820, eff. 1-1-09; 95-821,  
20 eff. 8-14-08; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09;  
21 revised 10-20-08.)