



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6220

by Rep. Michelle Mussman

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.3

Amends the Criminal Code of 1961. Provides that if a child sex offender who is required to register under the Sex Offender Registration Act knows that a social networking web site or an instant messaging or chat room program allows a person who is under 18 years of age to access or use the web site or program, it is unlawful for the child sex offender to knowingly use that social networking web site or instant messaging or chat room program. Establishes exemptions. Provides that a person who violates this provision is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense. Effective immediately.

LRB097 21959 RLC 70678 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; approaching, contacting, residing with,
9 or communicating with a child within certain places by child
10 sex offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be
12 present in any school building, on real property comprising any
13 school, or in any conveyance owned, leased, or contracted by a
14 school to transport students to or from school or a school
15 related activity when persons under the age of 18 are present
16 in the building, on the grounds or in the conveyance, unless
17 the offender is a parent or guardian of a student attending the
18 school and the parent or guardian is: (i) attending a
19 conference at the school with school personnel to discuss the
20 progress of his or her child academically or socially, (ii)
21 participating in child review conferences in which evaluation
22 and placement decisions may be made with respect to his or her
23 child regarding special education services, or (iii) attending

1 conferences to discuss other student issues concerning his or
2 her child such as retention and promotion and notifies the
3 principal of the school of his or her presence at the school or
4 unless the offender has permission to be present from the
5 superintendent or the school board or in the case of a private
6 school from the principal. In the case of a public school, if
7 permission is granted, the superintendent or school board
8 president must inform the principal of the school where the sex
9 offender will be present. Notification includes the nature of
10 the sex offender's visit and the hours in which the sex
11 offender will be present in the school. The sex offender is
12 responsible for notifying the principal's office when he or she
13 arrives on school property and when he or she departs from
14 school property. If the sex offender is to be present in the
15 vicinity of children, the sex offender has the duty to remain
16 under the direct supervision of a school official.

17 (a-5) It is unlawful for a child sex offender to knowingly
18 be present within 100 feet of a site posted as a pick-up or
19 discharge stop for a conveyance owned, leased, or contracted by
20 a school to transport students to or from school or a school
21 related activity when one or more persons under the age of 18
22 are present at the site.

23 (a-10) It is unlawful for a child sex offender to knowingly
24 be present in any public park building or on real property
25 comprising any public park when persons under the age of 18 are
26 present in the building or on the grounds and to approach,

1 contact, or communicate with a child under 18 years of age,
2 unless the offender is a parent or guardian of a person under
3 18 years of age present in the building or on the grounds.

4 (b) It is unlawful for a child sex offender to knowingly
5 loiter within 500 feet of a school building or real property
6 comprising any school while persons under the age of 18 are
7 present in the building or on the grounds, unless the offender
8 is a parent or guardian of a student attending the school and
9 the parent or guardian is: (i) attending a conference at the
10 school with school personnel to discuss the progress of his or
11 her child academically or socially, (ii) participating in child
12 review conferences in which evaluation and placement decisions
13 may be made with respect to his or her child regarding special
14 education services, or (iii) attending conferences to discuss
15 other student issues concerning his or her child such as
16 retention and promotion and notifies the principal of the
17 school of his or her presence at the school or has permission
18 to be present from the superintendent or the school board or in
19 the case of a private school from the principal. In the case of
20 a public school, if permission is granted, the superintendent
21 or school board president must inform the principal of the
22 school where the sex offender will be present. Notification
23 includes the nature of the sex offender's visit and the hours
24 in which the sex offender will be present in the school. The
25 sex offender is responsible for notifying the principal's
26 office when he or she arrives on school property and when he or

1 she departs from school property. If the sex offender is to be
2 present in the vicinity of children, the sex offender has the
3 duty to remain under the direct supervision of a school
4 official.

5 (b-2) It is unlawful for a child sex offender to knowingly
6 loiter on a public way within 500 feet of a public park
7 building or real property comprising any public park while
8 persons under the age of 18 are present in the building or on
9 the grounds and to approach, contact, or communicate with a
10 child under 18 years of age, unless the offender is a parent or
11 guardian of a person under 18 years of age present in the
12 building or on the grounds.

13 (b-5) It is unlawful for a child sex offender to knowingly
14 reside within 500 feet of a school building or the real
15 property comprising any school that persons under the age of 18
16 attend. Nothing in this subsection (b-5) prohibits a child sex
17 offender from residing within 500 feet of a school building or
18 the real property comprising any school that persons under 18
19 attend if the property is owned by the child sex offender and
20 was purchased before July 7, 2000 (the effective date of Public
21 Act 91-911).

22 (b-10) It is unlawful for a child sex offender to knowingly
23 reside within 500 feet of a playground, child care institution,
24 day care center, part day child care facility, day care home,
25 group day care home, or a facility providing programs or
26 services exclusively directed toward persons under 18 years of

1 age. Nothing in this subsection (b-10) prohibits a child sex
2 offender from residing within 500 feet of a playground or a
3 facility providing programs or services exclusively directed
4 toward persons under 18 years of age if the property is owned
5 by the child sex offender and was purchased before July 7,
6 2000. Nothing in this subsection (b-10) prohibits a child sex
7 offender from residing within 500 feet of a child care
8 institution, day care center, or part day child care facility
9 if the property is owned by the child sex offender and was
10 purchased before June 26, 2006. Nothing in this subsection
11 (b-10) prohibits a child sex offender from residing within 500
12 feet of a day care home or group day care home if the property
13 is owned by the child sex offender and was purchased before
14 August 14, 2008 (the effective date of Public Act 95-821).

15 (b-15) It is unlawful for a child sex offender to knowingly
16 reside within 500 feet of the victim of the sex offense.
17 Nothing in this subsection (b-15) prohibits a child sex
18 offender from residing within 500 feet of the victim if the
19 property in which the child sex offender resides is owned by
20 the child sex offender and was purchased before August 22,
21 2002.

22 This subsection (b-15) does not apply if the victim of the
23 sex offense is 21 years of age or older.

24 (b-20) It is unlawful for a child sex offender to knowingly
25 communicate, other than for a lawful purpose under Illinois
26 law, using the Internet or any other digital media, with a

1 person under 18 years of age or with a person whom he or she
2 believes to be a person under 18 years of age, unless the
3 offender is a parent or guardian of the person under 18 years
4 of age.

5 (c) It is unlawful for a child sex offender to knowingly
6 operate, manage, be employed by, volunteer at, be associated
7 with, or knowingly be present at any: (i) facility providing
8 programs or services exclusively directed toward persons under
9 the age of 18; (ii) day care center; (iii) part day child care
10 facility; (iv) child care institution; (v) school providing
11 before and after school programs for children under 18 years of
12 age; (vi) day care home; or (vii) group day care home. This
13 does not prohibit a child sex offender from owning the real
14 property upon which the programs or services are offered or
15 upon which the day care center, part day child care facility,
16 child care institution, or school providing before and after
17 school programs for children under 18 years of age is located,
18 provided the child sex offender refrains from being present on
19 the premises for the hours during which: (1) the programs or
20 services are being offered or (2) the day care center, part day
21 child care facility, child care institution, or school
22 providing before and after school programs for children under
23 18 years of age, day care home, or group day care home is
24 operated.

25 (c-2) It is unlawful for a child sex offender to
26 participate in a holiday event involving children under 18

1 years of age, including but not limited to distributing candy
2 or other items to children on Halloween, wearing a Santa Claus
3 costume on or preceding Christmas, being employed as a
4 department store Santa Claus, or wearing an Easter Bunny
5 costume on or preceding Easter. For the purposes of this
6 subsection, child sex offender has the meaning as defined in
7 this Section, but does not include as a sex offense under
8 paragraph (2) of subsection (d) of this Section, the offense
9 under subsection (c) of Section 11-1.50 of this Code. This
10 subsection does not apply to a child sex offender who is a
11 parent or guardian of children under 18 years of age that are
12 present in the home and other non-familial minors are not
13 present.

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).

24 (c-7) It is unlawful for a child sex offender to knowingly
25 offer or provide any programs or services to persons under 18
26 years of age in his or her residence or the residence of

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

5 (c-8) It is unlawful for a child sex offender to knowingly
6 operate, whether authorized to do so or not, any of the
7 following vehicles: (1) a vehicle which is specifically
8 designed, constructed or modified and equipped to be used for
9 the retail sale of food or beverages, including but not limited
10 to an ice cream truck; (2) an authorized emergency vehicle; or
11 (3) a rescue vehicle.

12 (c-9) (1) If a child sex offender who is required to
13 register under the Sex Offender Registration Act knows that a
14 social networking web site or an instant messaging or chat room
15 program allows a person who is under 18 years of age to access
16 or use the web site or program, it is unlawful for the child
17 sex offender to knowingly use that social networking web site
18 or instant messaging or chat room program.

19 (2) It is a defense to a prosecution under this subsection
20 (c-9) that the person:

21 (i) did not know that the web site or program allowed a
22 person who is under 18 years of age to access or use the
23 web site or program; and

24 (ii) upon discovering that the web site or program
25 allows a person who is under 18 years of age to access or
26 use the web site or program, immediately ceased further use

1 or access of the web site or program.

2 (3) This subsection (c-9) does not apply to a person to
3 whom all of the following apply:

4 (i) the person is not more than 4 years older than the
5 victim;

6 (ii) the relationship between the person and the victim
7 was a dating relationship or an ongoing personal
8 relationship. For the purposes of this subsection (c-9),
9 "ongoing personal relationship" does not include a family
10 relationship; and

11 (iii) the crime:

12 (A) was not committed by a person who is at least
13 21 years of age;

14 (B) was not committed by using or threatening the
15 use of deadly force;

16 (C) was not committed while armed with a deadly
17 weapon;

18 (D) did not result in serious bodily injury;

19 (E) was not facilitated by furnishing the victim,
20 without the victim's knowledge, with a drug as defined
21 in Section 2.4 of the Illinois Food, Drug and Cosmetic
22 Act, a controlled substance as defined in Section 102
23 of the Illinois Controlled Substances Act,
24 methamphetamine as defined in Section 10 of the
25 Methamphetamine Control and Community Protection Act,
26 or cannabis as defined in Section 3 of the Cannabis

1 Control Act, or knowing that the victim was furnished
2 with the drug, controlled substance, methamphetamine,
3 or cannabis without the victim's knowledge; and

4 (F) was not committed by a person having a position
5 of authority or substantial influence over the victim.

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 the victim is a person under
13 18 years of age at the time of the offense; and:

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

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

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

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

1 commission or attempted commission of such
2 offense; or

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

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

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

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

26 Convictions that result from or are connected with the

1 same act, or result from offenses committed at the same
2 time, shall be counted for the purpose of this Section as
3 one conviction. Any conviction set aside pursuant to law is
4 not a conviction for purposes of this Section.

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

7 (i) A violation of any of the following Sections of
8 the Criminal Code of 1961: 10-4 (forcible detention),
9 10-7 (aiding or abetting child abduction under Section
10 10-5(b)(10)), 10-5(b)(10) (child luring), 11-1.40
11 (predatory criminal sexual assault of a child), 11-6
12 (indecent solicitation of a child), 11-6.5 (indecent
13 solicitation of an adult), 11-9.1 (sexual exploitation
14 of a child), 11-9.2 (custodial sexual misconduct),
15 11-9.5 (sexual misconduct with a person with a
16 disability), 11-11 (sexual relations within families),
17 11-14.3(a)(1) (promoting prostitution by advancing
18 prostitution), 11-14.3(a)(2)(A) (promoting
19 prostitution by profiting from prostitution by
20 compelling a person to be a prostitute),
21 11-14.3(a)(2)(C) (promoting prostitution by profiting
22 from prostitution by means other than as described in
23 subparagraphs (A) and (B) of paragraph (2) of
24 subsection (a) of Section 11-14.3), 11-14.4 (promoting
25 juvenile prostitution), 11-18.1 (patronizing a
26 juvenile prostitute), 11-20.1 (child pornography),

1 11-20.1B (aggravated child pornography), 11-21
2 (harmful material), 11-25 (grooming), 11-26 (traveling
3 to meet a minor), 12-33 (ritualized abuse of a child),
4 11-20 (obscenity) (when that offense was committed in
5 any school, on real property comprising any school, in
6 any conveyance owned, leased, or contracted by a school
7 to transport students to or from school or a school
8 related activity, or in a public park), 11-30 (public
9 indecency) (when committed in a school, on real
10 property comprising a school, in any conveyance owned,
11 leased, or contracted by a school to transport students
12 to or from school or a school related activity, or in a
13 public park). 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: 11-1.20 (criminal sexual
18 assault), 11-1.30 (aggravated criminal sexual
19 assault), 11-1.50 (criminal sexual abuse), 11-1.60
20 (aggravated criminal sexual abuse). An attempt to
21 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 11-9.1(A) (permitting sexual abuse of a child).

5 An attempt to commit any of these offenses.

6 (iv) A violation of any former law of this State
7 substantially equivalent to any offense listed in
8 clause (2)(i) of subsection (d) of this Section.

9 (2.5) For the purposes of subsections (b-5) and (b-10)
10 only, a sex offense means:

11 (i) A violation of any of the following Sections of
12 the Criminal Code of 1961:

13 10-5(b)(10) (child luring), 10-7 (aiding or
14 abetting child abduction under Section 10-5(b)(10)),
15 11-1.40 (predatory criminal sexual assault of a
16 child), 11-6 (indecent solicitation of a child),
17 11-6.5 (indecent solicitation of an adult), 11-9.2
18 (custodial sexual misconduct), 11-9.5 (sexual
19 misconduct with a person with a disability), 11-11
20 (sexual relations within families), 11-14.3(a)(1)
21 (promoting prostitution by advancing prostitution),
22 11-14.3(a)(2)(A) (promoting prostitution by profiting
23 from prostitution by compelling a person to be a
24 prostitute), 11-14.3(a)(2)(C) (promoting prostitution
25 by profiting from prostitution by means other than as
26 described in subparagraphs (A) and (B) of paragraph (2)

1 of subsection (a) of Section 11-14.3), 11-14.4
2 (promoting juvenile prostitution), 11-18.1
3 (patronizing a juvenile prostitute), 11-20.1 (child
4 pornography), 11-20.1B (aggravated child pornography),
5 11-25 (grooming), 11-26 (traveling to meet a minor), or
6 12-33 (ritualized abuse of a child). An attempt to
7 commit any of these offenses.

8 (ii) A violation of any of the following Sections
9 of the Criminal Code of 1961, when the victim is a
10 person under 18 years of age: 11-1.20 (criminal sexual
11 assault), 11-1.30 (aggravated criminal sexual
12 assault), 11-1.60 (aggravated criminal sexual abuse),
13 and subsection (a) of Section 11-1.50 (criminal sexual
14 abuse). An attempt to commit any of these offenses.

15 (iii) 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 and the defendant is not a
18 parent of the victim:

19 10-1 (kidnapping),
20 10-2 (aggravated kidnapping),
21 10-3 (unlawful restraint),
22 10-3.1 (aggravated unlawful restraint),
23 11-9.1(A) (permitting sexual abuse of a child).

24 An attempt to commit any of these offenses.

25 (iv) A violation of any former law of this State
26 substantially equivalent to any offense listed in this

1 paragraph (2.5) of this subsection.

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

11 (4) "Authorized emergency vehicle", "rescue vehicle",
12 and "vehicle" have the meanings ascribed to them in
13 Sections 1-105, 1-171.8 and 1-217, respectively, of the
14 Illinois Vehicle Code.

15 (5) "Child care institution" has the meaning ascribed
16 to it in Section 2.06 of the Child Care Act of 1969.

17 (6) "Day care center" has the meaning ascribed to it in
18 Section 2.09 of the Child Care Act of 1969.

19 (7) "Day care home" has the meaning ascribed to it in
20 Section 2.18 of the Child Care Act of 1969.

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

25 (9) "Group day care home" has the meaning ascribed to
26 it in Section 2.20 of the Child Care Act of 1969.

1 (9.1) "Instant messaging or chat room program" means a
2 software program that requires a person to register or
3 create an account, a user name, or a password to become a
4 member or registered user of the program and allows 2 or
5 more members or authorized users to communicate over the
6 Internet in real time using typed text. The term does not
7 include an electronic mail program or message board
8 program.

9 (10) "Internet" has the meaning set forth in Section
10 16J-5 of this Code.

11 (11) "Loiter" means:

12 (i) Standing, sitting idly, whether or not the
13 person is in a vehicle, or remaining in or around
14 school or public park property.

15 (ii) Standing, sitting idly, whether or not the
16 person is in a vehicle, or remaining in or around
17 school or public park property, for the purpose of
18 committing or attempting to commit a sex offense.

19 (iii) Entering or remaining in a building in or
20 around school property, other than the offender's
21 residence.

22 (12) "Part day child care facility" has the meaning
23 ascribed to it in Section 2.10 of the Child Care Act of
24 1969.

25 (13) "Playground" means a piece of land owned or
26 controlled by a unit of local government that is designated

1 by the unit of local government for use solely or primarily
2 for children's recreation.

3 (14) "Public park" includes a park, forest preserve,
4 bikeway, trail, or conservation area under the
5 jurisdiction of the State or a unit of local government.

6 (15) "School" means a public or private preschool or
7 elementary or secondary school.

8 (16) "School official" means the principal, a teacher,
9 or any other certified employee of the school, the
10 superintendent of schools or a member of the school board.

11 (17) "Social networking web site" means an Internet web
12 site that:

13 (i) facilitates the social introduction between 2
14 or more persons;

15 (ii) requires a person to register or create an
16 account, a user name, or a password to become a member
17 of the web site and to communicate with other members;

18 (iii) allows a member to create a web page or a
19 personal profile; and

20 (iv) provides a member with the opportunity to
21 communicate with another person. The term does not
22 include an electronic mail program or message board
23 program.

24 (e) For the purposes of this Section, the 500 feet distance
25 shall be measured from: (1) the edge of the property of the
26 school building or the real property comprising the school that

1 is closest to the edge of the property of the child sex
2 offender's residence or where he or she is loitering, and (2)
3 the edge of the property comprising the public park building or
4 the real property comprising the public park, playground, child
5 care institution, day care center, part day child care
6 facility, or facility providing programs or services
7 exclusively directed toward persons under 18 years of age, or a
8 victim of the sex offense who is under 21 years of age, to the
9 edge of the child sex offender's place of residence or place
10 where he or she is loitering.

11 (f) Sentence. A person who violates this Section, other
12 than subsection (c-9) of this Section, is guilty of a Class 4
13 felony. A person who violates subsection (c-9) of this Section
14 is guilty of a Class A misdemeanor for a first offense and a
15 Class 4 felony for a second or subsequent offense.

16 (Source: P.A. 96-328, eff. 8-11-09; 96-710, eff. 1-1-10;
17 96-1551, eff. 7-1-11; 97-698, eff. 1-1-13; 97-699, eff. 1-1-13;
18 revised 7-10-12.)

19 Section 95. No acceleration or delay. Where this Act makes
20 changes in a statute that is represented in this Act by text
21 that is not yet or no longer in effect (for example, a Section
22 represented by multiple versions), the use of that text does
23 not accelerate or delay the taking effect of (i) the changes
24 made by this Act or (ii) provisions derived from any other
25 Public Act.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.