

AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 2012 is amended by changing Section 11-0.1 as follows:

(720 ILCS 5/11-0.1)

Sec. 11-0.1. Definitions. In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

"Accused" means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

"Adult obscenity or child pornography Internet site". See Section 11-23.

"Advance prostitution" means:

(1) Soliciting for a prostitute by performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Soliciting another for the purpose of prostitution.

(B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

(C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

"Agency". See Section 11-9.5.

"Arranges". See Section 11-6.5.

"Bodily harm" means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

"Care and custody". See Section 11-9.5.

"Child care institution". See Section 11-9.3.

"Child pornography". See Section 11-20.1.

"Child sex offender". See Section 11-9.3.

"Community agency". See Section 11-9.5.

"Conditional release". See Section 11-9.2.

"Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

"Custody". See Section 11-9.2.

"Day care center". See Section 11-9.3.

"Depict by computer". See Section 11-20.1.

"Depiction by computer". See Section 11-20.1.

"Disseminate". See Section 11-20.1.

"Distribute". See Section 11-21.

"Family member" means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. "Family member" also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months.

"Force or threat of force" means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

"Harmful to minors". See Section 11-21.

"Loiter". See Section 9.3.

"Material". See Section 11-21.

"Minor". See Section 11-21.

"Nudity". See Section 11-21.

"Obscene". See Section 11-20.

"Part day child care facility". See Section 11-9.3.

"Penal system". See Section 11-9.2.

"Person responsible for the child's welfare". See Section 11-9.1A.

"Person with a disability". See Section 11-9.5.

"Playground". See Section 11-9.3.

"Probation officer". See Section 11-9.2.

"Produce". See Section 11-20.1.

"Profit from prostitution" means, when acting other than as a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in

part from the practice of prostitution.

"Public park". See Section 11-9.3.

"Public place". See Section 11-30.

"Reproduce". See Section 11-20.1.

"Sado-masochistic abuse". See Section 11-21.

"School". See Section 11-9.3.

"School official". See Section 11-9.3.

"Sexual abuse". See Section 11-9.1A.

"Sexual act". See Section 11-9.1.

"Sexual conduct" means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

"Sexual excitement". See Section 11-21.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Solicit". See Section 11-6.

"State-operated facility". See Section 11-9.5.

"Supervising officer". See Section 11-9.2.

"Surveillance agent". See Section 11-9.2.

"Treatment and detention facility". See Section 11-9.2.

"Unable to give knowing consent" includes when the accused administers any intoxicating or anesthetic substance, or any controlled substance causing the victim to become unconscious of the nature of the act and this condition was known, or reasonably should have been known by the accused. "Unable to give knowing consent" also includes when the victim has taken an intoxicating substance or any controlled substance causing the victim to become unconscious of the nature of the act, and this condition was known or reasonably should have been known by the accused, but the accused did not provide or administer the intoxicating substance. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(1) was unconscious or asleep;

(2) was not aware, knowing, perceiving, or cognizant that the act occurred;

(3) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact; or

(4) was not aware, knowing, perceiving, or cognizant

of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

A victim is presumed "unable to give knowing consent" when the victim:

(1) is committed to the care and custody or supervision of the Illinois Department of Corrections (IDOC) and the accused is an employee or volunteer who is not married to the victim who knows or reasonably should know that the victim is committed to the care and custody or supervision of such department;

(2) is committed to or placed with the Department of Children and Family Services (DCFS) and in residential care, and the accused employee is not married to the victim, and knows or reasonably should know that the victim is committed to or placed with DCFS and in residential care;

(3) is a client or patient and the accused is a health care provider or mental health care provider and the sexual conduct or sexual penetration occurs during a treatment session, consultation, interview, or examination;

(4) is a resident or inpatient of a residential facility and the accused is an employee of the facility who is not married to such resident or inpatient who

provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility; or

(5) is detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official who: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody and the police officer, peace officer, or other law enforcement official is not married to such detainee.

"Victim" means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

(Source: P.A. 102-567, eff. 1-1-22.)