

1 AN ACT in relation to harmful matter.

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

4 Section 5. The Sex Offender Management Board Act is
5 amended by changing Section 10 as follows:

6 (20 ILCS 4026/10)

7 Sec. 10. Definitions. In this Act, unless the context
8 otherwise requires:

9 (a) "Board" means the Sex Offender Management Board
10 created in Section 15.

11 (b) "Sex offender" means any person who is convicted or
12 found delinquent in the State of Illinois, or under any
13 substantially similar federal law or law of another state, of
14 any sex offense or attempt of a sex offense as defined in
15 subsection (c) of this Section, or any former statute of this
16 State that defined a felony sex offense, or who has been
17 certified as a sexually dangerous person under the Sexually
18 Dangerous Persons Act or declared a sexually violent person
19 under the Sexually Violent Persons Commitment Act, or any
20 substantially similar federal law or law of another state.

21 (c) "Sex offense" means any felony or misdemeanor
22 offense described in this subsection (c) as follows:

23 (1) Indecent solicitation of a child, in violation
24 of Section 11-6 of the Criminal Code of 1961;

25 (2) Indecent solicitation of an adult, in violation
26 of Section 11-6.5 of the Criminal Code of 1961;

27 (3) Public indecency, in violation of Section 11-9
28 of the Criminal Code of 1961;

29 (4) Sexual exploitation of a child, in violation of
30 Section 11-9.1 of the Criminal Code of 1961;

31 (5) Sexual relations within families, in violation

1 of Section 11-11 of the Criminal Code of 1961;

2 (6) Soliciting for a juvenile prostitute, in
3 violation of Section 11-15.1 of the Criminal Code of
4 1961;

5 (7) Keeping a place of juvenile prostitution, in
6 violation of Section 11-17.1 of the Criminal Code of
7 1961;

8 (8) Patronizing a juvenile prostitute, in violation
9 of Section 11-18.1 of the Criminal Code of 1961;

10 (9) Juvenile pimping, in violation of Section
11 11-19.1 of the Criminal Code of 1961;

12 (10) Exploitation of a child, in violation of
13 Section 11-19.2 of the Criminal Code of 1961;

14 (11) Child pornography, in violation of Section
15 11-20.1 of the Criminal Code of 1961;

16 (12) Distributing harmful matter material, in
17 violation of Section 11-21 of the Criminal Code of 1961;

18 (13) Criminal sexual assault, in violation of
19 Section 12-13 of the Criminal Code of 1961;

20 (14) Aggravated criminal sexual assault, in
21 violation of Section 12-14 of the Criminal Code of 1961;

22 (15) Predatory criminal sexual assault of a child,
23 in violation of Section 12-14.1 of the Criminal Code of
24 1961;

25 (16) Criminal sexual abuse, in violation of Section
26 12-15 of the Criminal Code of 1961;

27 (17) Aggravated criminal sexual abuse, in violation
28 of Section 12-16 of the Criminal Code of 1961;

29 (18) Ritualized abuse of a child, in violation of
30 Section 12-33 of the Criminal Code of 1961;

31 (19) An attempt to commit any of the offenses
32 enumerated in this subsection (c).

33 (d) "Management" means counseling, monitoring, and
34 supervision of any sex offender that conforms to the

1 standards created by the Board under Section 15.
 2 (Source: P.A. 90-133, eff. 7-22-97; 90-793, eff. 8-14-98.)

3 Section 10. The Criminal Code of 1961 is amended by
 4 changing Sections 11-9.3, 11-9.4, and 11-21 as follows:

5 (720 ILCS 5/11-9.3)

6 Sec. 11-9.3. Presence within school zone by child sex
 7 offenders prohibited.

8 (a) It is unlawful for a child sex offender to knowingly
 9 be present in any school building, on real property
 10 comprising any school, or in any conveyance owned, leased, or
 11 contracted by a school to transport students to or from
 12 school or a school related activity when persons under the
 13 age of 18 are present in the building, on the grounds or in
 14 the conveyance, unless the offender is a parent or guardian
 15 of a student present in the building, on the grounds or in
 16 the conveyance or unless the offender has permission to be
 17 present from the superintendent or the school board or in the
 18 case of a private school from the principal. In the case of
 19 a public school, if permission is granted, the superintendent
 20 or school board president must inform the principal of the
 21 school where the sex offender will be present. Notification
 22 includes the nature of the sex offender's visit and the hours
 23 in which the sex offender will be present in the school. The
 24 sex offender is responsible for notifying the principal's
 25 office when he or she arrives on school property and when he
 26 or she departs from school property. If the sex offender is
 27 to be present in the vicinity of children, the sex offender
 28 has the duty to remain under the direct supervision of a
 29 school official. A child sex offender who violates this
 30 provision is guilty of a Class 4 felony.

31 (1) (Blank; or)

32 (2) (Blank.)

1 (b) It is unlawful for a child sex offender to knowingly
2 loiter on a public way within 500 feet of a school building
3 or real property comprising any school while persons under
4 the age of 18 are present in the building or on the grounds,
5 unless the offender is a parent or guardian of a student
6 present in the building or on the grounds or has permission
7 to be present from the superintendent or the school board or
8 in the case of a private school from the principal. In the
9 case of a public school, if permission is granted, the
10 superintendent or school board president must inform the
11 principal of the school where the sex offender will be
12 present. Notification includes the nature of the sex
13 offender's visit and the hours in which the sex offender will
14 be present in the school. The sex offender is responsible
15 for notifying the principal's office when he or she arrives
16 on school property and when he or she departs from school
17 property. If the sex offender is to be present in the
18 vicinity of children, the sex offender has the duty to remain
19 under the direct supervision of a school official. A child
20 sex offender who violates this provision is guilty of a Class
21 4 felony.

22 (1) (Blank; or)

23 (2) (Blank.)

24 (b-5) It is unlawful for a child sex offender to
25 knowingly reside within 500 feet of a school building or the
26 real property comprising any school that persons under the
27 age of 18 attend. Nothing in this subsection (b-5) prohibits
28 a child sex offender from residing within 500 feet of a
29 school building or the real property comprising any school
30 that persons under 18 attend if the property is owned by the
31 child sex offender and was purchased before the effective
32 date of this amendatory Act of the 91st General Assembly.

33 (c) Definitions. In this Section:

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

1 (i) has been charged under Illinois law, or
2 any substantially similar federal law or law of
3 another state, with a sex offense set forth in
4 paragraph (2) of this subsection (c) or the attempt
5 to commit an included sex offense, and:

6 (A) is convicted of such offense or an
7 attempt to commit such offense; or

8 (B) is found not guilty by reason of
9 insanity of such offense or an attempt to
10 commit such offense; or

11 (C) is found not guilty by reason of
12 insanity pursuant to subsection (c) of Section
13 104-25 of the Code of Criminal Procedure of
14 1963 of such offense or an attempt to commit
15 such offense; or

16 (D) is the subject of a finding not
17 resulting in an acquittal at a hearing
18 conducted pursuant to subsection (a) of Section
19 104-25 of the Code of Criminal Procedure of
20 1963 for the alleged commission or attempted
21 commission of such offense; or

22 (E) is found not guilty by reason of
23 insanity following a hearing conducted pursuant
24 to a federal law or the law of another state
25 substantially similar to subsection (c) of
26 Section 104-25 of the Code of Criminal
27 Procedure of 1963 of such offense or of the
28 attempted commission of such offense; or

29 (F) is the subject of a finding not
30 resulting in an acquittal at a hearing
31 conducted pursuant to a federal law or the law
32 of another state substantially similar to
33 subsection (a) of Section 104-25 of the Code of
34 Criminal Procedure of 1963 for the alleged

1 violation or attempted commission of such
2 offense; or

3 (ii) is certified as a sexually dangerous
4 person pursuant to the Illinois Sexually Dangerous
5 Persons Act, or any substantially similar federal
6 law or the law of another state, when any conduct
7 giving rise to such certification is committed or
8 attempted against a person less than 18 years of
9 age; or

10 (iii) is subject to the provisions of Section
11 2 of the Interstate Agreements on Sexually Dangerous
12 Persons Act.

13 Convictions that result from or are connected with
14 the same act, or result from offenses committed at the
15 same time, shall be counted for the purpose of this
16 Section as one conviction. Any conviction set aside
17 pursuant to law is not a conviction for purposes of this
18 Section.

19 (2) Except as otherwise provided in paragraph
20 (2.5), "sex offense" means:

21 (i) A violation of any of the following
22 Sections of the Criminal Code of 1961: 10-7 (aiding
23 and abetting child abduction under Section
24 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6
25 (indecent solicitation of a child), 11-6.5 (indecent
26 solicitation of an adult), 11-9 (public indecency
27 when committed in a school, on the real property
28 comprising a school, or on a conveyance, owned,
29 leased, or contracted by a school to transport
30 students to or from school or a school related
31 activity), 11-9.1 (sexual exploitation of a child),
32 11-15.1 (soliciting for a juvenile prostitute),
33 11-17.1 (keeping a place of juvenile prostitution),
34 11-18.1 (patronizing a juvenile prostitute), 11-19.1

1 (juvenile pimping), 11-19.2 (exploitation of a
 2 child), 11-20.1 (child pornography), 11-21
 3 (distributing harmful matter material), 12-14.1
 4 (predatory criminal sexual assault of a child),
 5 12-33 (ritualized abuse of a child), 11-20
 6 (obscenity) (when that offense was committed in any
 7 school, on real property comprising any school, in
 8 any conveyance owned, leased, or contracted by a
 9 school to transport students to or from school or a
 10 school related activity). An attempt to commit any
 11 of these offenses.

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

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

- 23 10-1 (kidnapping),
- 24 10-2 (aggravated kidnapping),
- 25 10-3 (unlawful restraint),
- 26 10-3.1 (aggravated unlawful restraint).

27 An attempt to commit any of these offenses.

28 (iv) A violation of any former law of this
 29 State substantially equivalent to any offense listed
 30 in clause (2)(i) of subsection (c) of this Section.

31 (2.5) For the purposes of subsection (b-5) only, a
 32 sex offense means:

33 (i) A violation of any of the following
 34 Sections of the Criminal Code of 1961:

1 10-5(b)(10) (child luring), 10-7 (aiding
2 and 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
7 juvenile prostitution), 11-18.1 (patronizing a
8 juvenile prostitute), 11-19.1 (juvenile
9 pimping), 11-19.2 (exploitation of a child),
10 11-20.1 (child pornography), 12-14.1 (predatory
11 criminal sexual assault of a child), or 12-33
12 (ritualized abuse of a child). An attempt to
13 commit any of these offenses.

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

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

26 10-1 (kidnapping),
27 10-2 (aggravated kidnapping),
28 10-3 (unlawful restraint),
29 10-3.1 (aggravated unlawful restraint).

30 An attempt to commit any of these offenses.

31 (iv) A violation of any former law of this
32 State substantially equivalent to any offense listed
33 in this paragraph (2.5) of this subsection.

34 (3) A conviction for an offense of federal law or

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

9 (4) "School" means a public or private pre-school,
10 elementary, or secondary school.

11 (5) "Loiter" means:

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

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

19 (6) "School official" means the principal, a
20 teacher, or any other certified employee of the school,
21 the superintendent of schools or a member of the school
22 board.

23 (d) Sentence. A person who violates this Section is
24 guilty of a Class 4 felony.

25 (Source: P.A. 90-234, eff. 1-1-98; 90-655, eff. 7-30-98;
26 91-356, eff. 1-1-00; 91-911, eff. 7-7-00.)

27 (720 ILCS 5/11-9.4)

28 Sec. 11-9.4. Approaching, contacting, residing, or
29 communicating with a child within public park zone by child
30 sex offenders prohibited.

31 (a) It is unlawful for a child sex offender to knowingly
32 be present in any public park building or on real property
33 comprising any public park when persons under the age of 18

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

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

14 (b-5) It is unlawful for a child sex offender to
15 knowingly reside within 500 feet of a playground or a
16 facility providing programs or services exclusively directed
17 toward persons under 18 years of age. Nothing in this
18 subsection (b-5) prohibits a child sex offender from residing
19 within 500 feet of a playground or a facility providing
20 programs or services exclusively directed toward persons
21 under 18 years of age if the property is owned by the child
22 sex offender and was purchased before the effective date of
23 this amendatory Act of the 91st General Assembly.

24 (c) It is unlawful for a child sex offender to knowingly
25 operate, manage, be employed by, volunteer at, be associated
26 with, or knowingly be present at any facility providing
27 programs or services exclusively directed towards persons
28 under the age of 18. This does not prohibit a child sex
29 offender from owning the real property upon which the
30 programs or services are offered, provided the child sex
31 offender refrains from being present on the premises for the
32 hours during which the programs or services are being
33 offered.

34 (d) Definitions. In this Section:

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

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

7 (A) is convicted of such offense or an
8 attempt to commit such offense; or

9 (B) is found not guilty by reason of
10 insanity of such offense or an attempt to
11 commit such offense; or

12 (C) is found not guilty by reason of
13 insanity pursuant to subsection (c) of Section
14 104-25 of the Code of Criminal Procedure of
15 1963 of such offense or an attempt to commit
16 such offense; or

17 (D) is the subject of a finding not
18 resulting in an acquittal at a hearing
19 conducted pursuant to subsection (a) of Section
20 104-25 of the Code of Criminal Procedure of
21 1963 for the alleged commission or attempted
22 commission of such offense; or

23 (E) is found not guilty by reason of
24 insanity following a hearing conducted pursuant
25 to a federal law or the law of another state
26 substantially similar to subsection (c) of
27 Section 104-25 of the Code of Criminal
28 Procedure of 1963 of such offense or of the
29 attempted commission of such offense; or

30 (F) is the subject of a finding not
31 resulting in an acquittal at a hearing
32 conducted pursuant to a federal law or the law
33 of another state substantially similar to
34 subsection (a) of Section 104-25 of the Code of

1 Criminal Procedure of 1963 for the alleged
2 violation or attempted commission of such
3 offense; or

4 (ii) is certified as a sexually dangerous
5 person pursuant to the Illinois Sexually Dangerous
6 Persons Act, or any substantially similar federal
7 law or the law of another state, when any conduct
8 giving rise to such certification is committed or
9 attempted against a person less than 18 years of
10 age; or

11 (iii) is subject to the provisions of Section
12 2 of the Interstate Agreements on Sexually Dangerous
13 Persons Act.

14 Convictions that result from or are connected with
15 the same act, or result from offenses committed at the
16 same time, shall be counted for the purpose of this
17 Section as one conviction. Any conviction set aside
18 pursuant to law is not a conviction for purposes of this
19 Section.

20 (2) Except as otherwise provided in paragraph
21 (2.5), "sex offense" means:

22 (i) A violation of any of the following
23 Sections of the Criminal Code of 1961: 10-7 (aiding
24 and abetting child abduction under Section
25 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6
26 (indecent solicitation of a child), 11-6.5 (indecent
27 solicitation of an adult), 11-9 (public indecency
28 when committed in a school, on the real property
29 comprising a school, on a conveyance owned, leased,
30 or contracted by a school to transport students to
31 or from school or a school related activity, or in a
32 public park), 11-9.1 (sexual exploitation of a
33 child), 11-15.1 (soliciting for a juvenile
34 prostitute), 11-17.1 (keeping a place of juvenile

1 prostitution), 11-18.1 (patronizing a juvenile
 2 prostitute), 11-19.1 (juvenile pimping), 11-19.2
 3 (exploitation of a child), 11-20.1 (child
 4 pornography), 11-21 (distributing harmful matter
 5 material), 12-14.1 (predatory criminal sexual
 6 assault of a child), 12-33 (ritualized abuse of a
 7 child), 11-20 (obscenity) (when that offense was
 8 committed in any school, on real property comprising
 9 any school, on any conveyance owned, leased, or
 10 contracted by a school to transport students to or
 11 from school or a school related activity, or in a
 12 public park). An attempt to commit any of these
 13 offenses.

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

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

- 25 10-1 (kidnapping),
- 26 10-2 (aggravated kidnapping),
- 27 10-3 (unlawful restraint),
- 28 10-3.1 (aggravated unlawful restraint).

29 An attempt to commit any of these offenses.

30 (iv) A violation of any former law of this
 31 State substantially equivalent to any offense listed
 32 in clause (2)(i) of this subsection (d).

33 (2.5) For the purposes of subsection (b-5) only, a
 34 sex offense means:

1 (i) A violation of any of the following
2 Sections of the Criminal Code of 1961:

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

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

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

28 10-1 (kidnapping),
29 10-2 (aggravated kidnapping),
30 10-3 (unlawful restraint),
31 10-3.1 (aggravated unlawful restraint).

32 An attempt to commit any of these offenses.

33 (iv) A violation of any former law of this
34 State substantially equivalent to any offense listed

1 in this paragraph (2.5) of this subsection.

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

11 (4) "Public park" includes a park, forest preserve,
12 or conservation area under the jurisdiction of the State
13 or a unit of local government.

14 (5) "Facility providing programs or services
15 directed towards persons under the age of 18" means any
16 facility providing programs or services exclusively
17 directed towards persons under the age of 18.

18 (6) "Loiter" means:

19 (i) Standing, sitting idly, whether or not the
20 person is in a vehicle or remaining in or around
21 public park property.

22 (ii) Standing, sitting idly, whether or not
23 the person is in a vehicle or remaining in or around
24 public park property, for the purpose of committing
25 or attempting to commit a sex offense.

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

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

32 (Source: P.A. 91-458, eff. 1-1-00; 91-911, eff. 7-7-00.)

33 (720 ILCS 5/11-21) (from Ch. 38, par. 11-21)

1 Sec. 11-21. Distributing harmful matter material.

2 (a) As used in this Section:

3 (1) "Matter" means a book, magazine, newspaper,
4 video recording, or other printed or written material, or
5 a picture, drawing, photograph, motion picture, or other
6 pictorial representation, or a statue or other figure, or
7 a recording, transcription, or mechanical, chemical, or
8 electronic reproduction, or any other articles,
9 equipment, machine, video laser disc, computer or related
10 equipment, computer hardware or software, or computer
11 generated image. "Matter" also includes live or recorded
12 telephone messages when transmitted, disseminated, or
13 distributed as part of a commercial transaction.

14 (2) "Harmful matter" means any matter that:

15 (A) the average person, applying contemporary
16 community standards, would find, taken as a whole
17 and with respect to minors, appeals to the prurient
18 interest (i.e., a lascivious, abnormal, unhealthy,
19 degrading, shameful, or morbid interest in nudity,
20 sex, or excretion); and

21 (B) the average person, applying contemporary
22 community standards, would find depicts, describes,
23 or represents, in a patently offensive way with
24 respect to what is suitable for minors, ultimate
25 sexual acts, normal or perverted, actual or
26 simulated, sado-masochistic sexual acts or abuse, or
27 lewd exhibitions of the genitals, pubic area,
28 buttocks, or post-pubertal female breast; and

29 (C) a reasonable person would find, taken as a
30 whole, lacks serious literary, artistic, political,
31 or scientific value for minors.

32 When it appears from the nature of the matter or the
33 circumstances of its dissemination, distribution, or
34 exhibition that it is designed for clearly defined

1 deviant sexual groups, the appeal of the matter shall be
2 judged with reference to its intended recipient group.

3 In a prosecution under this Section, when
4 circumstances of production, presentation, sale,
5 dissemination, distribution, or publicity indicate that
6 matter is being commercially exploited by the defendant
7 for the sake of its prurient appeal, that evidence is
8 probative with respect to the nature of the matter and
9 can justify the conclusion that the matter lacks serious
10 literary, artistic, political, or scientific value for
11 minors.

12 (3) "Distribute" means to transfer possession of,
13 whether with or without consideration.

14 (4) "Exhibit" means to show.

15 (5) "Minor" means an unmarried person under 18
16 years of age.

17 (b) A person commits an offense under this Section when
18 he or she:

19 (1) with knowledge that a person is a minor, or
20 failing to exercise reasonable care in ascertaining the
21 true age of a minor, knowingly sells, rents, distributes,
22 sends, causes to be sent, exhibits, or offers to
23 distribute or exhibit by any means, including, but not
24 limited to, live or recorded telephone messages, any
25 harmful matter to the minor; or

26 (2) misrepresents himself or herself to be the
27 parent or guardian of a minor and causes the minor to be
28 admitted to an exhibition of any harmful matter; or

29 (3) knowingly displays, sells, or offers to sell in
30 any coin-operated or slug-operated vending machine or
31 mechanically or electronically controlled vending machine
32 that is not supervised by an adult and that is located in
33 a public place, other than a public place from which
34 minors are excluded, any harmful matter; or

1 (4) knowingly rents a video recording and alters
2 the video recording by adding harmful matter, and returns
3 the video recording to a video rental store. It is a
4 defense in a prosecution for a violation of this
5 paragraph (4) that the video rental store failed to post
6 a sign, reasonably visible to all customers, delineating
7 the provisions of this paragraph (4).

8 (c) All harmful matter that is displayed or offered for
9 sale in a public place, other than a public place from which
10 minors are excluded, shall be displayed behind devices known
11 as "blinder racks", so that the lower two-thirds of the
12 matter is not exposed to view.

13 (d) It is a defense in a prosecution for a violation of
14 subsection (b) by a person who knowingly distributed any
15 harmful matter by the use of telephones or telephone
16 facilities to any person under the age of 18 years that the
17 defendant has taken either of the following measures to
18 restrict access to the harmful matter by persons under 18
19 years of age:

20 (1) Required the person receiving the harmful
21 matter to use an authorized access or identification
22 code, as provided by the information provider, before
23 transmission of the harmful matter begins, when the
24 defendant previously has issued the code by mailing it to
25 the applicant after taking reasonable measures to
26 ascertain that the applicant was 18 years of age or older
27 and has established a procedure to immediately cancel the
28 code of any person after receiving notice, in writing or
29 by telephone, that the code has been lost, stolen, or
30 used by persons under the age of 18 years or that the
31 code is no longer desired.

32 (2) Required payment by credit card before
33 transmission of the matter.

34 (e) Any list of applicants or recipients compiled or

1 maintained by an information-access service provider for
2 purposes of compliance with paragraph (1) of subsection (d)
3 is confidential and shall not be sold or otherwise
4 disseminated except upon order of the court.

5 (f) It is a defense in a prosecution for a violation of
6 paragraph (3) of subsection (b) that the defendant has taken
7 either of the following measures to restrict access to the
8 harmful matter by persons under 18 years of age:

9 (1) Required the person receiving the harmful
10 matter to use an authorized access or identification card
11 to the vending machine after taking reasonable measures
12 to ascertain that the applicant was 18 years of age or
13 older and has established a procedure to immediately
14 cancel the card of any person after receiving notice, in
15 writing or by telephone, that the code has been lost,
16 stolen, or used by persons under the age of 18 years or
17 that the card is no longer desired.

18 (2) Required the person receiving the harmful
19 matter to use a token in order to utilize the vending
20 machine after taking reasonable measures to ascertain
21 that the person was 18 years of age or older.

22 (g) Nothing in this Section prohibits:

23 (1) a parent or guardian from distributing any
24 harmful matter to his or her child or ward or permitting
25 his or her child or ward to attend an exhibition of any
26 harmful matter if the child or ward is accompanied by the
27 parent or guardian;

28 (2) a person from exhibiting any harmful matter to
29 any of the following:

30 (A) A minor who is accompanied by his or her
31 parent or guardian.

32 (B) A minor who is accompanied by an adult who
33 represents himself or herself to be the parent or
34 guardian of the minor and whom the person, by the

exercise of reasonable care, does not have reason to know is not the parent or guardian of the minor.

(h) It is a defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific, law enforcement, or educational purposes.

(i) Sentence.

(1) A violation of this Section is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(2) Any person under 18 years of age who falsely states, either orally or in writing, that he or she is not under the age of 18 years, or that he or she is married and under the age of 18 years, or who presents or offers to any person any evidence of age and identity or marriage and identity that is false or not actually his or her own for the purpose of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful matter, is guilty of a Class B misdemeanor.

(a) --Elements of the Offense--

A person who, with knowledge that a person is a child, that is a person under 18 years of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to or sends or causes to be sent to, or exhibits to, or offers to distribute or exhibit any harmful material to a child, is guilty of a misdemeanor.

(b) --Definitions--

(1) --Material is harmful if, to the average person, applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest, that is a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters, and is

1 material---the---redeeming--social--importance--of--which--is
2 substantially-less-than-its-prurient-appeal.

3 (2)--Material,--as-used-in-this-Section-means-any-writing,
4 picture,--record-or-other-representation-or-embodiment.

5 (3)--Distribute-means-to-transfer-possession-of,--whether
6 with-or-without-consideration.

7 (4)--Knowingly,--as--used--in--this--section-means-having
8 knowledge--of--the--contents--of--the--subject--matter,--or
9 recklessly--failing--to--exercise-reasonable-inspection-which
10 would-have-disclosed-the-contents-thereof.

11 (c)--Interpretation-of-Evidence.

12 The--predominant--appeal--to--prurient--interest--of--the
13 material-shall-be-judged-with-reference-to--average--children
14 of--the--same--general-age-of-the-child-to-whom-such-material
15 was--offered,--distributed,--sent--or--exhibited,--unless--it
16 appears-from-the-nature-of-the-matter-or-the-circumstances-of
17 its-dissemination,--distribution--or--exhibition--that--it--is
18 designed--for-specially-susceptible-groups,--in-which-case-the
19 predominant-appeal-of--the--material--shall--be--judged--with
20 reference-to-its-intended-or-probable-recipient-group.

21 In--prosecutions--under-this-section,--where-circumstances
22 of---production,---presentation,---sale,---dissemination,
23 distribution,--or-publicity-indicate--the--material--is--being
24 commercially--exploited--for-the-sake-of-its-prurient-appeal,
25 such-evidence-is-probative-with-respect-to-the-nature-of--the
26 material--and--can--justify-the-conclusion-that-the-redeeming
27 social-importance-of-the-material-is--in--fact--substantially
28 less-than-its-prurient-appeal.

29 (d)--Sentence.

30 Distribution--of--harmful--material--in-violation-of-this
31 Section-is-a-Class-A--misdemeanor.--A--second--or--subsequent
32 offense-is-a-Class-4-felony.

33 (e)--Affirmative-Defenses.

34 (1)--Nothing--in--this--section-shall-prohibit-any-public

1 library-or-any-library-operated-by-an-accredited--institution
2 of--higher-education-from-circulating-harmful-material-to-any
3 person-under-18-years-of-age,--provided-such-circulation-is-in
4 aid-of-a-legitimate-scientific-or-educational-purpose,--and-it
5 shall-be-an-affirmative-defense--in--any--prosecution--for--a
6 violation--of-this-section-that-the-act-charged-was-committed
7 in-aid-of-legitimate-scientific-or-educational-purposes.

8 (2)--Nothing-in-this-section-shall--prohibit--any--parent
9 from-distributing-to-his-child-any-harmful-material.

10 (3)--Proof--that--the--defendant--demanded,--was-shown-and
11 acted-in-reliance-upon-any--of--the--following--documents--as
12 proof--of--the--age--of--a--child,--shall-be-a-defense-to-any
13 criminal-prosecution-under-this-section:-A-document-issued-by
14 the-federal-government-or--any--state,--county--or--municipal
15 government--or--subdivision-or-agency-thereof,--including,--but
16 not--limited--to,--a--motor--vehicle--operator's--license,--a
17 registration-certificate-issued-under-the--Federal--Selective
18 Service--Act--or-an-identification-card-issued-to-a-member-of
19 the-armed-forces.

20 (4)--In-the-event-an-advertisement-of-harmful-material-as
21 defined--in--this--section--culminates---in---the---sale---or
22 distribution--of--such--harmful--material--to--a-child,--under
23 circumstances-where-there-was-no--personal--confrontation--of
24 the-child-by-the-defendant,--his-employees-or-agents,--as-where
25 the---order---or---request--for--such--harmful--material--was
26 transmitted--by--mail,--telephone,--or---similar---means---of
27 communication,--and--delivery-of-such-harmful-material-to-the
28 child-was-by-mail,--freight,--or-similar-means-of-transport,--it
29 shall-be-a-defense-in-any-prosecution-for-a-violation-of-this
30 section--that--the--advertisement--contained--the---following
31 statement,--or-a-statement-substantially-similar-thereto,--and
32 that-the-defendant-required-the-purchaser-to-certify-that--he
33 was--not-under-18-years-of-age-and-that-the-purchaser-falsely
34 stated-that-he-was-not-under-18-years-of-age:-"NOTICE:-It--is

1 unlawful-for-any-person-under-18-years-of-age-to-purchase-the
 2 matter--herein--advertised,--Any-person-under-18-years-of-age
 3 who-falsely-states-that-he-is-not-under-18-years-of--age--for
 4 the--purpose--of-obtaining-the-material-advertised-herein,--is
 5 guilty-of-a-Class-B-misdemeanor-under-the-laws-of--the--State
 6 of-Illinois;"

7 (f)--Child-Falsifying-Age-

8 Any--person--under--18--years--of-age-who-falsely-states,
 9 either-orally-or-in-writing,--that-he-is-not-under-the-age--of
 10 18--years,--or--who--presents--or--offers--to--any-person-any
 11 evidence-of-age-and-identity-which-is-false-or--not--actually
 12 his--own--for-the-purpose-of-ordering,--obtaining,--viewing,--or
 13 otherwise-procuring-or-attempting--to--procure--or--view--any
 14 harmful-material,--is-guilty-of-a-Class-B-misdemeanor.

15 (Source: P.A. 77-2638.)

16 Section 15. The Unified Code of Corrections is amended
 17 by changing Section 5-9-1.7 as follows:

18 (730 ILCS 5/5-9-1.7) (from Ch. 38, par. 1005-9-1.7)

19 Sec. 5-9-1.7. Sexual assault fines.

20 (a) Definitions. The terms used in this Section shall
 21 have the following meanings ascribed to them:

22 (1) "Sexual assault" means the commission or
 23 attempted commission of the following: criminal sexual
 24 assault, predatory criminal sexual assault of a child,
 25 aggravated criminal sexual assault, criminal sexual
 26 abuse, aggravated criminal sexual abuse, indecent
 27 solicitation of a child, public indecency, sexual
 28 relations within families, soliciting for a juvenile
 29 prostitute, keeping a place of juvenile prostitution,
 30 patronizing a juvenile prostitute, juvenile pimping,
 31 exploitation of a child, obscenity, child pornography, or
 32 distributing harmful matter material, as those offenses

1 are defined in the Criminal Code of 1961.

2 (2) "Family member" shall have the meaning ascribed
3 to it in Section 12-12 of the Criminal Code of 1961.

4 (3) "Sexual assault organization" means any
5 not-for-profit organization providing comprehensive,
6 community-based services to victims of sexual assault.
7 "Community-based services" include, but are not limited
8 to, direct crisis intervention through a 24-hour
9 response, medical and legal advocacy, counseling,
10 information and referral services, training, and
11 community education.

12 (b) Sexual assault fine; collection by clerk.

13 (1) In addition to any other penalty imposed, a
14 fine of \$100 shall be imposed upon any person who pleads
15 guilty or who is convicted of, or who receives a
16 disposition of court supervision for, a sexual assault or
17 attempt of a sexual assault. Upon request of the victim
18 or the victim's representative, the court shall determine
19 whether the fine will impose an undue burden on the
20 victim of the offense. For purposes of this paragraph,
21 the defendant may not be considered the victim's
22 representative. If the court finds that the fine would
23 impose an undue burden on the victim, the court may
24 reduce or waive the fine. The court shall order that the
25 defendant may not use funds belonging solely to the
26 victim of the offense for payment of the fine.

27 (2) Sexual assault fines shall be assessed by the
28 court imposing the sentence and shall be collected by the
29 circuit clerk. The circuit clerk shall retain 10% of the
30 penalty to cover the costs involved in administering and
31 enforcing this Section. The circuit clerk shall remit
32 the remainder of each fine within one month of its
33 receipt to the State Treasurer for deposit as follows:

34 (i) for family member offenders, one-half to

1 the Sexual Assault Services Fund, and one-half to
2 the Domestic Violence Shelter and Service Fund; and
3 (ii) for other than family member offenders,
4 the full amount to the Sexual Assault Services Fund.

5 (c) Sexual Assault Services Fund; administration. There
6 is created a Sexual Assault Services Fund. Moneys deposited
7 into the Fund under this Section shall be appropriated to the
8 Department of Public Health. Upon appropriation of moneys
9 from the Sexual Assault Services Fund, the Department of
10 Public Health shall make grants of these moneys from the Fund
11 to sexual assault organizations with whom the Department has
12 contracts for the purpose of providing community-based
13 services to victims of sexual assault. Grants made under this
14 Section are in addition to, and are not substitutes for,
15 other grants authorized and made by the Department.

16 (Source: P.A. 88-45; 89-428, eff. 12-13-95; 89-462, eff.
17 5-29-96.)