



Sen. William R. Haine

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1 AMENDMENT TO SENATE BILL 561

2 AMENDMENT NO. _____. Amend Senate Bill 561 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 9-1, 12-2, 12-3.05, and 24-1 as follows:

6 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

7 Sec. 9-1. First degree murder; death penalties;
8 exceptions; separate hearings; proof; findings; appellate
9 procedures; reversals. ~~First degree Murder — Death penalties —~~
10 ~~Exceptions — Separate Hearings — Proof — Findings — Appellate~~
11 ~~procedures — Reversals.~~

12 (a) A person who kills an individual without lawful
13 justification commits first degree murder if, in performing the
14 acts which cause the death:

15 (1) he either intends to kill or do great bodily harm
16 to that individual or another, or knows that such acts will

1 cause death to that individual or another; or

2 (2) he knows that such acts create a strong probability
3 of death or great bodily harm to that individual or
4 another; or

5 (3) he is attempting or committing a forcible felony
6 other than second degree murder.

7 (b) Aggravating Factors. A defendant who at the time of the
8 commission of the offense has attained the age of 18 or more
9 and who has been found guilty of first degree murder may be
10 sentenced to death if:

11 (1) the murdered individual was a peace officer or
12 fireman killed in the course of performing his official
13 duties, to prevent the performance of his official duties,
14 or in retaliation for performing his official duties, and
15 the defendant knew or should have known that the murdered
16 individual was a peace officer or fireman; or

17 (2) the murdered individual was an employee of an
18 institution or facility of the Department of Corrections,
19 or any similar local correctional agency, killed in the
20 course of performing his official duties, to prevent the
21 performance of his official duties, or in retaliation for
22 performing his official duties, or the murdered individual
23 was an inmate at such institution or facility and was
24 killed on the grounds thereof, or the murdered individual
25 was otherwise present in such institution or facility with
26 the knowledge and approval of the chief administrative

1 officer thereof; or

2 (3) the defendant has been convicted of murdering two
3 or more individuals under subsection (a) of this Section or
4 under any law of the United States or of any state which is
5 substantially similar to subsection (a) of this Section
6 regardless of whether the deaths occurred as the result of
7 the same act or of several related or unrelated acts so
8 long as the deaths were the result of either an intent to
9 kill more than one person or of separate acts which the
10 defendant knew would cause death or create a strong
11 probability of death or great bodily harm to the murdered
12 individual or another; or

13 (4) the murdered individual was killed as a result of
14 the hijacking of an airplane, train, ship, bus or other
15 public conveyance; or

16 (5) the defendant committed the murder pursuant to a
17 contract, agreement or understanding by which he was to
18 receive money or anything of value in return for committing
19 the murder or procured another to commit the murder for
20 money or anything of value; or

21 (6) the murdered individual was killed in the course of
22 another felony if:

23 (a) the murdered individual:

24 (i) was actually killed by the defendant, or

25 (ii) received physical injuries personally
26 inflicted by the defendant substantially

1 contemporaneously with physical injuries caused by
2 one or more persons for whose conduct the defendant
3 is legally accountable under Section 5-2 of this
4 Code, and the physical injuries inflicted by
5 either the defendant or the other person or persons
6 for whose conduct he is legally accountable caused
7 the death of the murdered individual; and

8 (b) in performing the acts which caused the death
9 of the murdered individual or which resulted in
10 physical injuries personally inflicted by the
11 defendant on the murdered individual under the
12 circumstances of subdivision (ii) of subparagraph (a)
13 of paragraph (6) of subsection (b) of this Section, the
14 defendant acted with the intent to kill the murdered
15 individual or with the knowledge that his acts created
16 a strong probability of death or great bodily harm to
17 the murdered individual or another; and

18 (c) the other felony was an inherently violent
19 crime or the attempt to commit an inherently violent
20 crime. In this subparagraph (c), "inherently violent
21 crime" includes, but is not limited to, armed robbery,
22 robbery, predatory criminal sexual assault of a child,
23 aggravated criminal sexual assault, aggravated
24 kidnapping, aggravated vehicular hijacking, aggravated
25 arson, aggravated stalking, residential burglary, and
26 home invasion; or

1 (7) the murdered individual was under 12 years of age
2 and the death resulted from exceptionally brutal or heinous
3 behavior indicative of wanton cruelty; or

4 (8) the defendant committed the murder with intent to
5 prevent the murdered individual from testifying or
6 participating in any criminal investigation or prosecution
7 or giving material assistance to the State in any
8 investigation or prosecution, either against the defendant
9 or another; or the defendant committed the murder because
10 the murdered individual was a witness in any prosecution or
11 gave material assistance to the State in any investigation
12 or prosecution, either against the defendant or another;
13 for purposes of this paragraph (8), "participating in any
14 criminal investigation or prosecution" is intended to
15 include those appearing in the proceedings in any capacity
16 such as trial judges, prosecutors, defense attorneys,
17 investigators, witnesses, or jurors; or

18 (9) the defendant, while committing an offense
19 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
20 407 or 407.1 or subsection (b) of Section 404 of the
21 Illinois Controlled Substances Act, or while engaged in a
22 conspiracy or solicitation to commit such offense,
23 intentionally killed an individual or counseled,
24 commanded, induced, procured or caused the intentional
25 killing of the murdered individual; or

26 (10) the defendant was incarcerated in an institution

1 or facility of the Department of Corrections at the time of
2 the murder, and while committing an offense punishable as a
3 felony under Illinois law, or while engaged in a conspiracy
4 or solicitation to commit such offense, intentionally
5 killed an individual or counseled, commanded, induced,
6 procured or caused the intentional killing of the murdered
7 individual; or

8 (11) the murder was committed in a cold, calculated and
9 premeditated manner pursuant to a preconceived plan,
10 scheme or design to take a human life by unlawful means,
11 and the conduct of the defendant created a reasonable
12 expectation that the death of a human being would result
13 therefrom; or

14 (12) the murdered individual was an emergency medical
15 technician - ambulance, emergency medical technician -
16 intermediate, emergency medical technician - paramedic,
17 ambulance driver, or other medical assistance or first aid
18 personnel, employed by a municipality or other
19 governmental unit, killed in the course of performing his
20 official duties, to prevent the performance of his official
21 duties, or in retaliation for performing his official
22 duties, and the defendant knew or should have known that
23 the murdered individual was an emergency medical
24 technician - ambulance, emergency medical technician -
25 intermediate, emergency medical technician - paramedic,
26 ambulance driver, or other medical assistance or first aid

1 personnel; or

2 (13) the defendant was a principal administrator,
3 organizer, or leader of a calculated criminal drug
4 conspiracy consisting of a hierarchical position of
5 authority superior to that of all other members of the
6 conspiracy, and the defendant counseled, commanded,
7 induced, procured, or caused the intentional killing of the
8 murdered person; or

9 (14) the murder was intentional and involved the
10 infliction of torture. For the purpose of this Section
11 torture means the infliction of or subjection to extreme
12 physical pain, motivated by an intent to increase or
13 prolong the pain, suffering or agony of the victim; or

14 (15) the murder was committed as a result of the
15 intentional discharge of a firearm by the defendant from a
16 motor vehicle and the victim was not present within the
17 motor vehicle; or

18 (16) the murdered individual was 60 years of age or
19 older and the death resulted from exceptionally brutal or
20 heinous behavior indicative of wanton cruelty; or

21 (17) the murdered individual was a person with a
22 disability and the defendant knew or should have known that
23 the murdered individual was a person with a disability. For
24 purposes of this paragraph (17), "person with a disability"
25 means a person who suffers from a permanent physical or
26 mental impairment resulting from disease, an injury, a

1 functional disorder, or a congenital condition that
2 renders the person incapable of adequately providing for
3 his or her own health or personal care; or

4 (18) the murder was committed by reason of any person's
5 activity as a community policing volunteer or to prevent
6 any person from engaging in activity as a community
7 policing volunteer; or

8 (19) the murdered individual was subject to an order of
9 protection and the murder was committed by a person against
10 whom the same order of protection was issued under the
11 Illinois Domestic Violence Act of 1986; or

12 (20) the murdered individual was known by the defendant
13 to be a teacher or other person employed in any school and
14 the teacher or other employee is upon the grounds of a
15 school or grounds adjacent to a school, or is in any part
16 of a building used for school purposes; or

17 (21) the murder was committed by the defendant in
18 connection with or as a result of the offense of terrorism
19 as defined in Section 29D-14.9 of this Code; or -

20 (22) the murdered individual was a member of a
21 congregation engaged in prayer or other religious
22 activities at a church, synagogue, mosque, or other
23 building, structure, or place used for religious worship.

24 (b-5) Aggravating Factor; Natural Life Imprisonment. A
25 defendant who has been found guilty of first degree murder and
26 who at the time of the commission of the offense had attained

1 the age of 18 years or more may be sentenced to natural life
2 imprisonment if (i) the murdered individual was a physician,
3 physician assistant, psychologist, nurse, or advanced practice
4 registered nurse, (ii) the defendant knew or should have known
5 that the murdered individual was a physician, physician
6 assistant, psychologist, nurse, or advanced practice
7 registered nurse, and (iii) the murdered individual was killed
8 in the course of acting in his or her capacity as a physician,
9 physician assistant, psychologist, nurse, or advanced practice
10 registered nurse, or to prevent him or her from acting in that
11 capacity, or in retaliation for his or her acting in that
12 capacity.

13 (c) Consideration of factors in Aggravation and
14 Mitigation.

15 The court shall consider, or shall instruct the jury to
16 consider any aggravating and any mitigating factors which are
17 relevant to the imposition of the death penalty. Aggravating
18 factors may include but need not be limited to those factors
19 set forth in subsection (b). Mitigating factors may include but
20 need not be limited to the following:

21 (1) the defendant has no significant history of prior
22 criminal activity;

23 (2) the murder was committed while the defendant was
24 under the influence of extreme mental or emotional
25 disturbance, although not such as to constitute a defense
26 to prosecution;

1 (3) the murdered individual was a participant in the
2 defendant's homicidal conduct or consented to the
3 homicidal act;

4 (4) the defendant acted under the compulsion of threat
5 or menace of the imminent infliction of death or great
6 bodily harm;

7 (5) the defendant was not personally present during
8 commission of the act or acts causing death;

9 (6) the defendant's background includes a history of
10 extreme emotional or physical abuse;

11 (7) the defendant suffers from a reduced mental
12 capacity.

13 Provided, however, that an action that does not otherwise
14 mitigate first degree murder cannot qualify as a mitigating
15 factor for first degree murder because of the discovery,
16 knowledge, or disclosure of the victim's sexual orientation as
17 defined in Section 1-103 of the Illinois Human Rights Act.

18 (d) Separate sentencing hearing.

19 Where requested by the State, the court shall conduct a
20 separate sentencing proceeding to determine the existence of
21 factors set forth in subsection (b) and to consider any
22 aggravating or mitigating factors as indicated in subsection
23 (c). The proceeding shall be conducted:

24 (1) before the jury that determined the defendant's
25 guilt; or

26 (2) before a jury impanelled for the purpose of the

1 proceeding if:

2 A. the defendant was convicted upon a plea of
3 guilty; or

4 B. the defendant was convicted after a trial before
5 the court sitting without a jury; or

6 C. the court for good cause shown discharges the
7 jury that determined the defendant's guilt; or

8 (3) before the court alone if the defendant waives a
9 jury for the separate proceeding.

10 (e) Evidence and Argument.

11 During the proceeding any information relevant to any of
12 the factors set forth in subsection (b) may be presented by
13 either the State or the defendant under the rules governing the
14 admission of evidence at criminal trials. Any information
15 relevant to any additional aggravating factors or any
16 mitigating factors indicated in subsection (c) may be presented
17 by the State or defendant regardless of its admissibility under
18 the rules governing the admission of evidence at criminal
19 trials. The State and the defendant shall be given fair
20 opportunity to rebut any information received at the hearing.

21 (f) Proof.

22 The burden of proof of establishing the existence of any of
23 the factors set forth in subsection (b) is on the State and
24 shall not be satisfied unless established beyond a reasonable
25 doubt.

26 (g) Procedure - Jury.

1 If at the separate sentencing proceeding the jury finds
2 that none of the factors set forth in subsection (b) exists,
3 the court shall sentence the defendant to a term of
4 imprisonment under Chapter V of the Unified Code of
5 Corrections. If there is a unanimous finding by the jury that
6 one or more of the factors set forth in subsection (b) exist,
7 the jury shall consider aggravating and mitigating factors as
8 instructed by the court and shall determine whether the
9 sentence of death shall be imposed. If the jury determines
10 unanimously, after weighing the factors in aggravation and
11 mitigation, that death is the appropriate sentence, the court
12 shall sentence the defendant to death. If the court does not
13 concur with the jury determination that death is the
14 appropriate sentence, the court shall set forth reasons in
15 writing including what facts or circumstances the court relied
16 upon, along with any relevant documents, that compelled the
17 court to non-concur with the sentence. This document and any
18 attachments shall be part of the record for appellate review.
19 The court shall be bound by the jury's sentencing
20 determination.

21 If after weighing the factors in aggravation and
22 mitigation, one or more jurors determines that death is not the
23 appropriate sentence, the court shall sentence the defendant to
24 a term of imprisonment under Chapter V of the Unified Code of
25 Corrections.

26 (h) Procedure - No Jury.

1 In a proceeding before the court alone, if the court finds
2 that none of the factors found in subsection (b) exists, the
3 court shall sentence the defendant to a term of imprisonment
4 under Chapter V of the Unified Code of Corrections.

5 If the Court determines that one or more of the factors set
6 forth in subsection (b) exists, the Court shall consider any
7 aggravating and mitigating factors as indicated in subsection
8 (c). If the Court determines, after weighing the factors in
9 aggravation and mitigation, that death is the appropriate
10 sentence, the Court shall sentence the defendant to death.

11 If the court finds that death is not the appropriate
12 sentence, the court shall sentence the defendant to a term of
13 imprisonment under Chapter V of the Unified Code of
14 Corrections.

15 (h-5) Decertification as a capital case.

16 In a case in which the defendant has been found guilty of
17 first degree murder by a judge or jury, or a case on remand for
18 resentencing, and the State seeks the death penalty as an
19 appropriate sentence, on the court's own motion or the written
20 motion of the defendant, the court may decertify the case as a
21 death penalty case if the court finds that the only evidence
22 supporting the defendant's conviction is the uncorroborated
23 testimony of an informant witness, as defined in Section 115-21
24 of the Code of Criminal Procedure of 1963, concerning the
25 confession or admission of the defendant or that the sole
26 evidence against the defendant is a single eyewitness or single

1 accomplice without any other corroborating evidence. If the
2 court decertifies the case as a capital case under either of
3 the grounds set forth above, the court shall issue a written
4 finding. The State may pursue its right to appeal the
5 decertification pursuant to Supreme Court Rule 604(a)(1). If
6 the court does not decertify the case as a capital case, the
7 matter shall proceed to the eligibility phase of the sentencing
8 hearing.

9 (i) Appellate Procedure.

10 The conviction and sentence of death shall be subject to
11 automatic review by the Supreme Court. Such review shall be in
12 accordance with rules promulgated by the Supreme Court. The
13 Illinois Supreme Court may overturn the death sentence, and
14 order the imposition of imprisonment under Chapter V of the
15 Unified Code of Corrections if the court finds that the death
16 sentence is fundamentally unjust as applied to the particular
17 case. If the Illinois Supreme Court finds that the death
18 sentence is fundamentally unjust as applied to the particular
19 case, independent of any procedural grounds for relief, the
20 Illinois Supreme Court shall issue a written opinion explaining
21 this finding.

22 (j) Disposition of reversed death sentence.

23 In the event that the death penalty in this Act is held to
24 be unconstitutional by the Supreme Court of the United States
25 or of the State of Illinois, any person convicted of first
26 degree murder shall be sentenced by the court to a term of

1 imprisonment under Chapter V of the Unified Code of
2 Corrections.

3 In the event that any death sentence pursuant to the
4 sentencing provisions of this Section is declared
5 unconstitutional by the Supreme Court of the United States or
6 of the State of Illinois, the court having jurisdiction over a
7 person previously sentenced to death shall cause the defendant
8 to be brought before the court, and the court shall sentence
9 the defendant to a term of imprisonment under Chapter V of the
10 Unified Code of Corrections.

11 (k) Guidelines for seeking the death penalty.

12 The Attorney General and State's Attorneys Association
13 shall consult on voluntary guidelines for procedures governing
14 whether or not to seek the death penalty. The guidelines do not
15 have the force of law and are only advisory in nature.

16 (Source: P.A. 99-143, eff. 7-27-15; 100-460, eff. 1-1-18;
17 100-513, eff. 1-1-18; revised 10-5-17.)

18 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

19 Sec. 12-2. Aggravated assault.

20 (a) Offense based on location of conduct. A person commits
21 aggravated assault when he or she commits an assault against an
22 individual who is on or about a public way, public property, a
23 public place of accommodation or amusement, ~~or~~ a sports venue,
24 or in a church, synagogue, mosque, or other building,
25 structure, or place used for religious worship.

1 (b) Offense based on status of victim. A person commits
2 aggravated assault when, in committing an assault, he or she
3 knows the individual assaulted to be any of the following:

4 (1) A person with a physical disability or a person 60
5 years of age or older and the assault is without legal
6 justification.

7 (2) A teacher or school employee upon school grounds or
8 grounds adjacent to a school or in any part of a building
9 used for school purposes.

10 (3) A park district employee upon park grounds or
11 grounds adjacent to a park or in any part of a building
12 used for park purposes.

13 (4) A community policing volunteer, private security
14 officer, or utility worker:

15 (i) performing his or her official duties;

16 (ii) assaulted to prevent performance of his or her
17 official duties; or

18 (iii) assaulted in retaliation for performing his
19 or her official duties.

20 (4.1) A peace officer, fireman, emergency management
21 worker, or emergency medical services personnel:

22 (i) performing his or her official duties;

23 (ii) assaulted to prevent performance of his or her
24 official duties; or

25 (iii) assaulted in retaliation for performing his
26 or her official duties.

- 1 (5) A correctional officer or probation officer:
- 2 (i) performing his or her official duties;
- 3 (ii) assaulted to prevent performance of his or her
- 4 official duties; or
- 5 (iii) assaulted in retaliation for performing his
- 6 or her official duties.
- 7 (6) A correctional institution employee, a county
- 8 juvenile detention center employee who provides direct and
- 9 continuous supervision of residents of a juvenile
- 10 detention center, including a county juvenile detention
- 11 center employee who supervises recreational activity for
- 12 residents of a juvenile detention center, or a Department
- 13 of Human Services employee, Department of Human Services
- 14 officer, or employee of a subcontractor of the Department
- 15 of Human Services supervising or controlling sexually
- 16 dangerous persons or sexually violent persons:
- 17 (i) performing his or her official duties;
- 18 (ii) assaulted to prevent performance of his or her
- 19 official duties; or
- 20 (iii) assaulted in retaliation for performing his
- 21 or her official duties.
- 22 (7) An employee of the State of Illinois, a municipal
- 23 corporation therein, or a political subdivision thereof,
- 24 performing his or her official duties.
- 25 (8) A transit employee performing his or her official
- 26 duties, or a transit passenger.

1 (9) A sports official or coach actively participating
2 in any level of athletic competition within a sports venue,
3 on an indoor playing field or outdoor playing field, or
4 within the immediate vicinity of such a facility or field.

5 (10) A person authorized to serve process under Section
6 2-202 of the Code of Civil Procedure or a special process
7 server appointed by the circuit court, while that
8 individual is in the performance of his or her duties as a
9 process server.

10 (c) Offense based on use of firearm, device, or motor
11 vehicle. A person commits aggravated assault when, in
12 committing an assault, he or she does any of the following:

13 (1) Uses a deadly weapon, an air rifle as defined in
14 Section 24.8-0.1 of this Act, or any device manufactured
15 and designed to be substantially similar in appearance to a
16 firearm, other than by discharging a firearm.

17 (2) Discharges a firearm, other than from a motor
18 vehicle.

19 (3) Discharges a firearm from a motor vehicle.

20 (4) Wears a hood, robe, or mask to conceal his or her
21 identity.

22 (5) Knowingly and without lawful justification shines
23 or flashes a laser gun sight or other laser device attached
24 to a firearm, or used in concert with a firearm, so that
25 the laser beam strikes near or in the immediate vicinity of
26 any person.

1 (6) Uses a firearm, other than by discharging the
2 firearm, against a peace officer, community policing
3 volunteer, fireman, private security officer, emergency
4 management worker, emergency medical services personnel,
5 employee of a police department, employee of a sheriff's
6 department, or traffic control municipal employee:

7 (i) performing his or her official duties;

8 (ii) assaulted to prevent performance of his or her
9 official duties; or

10 (iii) assaulted in retaliation for performing his
11 or her official duties.

12 (7) Without justification operates a motor vehicle in a
13 manner which places a person, other than a person listed in
14 subdivision (b) (4), in reasonable apprehension of being
15 struck by the moving motor vehicle.

16 (8) Without justification operates a motor vehicle in a
17 manner which places a person listed in subdivision (b) (4),
18 in reasonable apprehension of being struck by the moving
19 motor vehicle.

20 (9) Knowingly video or audio records the offense with
21 the intent to disseminate the recording.

22 (d) Sentence. Aggravated assault as defined in subdivision
23 (a), (b) (1), (b) (2), (b) (3), (b) (4), (b) (7), (b) (8), (b) (9),
24 (c) (1), (c) (4), or (c) (9) is a Class A misdemeanor, except that
25 aggravated assault as defined in subdivision (b) (4) and (b) (7)
26 is a Class 4 felony if a Category I, Category II, or Category

1 III weapon is used in the commission of the assault. Aggravated
2 assault as defined in subdivision (b) (4.1), (b) (5), (b) (6),
3 (b) (10), (c) (2), (c) (5), (c) (6), or (c) (7) is a Class 4 felony.
4 Aggravated assault as defined in subdivision (c) (3) or (c) (8)
5 is a Class 3 felony.

6 (e) For the purposes of this Section, "Category I weapon",
7 "Category II weapon, and "Category III weapon" have the
8 meanings ascribed to those terms in Section 33A-1 of this Code.
9 (Source: P.A. 98-385, eff. 1-1-14; 99-78, eff. 7-20-15; 99-143,
10 eff. 7-27-15; 99-256, eff. 1-1-16; 99-642, eff. 7-28-16;
11 99-816, eff. 8-15-16.)

12 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

13 Sec. 12-3.05. Aggravated battery.

14 (a) Offense based on injury. A person commits aggravated
15 battery when, in committing a battery, other than by the
16 discharge of a firearm, he or she knowingly does any of the
17 following:

18 (1) Causes great bodily harm or permanent disability or
19 disfigurement.

20 (2) Causes severe and permanent disability, great
21 bodily harm, or disfigurement by means of a caustic or
22 flammable substance, a poisonous gas, a deadly biological
23 or chemical contaminant or agent, a radioactive substance,
24 or a bomb or explosive compound.

25 (3) Causes great bodily harm or permanent disability or

1 disfigurement to an individual whom the person knows to be
2 a peace officer, community policing volunteer, fireman,
3 private security officer, correctional institution
4 employee, or Department of Human Services employee
5 supervising or controlling sexually dangerous persons or
6 sexually violent persons:

7 (i) performing his or her official duties;

8 (ii) battered to prevent performance of his or her
9 official duties; or

10 (iii) battered in retaliation for performing his
11 or her official duties.

12 (4) Causes great bodily harm or permanent disability or
13 disfigurement to an individual 60 years of age or older.

14 (5) Strangles another individual.

15 (b) Offense based on injury to a child or person with an
16 intellectual disability. A person who is at least 18 years of
17 age commits aggravated battery when, in committing a battery,
18 he or she knowingly and without legal justification by any
19 means:

20 (1) causes great bodily harm or permanent disability or
21 disfigurement to any child under the age of 13 years, or to
22 any person with a severe or profound intellectual
23 disability; or

24 (2) causes bodily harm or disability or disfigurement
25 to any child under the age of 13 years or to any person
26 with a severe or profound intellectual disability.

1 (c) Offense based on location of conduct. A person commits
2 aggravated battery when, in committing a battery, other than by
3 the discharge of a firearm, he or she is or the person battered
4 is on or about a public way, public property, a public place of
5 accommodation or amusement, a sports venue, ~~or~~ a domestic
6 violence shelter, or in a church, synagoque, mosque, or other
7 building, structure, or place used for religius worship.

8 (d) Offense based on status of victim. A person commits
9 aggravated battery when, in committing a battery, other than by
10 discharge of a firearm, he or she knows the individual battered
11 to be any of the following:

12 (1) A person 60 years of age or older.

13 (2) A person who is pregnant or has a physical
14 disability.

15 (3) A teacher or school employee upon school grounds or
16 grounds adjacent to a school or in any part of a building
17 used for school purposes.

18 (4) A peace officer, community policing volunteer,
19 fireman, private security officer, correctional
20 institution employee, or Department of Human Services
21 employee supervising or controlling sexually dangerous
22 persons or sexually violent persons:

23 (i) performing his or her official duties;

24 (ii) battered to prevent performance of his or her
25 official duties; or

26 (iii) battered in retaliation for performing his

1 or her official duties.

2 (5) A judge, emergency management worker, emergency
3 medical services personnel, or utility worker:

4 (i) performing his or her official duties;

5 (ii) battered to prevent performance of his or her
6 official duties; or

7 (iii) battered in retaliation for performing his
8 or her official duties.

9 (6) An officer or employee of the State of Illinois, a
10 unit of local government, or a school district, while
11 performing his or her official duties.

12 (7) A transit employee performing his or her official
13 duties, or a transit passenger.

14 (8) A taxi driver on duty.

15 (9) A merchant who detains the person for an alleged
16 commission of retail theft under Section 16-26 of this Code
17 and the person without legal justification by any means
18 causes bodily harm to the merchant.

19 (10) A person authorized to serve process under Section
20 2-202 of the Code of Civil Procedure or a special process
21 server appointed by the circuit court while that individual
22 is in the performance of his or her duties as a process
23 server.

24 (11) A nurse while in the performance of his or her
25 duties as a nurse.

26 (e) Offense based on use of a firearm. A person commits

1 aggravated battery when, in committing a battery, he or she
2 knowingly does any of the following:

3 (1) Discharges a firearm, other than a machine gun or a
4 firearm equipped with a silencer, and causes any injury to
5 another person.

6 (2) Discharges a firearm, other than a machine gun or a
7 firearm equipped with a silencer, and causes any injury to
8 a person he or she knows to be a peace officer, community
9 policing volunteer, person summoned by a police officer,
10 fireman, private security officer, correctional
11 institution employee, or emergency management worker:

12 (i) performing his or her official duties;

13 (ii) battered to prevent performance of his or her
14 official duties; or

15 (iii) battered in retaliation for performing his
16 or her official duties.

17 (3) Discharges a firearm, other than a machine gun or a
18 firearm equipped with a silencer, and causes any injury to
19 a person he or she knows to be emergency medical services
20 personnel:

21 (i) performing his or her official duties;

22 (ii) battered to prevent performance of his or her
23 official duties; or

24 (iii) battered in retaliation for performing his
25 or her official duties.

26 (4) Discharges a firearm and causes any injury to a

1 person he or she knows to be a teacher, a student in a
2 school, or a school employee, and the teacher, student, or
3 employee is upon school grounds or grounds adjacent to a
4 school or in any part of a building used for school
5 purposes.

6 (5) Discharges a machine gun or a firearm equipped with
7 a silencer, and causes any injury to another person.

8 (6) Discharges a machine gun or a firearm equipped with
9 a silencer, and causes any injury to a person he or she
10 knows to be a peace officer, community policing volunteer,
11 person summoned by a police officer, fireman, private
12 security officer, correctional institution employee or
13 emergency management worker:

14 (i) performing his or her official duties;

15 (ii) battered to prevent performance of his or her
16 official duties; or

17 (iii) battered in retaliation for performing his
18 or her official duties.

19 (7) Discharges a machine gun or a firearm equipped with
20 a silencer, and causes any injury to a person he or she
21 knows to be emergency medical services personnel:

22 (i) performing his or her official duties;

23 (ii) battered to prevent performance of his or her
24 official duties; or

25 (iii) battered in retaliation for performing his
26 or her official duties.

1 (8) Discharges a machine gun or a firearm equipped with
2 a silencer, and causes any injury to a person he or she
3 knows to be a teacher, or a student in a school, or a
4 school employee, and the teacher, student, or employee is
5 upon school grounds or grounds adjacent to a school or in
6 any part of a building used for school purposes.

7 (f) Offense based on use of a weapon or device. A person
8 commits aggravated battery when, in committing a battery, he or
9 she does any of the following:

10 (1) Uses a deadly weapon other than by discharge of a
11 firearm, or uses an air rifle as defined in Section
12 24.8-0.1 of this Code.

13 (2) Wears a hood, robe, or mask to conceal his or her
14 identity.

15 (3) Knowingly and without lawful justification shines
16 or flashes a laser gunsight or other laser device attached
17 to a firearm, or used in concert with a firearm, so that
18 the laser beam strikes upon or against the person of
19 another.

20 (4) Knowingly video or audio records the offense with
21 the intent to disseminate the recording.

22 (g) Offense based on certain conduct. A person commits
23 aggravated battery when, other than by discharge of a firearm,
24 he or she does any of the following:

25 (1) Violates Section 401 of the Illinois Controlled
26 Substances Act by unlawfully delivering a controlled

1 substance to another and any user experiences great bodily
2 harm or permanent disability as a result of the injection,
3 inhalation, or ingestion of any amount of the controlled
4 substance.

5 (2) Knowingly administers to an individual or causes
6 him or her to take, without his or her consent or by threat
7 or deception, and for other than medical purposes, any
8 intoxicating, poisonous, stupefying, narcotic, anesthetic,
9 or controlled substance, or gives to another person any
10 food containing any substance or object intended to cause
11 physical injury if eaten.

12 (3) Knowingly causes or attempts to cause a
13 correctional institution employee or Department of Human
14 Services employee to come into contact with blood, seminal
15 fluid, urine, or feces by throwing, tossing, or expelling
16 the fluid or material, and the person is an inmate of a
17 penal institution or is a sexually dangerous person or
18 sexually violent person in the custody of the Department of
19 Human Services.

20 (h) Sentence. Unless otherwise provided, aggravated
21 battery is a Class 3 felony.

22 Aggravated battery as defined in subdivision (a)(4),
23 (d)(4), or (g)(3) is a Class 2 felony.

24 Aggravated battery as defined in subdivision (a)(3) or
25 (g)(1) is a Class 1 felony.

26 Aggravated battery as defined in subdivision (a)(1) is a

1 Class 1 felony when the aggravated battery was intentional and
2 involved the infliction of torture, as defined in paragraph
3 (14) of subsection (b) of Section 9-1 of this Code, as the
4 infliction of or subjection to extreme physical pain, motivated
5 by an intent to increase or prolong the pain, suffering, or
6 agony of the victim.

7 Aggravated battery as defined in subdivision (a)(1) is a
8 Class 1 felony when the person causes great bodily harm or
9 permanent disability to an individual whom the person knows to
10 be a member of a congregation engaged in prayer or other
11 religious activities at a church, synagogue, mosque, or other
12 building, structure, or place used for religious worship.

13 Aggravated battery under subdivision (a)(5) is a Class 1
14 felony if:

15 (A) the person used or attempted to use a dangerous
16 instrument while committing the offense; or

17 (B) the person caused great bodily harm or permanent
18 disability or disfigurement to the other person while
19 committing the offense; or

20 (C) the person has been previously convicted of a
21 violation of subdivision (a)(5) under the laws of this
22 State or laws similar to subdivision (a)(5) of any other
23 state.

24 Aggravated battery as defined in subdivision (e)(1) is a
25 Class X felony.

26 Aggravated battery as defined in subdivision (a)(2) is a

1 Class X felony for which a person shall be sentenced to a term
2 of imprisonment of a minimum of 6 years and a maximum of 45
3 years.

4 Aggravated battery as defined in subdivision (e)(5) is a
5 Class X felony for which a person shall be sentenced to a term
6 of imprisonment of a minimum of 12 years and a maximum of 45
7 years.

8 Aggravated battery as defined in subdivision (e)(2),
9 (e)(3), or (e)(4) is a Class X felony for which a person shall
10 be sentenced to a term of imprisonment of a minimum of 15 years
11 and a maximum of 60 years.

12 Aggravated battery as defined in subdivision (e)(6),
13 (e)(7), or (e)(8) is a Class X felony for which a person shall
14 be sentenced to a term of imprisonment of a minimum of 20 years
15 and a maximum of 60 years.

16 Aggravated battery as defined in subdivision (b)(1) is a
17 Class X felony, except that:

18 (1) if the person committed the offense while armed
19 with a firearm, 15 years shall be added to the term of
20 imprisonment imposed by the court;

21 (2) if, during the commission of the offense, the
22 person personally discharged a firearm, 20 years shall be
23 added to the term of imprisonment imposed by the court;

24 (3) if, during the commission of the offense, the
25 person personally discharged a firearm that proximately
26 caused great bodily harm, permanent disability, permanent

1 disfigurement, or death to another person, 25 years or up
2 to a term of natural life shall be added to the term of
3 imprisonment imposed by the court.

4 (i) Definitions. For the purposes of this Section:

5 "Building or other structure used to provide shelter" has
6 the meaning ascribed to "shelter" in Section 1 of the Domestic
7 Violence Shelters Act.

8 "Domestic violence" has the meaning ascribed to it in
9 Section 103 of the Illinois Domestic Violence Act of 1986.

10 "Domestic violence shelter" means any building or other
11 structure used to provide shelter or other services to victims
12 or to the dependent children of victims of domestic violence
13 pursuant to the Illinois Domestic Violence Act of 1986 or the
14 Domestic Violence Shelters Act, or any place within 500 feet of
15 such a building or other structure in the case of a person who
16 is going to or from such a building or other structure.

17 "Firearm" has the meaning provided under Section 1.1 of the
18 Firearm Owners Identification Card Act, and does not include an
19 air rifle as defined by Section 24.8-0.1 of this Code.

20 "Machine gun" has the meaning ascribed to it in Section
21 24-1 of this Code.

22 "Merchant" has the meaning ascribed to it in Section 16-0.1
23 of this Code.

24 "Strangle" means intentionally impeding the normal
25 breathing or circulation of the blood of an individual by
26 applying pressure on the throat or neck of that individual or

1 by blocking the nose or mouth of that individual.

2 (Source: P.A. 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; 98-756,
3 eff. 7-16-14; 99-143, eff. 7-27-15; 99-816, eff. 8-15-16.)

4 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

5 Sec. 24-1. Unlawful use of weapons.

6 (a) A person commits the offense of unlawful use of weapons
7 when he knowingly:

8 (1) Sells, manufactures, purchases, possesses or
9 carries any bludgeon, black-jack, slung-shot, sand-club,
10 sand-bag, metal knuckles or other knuckle weapon
11 regardless of its composition, throwing star, or any knife,
12 commonly referred to as a switchblade knife, which has a
13 blade that opens automatically by hand pressure applied to
14 a button, spring or other device in the handle of the
15 knife, or a ballistic knife, which is a device that propels
16 a knifelike blade as a projectile by means of a coil
17 spring, elastic material or compressed gas; or

18 (2) Carries or possesses with intent to use the same
19 unlawfully against another, a dagger, dirk, billy,
20 dangerous knife, razor, stiletto, broken bottle or other
21 piece of glass, stun gun or taser or any other dangerous or
22 deadly weapon or instrument of like character; or

23 (2.5) Carries or possesses with intent to use the same
24 unlawfully against another, any firearm, knife, or other
25 dangerous weapon, in any school church, synagogue, mosque,

1 or other building, structure, or place used for religious
2 worship; or

3 (3) Carries on or about his person or in any vehicle, a
4 tear gas gun projector or bomb or any object containing
5 noxious liquid gas or substance, other than an object
6 containing a non-lethal noxious liquid gas or substance
7 designed solely for personal defense carried by a person 18
8 years of age or older; or

9 (4) Carries or possesses in any vehicle or concealed on
10 or about his person except when on his land or in his own
11 abode, legal dwelling, or fixed place of business, or on
12 the land or in the legal dwelling of another person as an
13 invitee with that person's permission, any pistol,
14 revolver, stun gun or taser or other firearm, except that
15 this subsection (a) (4) does not apply to or affect
16 transportation of weapons that meet one of the following
17 conditions:

18 (i) are broken down in a non-functioning state; or

19 (ii) are not immediately accessible; or

20 (iii) are unloaded and enclosed in a case, firearm
21 carrying box, shipping box, or other container by a
22 person who has been issued a currently valid Firearm
23 Owner's Identification Card; or

24 (iv) are carried or possessed in accordance with
25 the Firearm Concealed Carry Act by a person who has
26 been issued a currently valid license under the Firearm

1 Concealed Carry Act; or

2 (5) Sets a spring gun; or

3 (6) Possesses any device or attachment of any kind
4 designed, used or intended for use in silencing the report
5 of any firearm; or

6 (7) Sells, manufactures, purchases, possesses or
7 carries:

8 (i) a machine gun, which shall be defined for the
9 purposes of this subsection as any weapon, which
10 shoots, is designed to shoot, or can be readily
11 restored to shoot, automatically more than one shot
12 without manually reloading by a single function of the
13 trigger, including the frame or receiver of any such
14 weapon, or sells, manufactures, purchases, possesses,
15 or carries any combination of parts designed or
16 intended for use in converting any weapon into a
17 machine gun, or any combination or parts from which a
18 machine gun can be assembled if such parts are in the
19 possession or under the control of a person;

20 (ii) any rifle having one or more barrels less than
21 16 inches in length or a shotgun having one or more
22 barrels less than 18 inches in length or any weapon
23 made from a rifle or shotgun, whether by alteration,
24 modification, or otherwise, if such a weapon as
25 modified has an overall length of less than 26 inches;
26 or

1 (iii) any bomb, bomb-shell, grenade, bottle or
2 other container containing an explosive substance of
3 over one-quarter ounce for like purposes, such as, but
4 not limited to, black powder bombs and Molotov
5 cocktails or artillery projectiles; or

6 (8) Carries or possesses any firearm, stun gun or taser
7 or other deadly weapon in any place which is licensed to
8 sell intoxicating beverages, or at any public gathering
9 held pursuant to a license issued by any governmental body
10 or any public gathering at which an admission is charged,
11 excluding a place where a showing, demonstration or lecture
12 involving the exhibition of unloaded firearms is
13 conducted.

14 This subsection (a) (8) does not apply to any auction or
15 raffle of a firearm held pursuant to a license or permit
16 issued by a governmental body, nor does it apply to persons
17 engaged in firearm safety training courses; or

18 (9) Carries or possesses in a vehicle or on or about
19 his person any pistol, revolver, stun gun or taser or
20 firearm or ballistic knife, when he is hooded, robed or
21 masked in such manner as to conceal his identity; or

22 (10) Carries or possesses on or about his person, upon
23 any public street, alley, or other public lands within the
24 corporate limits of a city, village or incorporated town,
25 except when an invitee thereon or therein, for the purpose
26 of the display of such weapon or the lawful commerce in

1 weapons, or except when on his land or in his own abode,
2 legal dwelling, or fixed place of business, or on the land
3 or in the legal dwelling of another person as an invitee
4 with that person's permission, any pistol, revolver, stun
5 gun or taser or other firearm, except that this subsection
6 (a) (10) does not apply to or affect transportation of
7 weapons that meet one of the following conditions:

8 (i) are broken down in a non-functioning state; or

9 (ii) are not immediately accessible; or

10 (iii) are unloaded and enclosed in a case, firearm
11 carrying box, shipping box, or other container by a
12 person who has been issued a currently valid Firearm
13 Owner's Identification Card; or

14 (iv) are carried or possessed in accordance with
15 the Firearm Concealed Carry Act by a person who has
16 been issued a currently valid license under the Firearm
17 Concealed Carry Act.

18 A "stun gun or taser", as used in this paragraph (a)
19 means (i) any device which is powered by electrical
20 charging units, such as, batteries, and which fires one or
21 several barbs attached to a length of wire and which, upon
22 hitting a human, can send out a current capable of
23 disrupting the person's nervous system in such a manner as
24 to render him incapable of normal functioning or (ii) any
25 device which is powered by electrical charging units, such
26 as batteries, and which, upon contact with a human or

1 clothing worn by a human, can send out current capable of
2 disrupting the person's nervous system in such a manner as
3 to render him incapable of normal functioning; or

4 (11) Sells, manufactures or purchases any explosive
5 bullet. For purposes of this paragraph (a) "explosive
6 bullet" means the projectile portion of an ammunition
7 cartridge which contains or carries an explosive charge
8 which will explode upon contact with the flesh of a human
9 or an animal. "Cartridge" means a tubular metal case having
10 a projectile affixed at the front thereof and a cap or
11 primer at the rear end thereof, with the propellant
12 contained in such tube between the projectile and the cap;
13 or

14 (12) (Blank); or

15 (13) Carries or possesses on or about his or her person
16 while in a building occupied by a unit of government, a
17 billy club, other weapon of like character, or other
18 instrument of like character intended for use as a weapon.
19 For the purposes of this Section, "billy club" means a
20 short stick or club commonly carried by police officers
21 which is either telescopic or constructed of a solid piece
22 of wood or other man-made material.

23 (b) Sentence. A person convicted of a violation of
24 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
25 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
26 Class A misdemeanor. A person convicted of a violation of

1 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
2 person convicted of a violation of subsection 24-1(a)(6) or
3 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person
4 convicted of a violation of subsection 24-1(a)(7)(i) commits a
5 Class 2 felony and shall be sentenced to a term of imprisonment
6 of not less than 3 years and not more than 7 years, unless the
7 weapon is possessed in the passenger compartment of a motor
8 vehicle as defined in Section 1-146 of the Illinois Vehicle
9 Code, or on the person, while the weapon is loaded, in which
10 case it shall be a Class X felony. A person convicted of a
11 second or subsequent violation of subsection 24-1(a)(4),
12 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3
13 felony. A person convicted of a violation of subsection
14 24-1(a)(2.5) commits a Class 1 felony. The possession of each
15 weapon in violation of this Section constitutes a single and
16 separate violation.

17 (c) Violations in specific places.

18 (1) A person who violates subsection 24-1(a)(6) or
19 24-1(a)(7) in any school, regardless of the time of day or
20 the time of year, in residential property owned, operated
21 or managed by a public housing agency or leased by a public
22 housing agency as part of a scattered site or mixed-income
23 development, in a public park, in a courthouse, on the real
24 property comprising any school, regardless of the time of
25 day or the time of year, on residential property owned,
26 operated or managed by a public housing agency or leased by

1 a public housing agency as part of a scattered site or
2 mixed-income development, on the real property comprising
3 any public park, on the real property comprising any
4 courthouse, in any conveyance owned, leased or contracted
5 by a school to transport students to or from school or a
6 school related activity, in any conveyance owned, leased,
7 or contracted by a public transportation agency, or on any
8 public way within 1,000 feet of the real property
9 comprising any school, public park, courthouse, public
10 transportation facility, or residential property owned,
11 operated, or managed by a public housing agency or leased
12 by a public housing agency as part of a scattered site or
13 mixed-income development commits a Class 2 felony and shall
14 be sentenced to a term of imprisonment of not less than 3
15 years and not more than 7 years.

16 (1.5) A person who violates subsection 24-1(a)(4),
17 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
18 time of day or the time of year, in residential property
19 owned, operated, or managed by a public housing agency or
20 leased by a public housing agency as part of a scattered
21 site or mixed-income development, in a public park, in a
22 courthouse, on the real property comprising any school,
23 regardless of the time of day or the time of year, on
24 residential property owned, operated, or managed by a
25 public housing agency or leased by a public housing agency
26 as part of a scattered site or mixed-income development, on

1 the real property comprising any public park, on the real
2 property comprising any courthouse, in any conveyance
3 owned, leased, or contracted by a school to transport
4 students to or from school or a school related activity, in
5 any conveyance owned, leased, or contracted by a public
6 transportation agency, or on any public way within 1,000
7 feet of the real property comprising any school, public
8 park, courthouse, public transportation facility, or
9 residential property owned, operated, or managed by a
10 public housing agency or leased by a public housing agency
11 as part of a scattered site or mixed-income development
12 commits a Class 3 felony.

13 (2) A person who violates subsection 24-1(a)(1),
14 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
15 time of day or the time of year, in residential property
16 owned, operated or managed by a public housing agency or
17 leased by a public housing agency as part of a scattered
18 site or mixed-income development, in a public park, in a
19 courthouse, on the real property comprising any school,
20 regardless of the time of day or the time of year, on
21 residential property owned, operated or managed by a public
22 housing agency or leased by a public housing agency as part
23 of a scattered site or mixed-income development, on the
24 real property comprising any public park, on the real
25 property comprising any courthouse, in any conveyance
26 owned, leased or contracted by a school to transport

1 students to or from school or a school related activity, in
2 any conveyance owned, leased, or contracted by a public
3 transportation agency, or on any public way within 1,000
4 feet of the real property comprising any school, public
5 park, courthouse, public transportation facility, or
6 residential property owned, operated, or managed by a
7 public housing agency or leased by a public housing agency
8 as part of a scattered site or mixed-income development
9 commits a Class 4 felony. "Courthouse" means any building
10 that is used by the Circuit, Appellate, or Supreme Court of
11 this State for the conduct of official business.

12 (3) Paragraphs (1), (1.5), and (2) of this subsection
13 (c) shall not apply to law enforcement officers or security
14 officers of such school, college, or university or to
15 students carrying or possessing firearms for use in
16 training courses, parades, hunting, target shooting on
17 school ranges, or otherwise with the consent of school
18 authorities and which firearms are transported unloaded
19 enclosed in a suitable case, box, or transportation
20 package.

21 (4) For the purposes of this subsection (c), "school"
22 means any public or private elementary or secondary school,
23 community college, college, or university.

24 (5) For the purposes of this subsection (c), "public
25 transportation agency" means a public or private agency
26 that provides for the transportation or conveyance of

1 persons by means available to the general public, except
2 for transportation by automobiles not used for conveyance
3 of the general public as passengers; and "public
4 transportation facility" means a terminal or other place
5 where one may obtain public transportation.

6 (d) The presence in an automobile other than a public
7 omnibus of any weapon, instrument or substance referred to in
8 subsection (a) (7) is prima facie evidence that it is in the
9 possession of, and is being carried by, all persons occupying
10 such automobile at the time such weapon, instrument or
11 substance is found, except under the following circumstances:
12 (i) if such weapon, instrument or instrumentality is found upon
13 the person of one of the occupants therein; or (ii) if such
14 weapon, instrument or substance is found in an automobile
15 operated for hire by a duly licensed driver in the due, lawful
16 and proper pursuit of his trade, then such presumption shall
17 not apply to the driver.

18 (e) Exemptions.

19 (1) Crossbows, Common or Compound bows and Underwater
20 Spearguns are exempted from the definition of ballistic
21 knife as defined in paragraph (1) of subsection (a) of this
22 Section.

23 (2) The provision of paragraph (1) of subsection (a) of
24 this Section prohibiting the sale, manufacture, purchase,
25 possession, or carrying of any knife, commonly referred to
26 as a switchblade knife, which has a blade that opens

1 automatically by hand pressure applied to a button, spring
2 or other device in the handle of the knife, does not apply
3 to a person who possesses a currently valid Firearm Owner's
4 Identification Card previously issued in his or her name by
5 the Department of State Police or to a person or an entity
6 engaged in the business of selling or manufacturing
7 switchblade knives.

8 (Source: P.A. 99-29, eff. 7-10-15; 100-82, eff. 8-11-17.)".