



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0877

by Rep. Jonathan Carroll

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/26.5-2	
720 ILCS 5/26.5-3	
720 ILCS 5/26.5-5	

Amends the Criminal Code of 2012. Provides that it is an aggravated assault if a person when, in committing an assault, threatens to kill a person who is under 13 years of age if the person committing the assault was at least 18 years of age at the time of the commission of the offense. Provides that it is harassment by telephone to knowingly make a telephone call or to knowingly induce a person to make a telephone call for the purpose of threatening to kill another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the threat, if the defendant is at least 18 years of age at the time of the commission of the offense. Provides that it is harassment through electronic communications to knowingly transmit an electronic communication or to knowingly induce a person to transmit an electronic communication for the purpose of threatening to kill another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the threat, if the defendant was at least 18 years of age at the time of the commission of the offense. Provides that these offenses are Class 3 felonies.

LRB101 00216 RLC 45218 b

CORRECTIONAL
 BUDGET AND
 IMPACT NOTE ACT
 MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 12-2, 26.5-2, 26.5-3, and 26.5-5 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) Offense based on location of conduct. A person commits
9 aggravated assault when he or she commits an assault against an
10 individual who is on or about a public way, public property, a
11 public place of accommodation or amusement, or a sports venue.

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

15 (1) A person with a physical disability or a person 60
16 years of age or older and the assault is without legal
17 justification.

18 (2) A teacher or school employee upon school grounds or
19 grounds adjacent to a school or in any part of a building
20 used for school purposes.

21 (3) A park district employee upon park grounds or
22 grounds adjacent to a park or in any part of a building
23 used for park purposes.

1 (4) A community policing volunteer, private security
2 officer, or utility worker:

3 (i) performing his or her official duties;

4 (ii) assaulted to prevent performance of his or her
5 official duties; or

6 (iii) assaulted in retaliation for performing his
7 or her official duties.

8 (4.1) A peace officer, fireman, emergency management
9 worker, or emergency medical services personnel:

10 (i) performing his or her official duties;

11 (ii) assaulted to prevent performance of his or her
12 official duties; or

13 (iii) assaulted in retaliation for performing his
14 or her official duties.

15 (5) A correctional officer or probation officer:

16 (i) performing his or her official duties;

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

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

21 (6) A correctional institution employee, a county
22 juvenile detention center employee who provides direct and
23 continuous supervision of residents of a juvenile
24 detention center, including a county juvenile detention
25 center employee who supervises recreational activity for
26 residents of a juvenile detention center, or a Department

1 of Human Services employee, Department of Human Services
2 officer, or employee of a subcontractor of the Department
3 of Human Services supervising or controlling sexually
4 dangerous persons or sexually violent persons:

5 (i) performing his or her official duties;

6 (ii) assaulted to prevent performance of his or her
7 official duties; or

8 (iii) assaulted in retaliation for performing his
9 or her official duties.

10 (7) An employee of the State of Illinois, a municipal
11 corporation therein, or a political subdivision thereof,
12 performing his or her official duties.

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

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

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
22 individual is in the performance of his or her duties as a
23 process server.

24 (11) A person under 13 years of age if the person
25 committing the assault was at least 18 years of age at the
26 time of the commission of the offense and threatens to kill

1 the person under 13 years of age.

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

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

9 (2) Discharges a firearm, other than from a motor
10 vehicle.

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

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

14 (5) Knowingly and without lawful justification shines
15 or flashes a laser gun sight or other laser device attached
16 to a firearm, or used in concert with a firearm, so that
17 the laser beam strikes near or in the immediate vicinity of
18 any person.

19 (6) Uses a firearm, other than by discharging the
20 firearm, against a peace officer, community policing
21 volunteer, fireman, private security officer, emergency
22 management worker, emergency medical services personnel,
23 employee of a police department, employee of a sheriff's
24 department, or traffic control municipal employee:

25 (i) performing his or her official duties;

26 (ii) assaulted to prevent performance of his or her

1 official duties; or

2 (iii) assaulted in retaliation for performing his
3 or her official duties.

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

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

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

14 (d) Sentence. Aggravated assault as defined in subdivision
15 (a), (b)(1), (b)(2), (b)(3), (b)(4), (b)(7), (b)(8), (b)(9),
16 (c)(1), (c)(4), or (c)(9) is a Class A misdemeanor, except that
17 aggravated assault as defined in subdivision (b)(4) and (b)(7)
18 is a Class 4 felony if a Category I, Category II, or Category
19 III weapon is used in the commission of the assault. Aggravated
20 assault as defined in subdivision (b)(4.1), (b)(5), (b)(6),
21 (b)(10), (c)(2), (c)(5), (c)(6), or (c)(7) is a Class 4 felony.
22 Aggravated assault as defined in subdivision (b)(11), (c)(3),
23 or (c)(8) is a Class 3 felony.

24 (e) For the purposes of this Section, "Category I weapon",
25 "Category II weapon, and "Category III weapon" have the
26 meanings ascribed to those terms in Section 33A-1 of this Code.

1 (Source: P.A. 98-385, eff. 1-1-14; 99-78, eff. 7-20-15; 99-143,
2 eff. 7-27-15; 99-256, eff. 1-1-16; 99-642, eff. 7-28-16;
3 99-816, eff. 8-15-16.)

4 (720 ILCS 5/26.5-2)

5 Sec. 26.5-2. Harassment by telephone.

6 (a) A person commits harassment by telephone when he or she
7 uses telephone communication for any of the following purposes:

8 (1) Making any comment, request, suggestion or
9 proposal which is obscene, lewd, lascivious, filthy or
10 indecent with an intent to offend;

11 (2) Making a telephone call, whether or not
12 conversation ensues, with intent to abuse, threaten or
13 harass any person at the called number;

14 (3) Making or causing the telephone of another
15 repeatedly to ring, with intent to harass any person at the
16 called number;

17 (4) Making repeated telephone calls, during which
18 conversation ensues, solely to harass any person at the
19 called number;

20 (5) Making a telephone call or knowingly inducing a
21 person to make a telephone call for the purpose of
22 harassing another person who is under 13 years of age,
23 regardless of whether the person under 13 years of age
24 consents to the harassment, if the defendant is at least 16
25 years of age at the time of the commission of the offense;

1 ~~or~~

2 (6) Knowingly permitting any telephone under one's
3 control to be used for any of the purposes mentioned
4 herein; or

5 (7) Knowingly making a telephone call or knowingly
6 inducing a person to make a telephone call for the purpose
7 of threatening to kill another person who is under 13 years
8 of age, regardless of whether the person under 13 years of
9 age consents to the threat, if the defendant is at least 18
10 years of age at the time of the commission of the offense.

11 (b) Every telephone directory published for distribution
12 to members of the general public shall contain a notice setting
13 forth a summary of the provisions of this Section. The notice
14 shall be printed in type which is no smaller than any other
15 type on the same page and shall be preceded by the word
16 "WARNING". All telephone companies in this State shall
17 cooperate with law enforcement agencies in using their
18 facilities and personnel to detect and prevent violations of
19 this Article.

20 (Source: P.A. 97-1108, eff. 1-1-13.)

21 (720 ILCS 5/26.5-3)

22 Sec. 26.5-3. Harassment through electronic communications.

23 (a) A person commits harassment through electronic
24 communications when he or she uses electronic communication for
25 any of the following purposes:

1 (1) Making any comment, request, suggestion or
2 proposal which is obscene with an intent to offend;

3 (2) Interrupting, with the intent to harass, the
4 telephone service or the electronic communication service
5 of any person;

6 (3) Transmitting to any person, with the intent to
7 harass and regardless of whether the communication is read
8 in its entirety or at all, any file, document, or other
9 communication which prevents that person from using his or
10 her telephone service or electronic communications device;

11 (4) Transmitting an electronic communication or
12 knowingly inducing a person to transmit an electronic
13 communication for the purpose of harassing another person
14 who is under 13 years of age, regardless of whether the
15 person under 13 years of age consents to the harassment, if
16 the defendant is at least 16 years of age at the time of
17 the commission of the offense;

18 (5) Threatening injury to the person or to the property
19 of the person to whom an electronic communication is
20 directed or to any of his or her family or household
21 members; ~~or~~

22 (6) Knowingly permitting any electronic communications
23 device to be used for any of the purposes mentioned in this
24 subsection (a); or

25 (7) Knowingly transmitting an electronic communication
26 or knowingly inducing a person to transmit an electronic

1 communication for the purpose of threatening to kill
2 another person who is under 13 years of age, regardless of
3 whether the person under 13 years of age consents to the
4 threat, if the defendant was at least 18 years of age at
5 the time of the commission of the offense.

6 (b) Telecommunications carriers, commercial mobile service
7 providers, and providers of information services, including,
8 but not limited to, Internet service providers and hosting
9 service providers, are not liable under this Section, except
10 for willful and wanton misconduct, by virtue of the
11 transmission, storage, or caching of electronic communications
12 or messages of others or by virtue of the provision of other
13 related telecommunications, commercial mobile services, or
14 information services used by others in violation of this
15 Section.

16 (Source: P.A. 97-1108, eff. 1-1-13.)

17 (720 ILCS 5/26.5-5)

18 Sec. 26.5-5. Sentence.

19 (a) Except as provided in subsection (b), a person who
20 violates any of the provisions of Section 26.5-1, 26.5-2, or
21 26.5-3 of this Article is guilty of a Class B misdemeanor.
22 Except as provided in subsection (b), a second or subsequent
23 violation of Section 26.5-1, 26.5-2, or 26.5-3 of this Article
24 is a Class A misdemeanor, for which the court shall impose a
25 minimum of 14 days in jail or, if public or community service

1 is established in the county in which the offender was
2 convicted, 240 hours of public or community service.

3 (b) In any of the following circumstances, a person who
4 violates Section 26.5-1, 26.5-2, or 26.5-3 of this Article
5 shall be guilty of a Class 4 felony:

6 (1) The person has 3 or more prior violations in the
7 last 10 years of harassment by telephone, harassment
8 through electronic communications, or any similar offense
9 of any other state;

10 (2) The person has previously violated the harassment
11 by telephone provisions, or the harassment through
12 electronic communications provisions, or committed any
13 similar offense in any other state with the same victim or
14 a member of the victim's family or household;

15 (3) At the time of the offense, the offender was under
16 conditions of bail, probation, conditional discharge,
17 mandatory supervised release or was the subject of an order
18 of protection, in this or any other state, prohibiting
19 contact with the victim or any member of the victim's
20 family or household;

21 (4) In the course of the offense, the offender
22 threatened to kill the victim or any member of the victim's
23 family or household;

24 (5) The person has been convicted in the last 10 years
25 of a forcible felony as defined in Section 2-8 of the
26 Criminal Code of 1961 or the Criminal Code of 2012;

1 (6) The person violates paragraph (5) of Section 26.5-2
2 or paragraph (4) of Section 26.5-3; or

3 (7) The person was at least 18 years of age at the time
4 of the commission of the offense and the victim was under
5 18 years of age at the time of the commission of the
6 offense.

7 (b-5) A person who violates paragraph (7) of subsection (a)
8 of Section 26.5-2 or paragraph (7) of subsection (a) of Section
9 26.5-3 is guilty of a Class 3 felony.

10 (c) The court may order any person convicted under this
11 Article to submit to a psychiatric examination.

12 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13.)