



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1901

Introduced 2/26/2021, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

720 ILCS 5/33G-3

725 ILCS 5/108B-3

from Ch. 38, par. 108B-3

Amends the Criminal Code of 2012. In the Illinois Street Gang and Racketeer Influenced and Corrupt Organizations Law, expands the definition of "predicate activity" to include bribery, official misconduct, solicitation misconduct (State government), solicitation misconduct (local government)), and legislative misconduct. Amends the Code of Criminal Procedure of 1963. Expands the authority of the State's Attorney to seek a court order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing, or is about to commit an offense to include predicate activity under the Illinois Street Gang and Racketeer Influenced and Corrupt Organizations Law.

LRB102 10965 RLC 16297 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Section 33G-3 as follows:

6 (720 ILCS 5/33G-3)

7 (Section scheduled to be repealed on June 11, 2022)

8 Sec. 33G-3. Definitions. As used in this Article:

9 (a) "Another state" means any State of the United States
10 (other than the State of Illinois), or the District of
11 Columbia, or the Commonwealth of Puerto Rico, or any territory
12 or possession of the United States, or any political
13 subdivision, or any department, agency, or instrumentality
14 thereof.

15 (b) "Enterprise" includes:

16 (1) any partnership, corporation, association,
17 business or charitable trust, or other legal entity; and

18 (2) any group of individuals or other legal entities,
19 or any combination thereof, associated in fact although
20 not itself a legal entity. An association in fact must be
21 held together by a common purpose of engaging in a course
22 of conduct, and it may be associated together for purposes
23 that are both legal and illegal. An association in fact

1 must:

2 (A) have an ongoing organization or structure,
3 either formal or informal;

4 (B) the various members of the group must function
5 as a continuing unit, even if the group changes
6 membership by gaining or losing members over time; and

7 (C) have an ascertainable structure distinct from
8 that inherent in the conduct of a pattern of predicate
9 activity.

10 As used in this Article, "enterprise" includes licit and
11 illicit enterprises.

12 (c) "Labor organization" includes any organization, labor
13 union, craft union, or any voluntary unincorporated
14 association designed to further the cause of the rights of
15 union labor that is constituted for the purpose, in whole or in
16 part, of collective bargaining or of dealing with employers
17 concerning grievances, terms or conditions of employment, or
18 apprenticeships or applications for apprenticeships, or of
19 other mutual aid or protection in connection with employment,
20 including apprenticeships or applications for apprenticeships.

21 (d) "Operation or management" means directing or carrying
22 out the enterprise's affairs and is limited to any person who
23 knowingly serves as a leader, organizer, operator, manager,
24 director, supervisor, financier, advisor, recruiter, supplier,
25 or enforcer of an enterprise in violation of this Article.

26 (e) "Predicate activity" means any act that is a Class 2

1 felony or higher and constitutes a violation or violations of
2 any of the following provisions of the laws of the State of
3 Illinois (as amended or revised as of the date the activity
4 occurred or, in the instance of a continuing offense, the date
5 that charges under this Article are filed in a particular
6 matter in the State of Illinois) or any act under the law of
7 another jurisdiction for an offense that could be charged as a
8 Class 2 felony or higher in this State:

9 (1) under the Criminal Code of 1961 or the Criminal
10 Code of 2012: 8-1.2 (solicitation of murder for hire), 9-1
11 (first degree murder), 9-3.3 (drug-induced homicide), 10-1
12 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1
13 (aggravated unlawful restraint), 10-4 (forcible
14 detention), 10-5(b)(10) (child abduction), 10-9
15 (trafficking in persons, involuntary servitude, and
16 related offenses), 11-1.20 (criminal sexual assault),
17 11-1.30 (aggravated criminal sexual assault), 11-1.40
18 (predatory criminal sexual assault of a child), 11-1.60
19 (aggravated criminal sexual abuse), 11-6 (indecent
20 solicitation of a child), 11-6.5 (indecent solicitation of
21 an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting
22 prostitution), 11-14.4 (promoting juvenile prostitution),
23 11-18.1 (patronizing a minor engaged in prostitution;
24 patronizing a juvenile prostitute), 12-3.05 (aggravated
25 battery), 12-6.4 (criminal street gang recruitment),
26 12-6.5 (compelling organization membership of persons),

1 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-7.5
2 (cyberstalking), 12-11 or 19-6 (home invasion), 12-11.1 or
3 18-6 (vehicular invasion), 18-1 (robbery; aggravated
4 robbery), 18-2 (armed robbery), 18-3 (vehicular
5 hijacking), 18-4 (aggravated vehicular hijacking), 18-5
6 (aggravated robbery), 19-1 (burglary), 19-3 (residential
7 burglary), 20-1 (arson; residential arson; place of
8 worship arson), 20-1.1 (aggravated arson), 20-1.2
9 (residential arson), 20-1.3 (place of worship arson),
10 24-1.2 (aggravated discharge of a firearm), 24-1.2-5
11 (aggravated discharge of a machine gun or silencer
12 equipped firearm), 24-1.8 (unlawful possession of a
13 firearm by a street gang member), 24-3.2 (unlawful
14 discharge of firearm projectiles), 24-3.9 (aggravated
15 possession of a stolen firearm), 24-3A (gunrunning), 26-5
16 or 48-1 (dog-fighting), 29D-14.9 (terrorism), 29D-15
17 (soliciting support for terrorism), 29D-15.1 (causing a
18 catastrophe), 29D-15.2 (possession of a deadly substance),
19 29D-20 (making a terrorist threat), 29D-25 (falsely making
20 a terrorist threat), 29D-29.9 (material support for
21 terrorism), 29D-35 (hindering prosecution of terrorism),
22 31A-1.2 (unauthorized contraband in a penal institution),
23 33-1 (bribery), 33-3 (official misconduct), 33-3.1
24 (solicitation misconduct (State government)), 33-3.2
25 (solicitation misconduct (local government)), 33-8
26 (legislative misconduct), or 33A-3 (armed violence);

1 (2) under the Cannabis Control Act: Sections 5
2 (manufacture or delivery of cannabis), 5.1 (cannabis
3 trafficking), or 8 (production or possession of cannabis
4 plants), provided the offense either involves more than
5 500 grams of any substance containing cannabis or involves
6 more than 50 cannabis sativa plants;

7 (3) under the Illinois Controlled Substances Act:
8 Sections 401 (manufacture or delivery of a controlled
9 substance), 401.1 (controlled substance trafficking), 405
10 (calculated criminal drug conspiracy), or 405.2 (street
11 gang criminal drug conspiracy); or

12 (4) under the Methamphetamine Control and Community
13 Protection Act: Sections 15 (methamphetamine
14 manufacturing), or 55 (methamphetamine delivery).

15 (f) "Pattern of predicate activity" means:

16 (1) at least 3 occurrences of predicate activity that
17 are in some way related to each other and that have
18 continuity between them, and that are separate acts. Acts
19 are related to each other if they are not isolated events,
20 including if they have similar purposes, or results, or
21 participants, or victims, or are committed a similar way,
22 or have other similar distinguishing characteristics, or
23 are part of the affairs of the same enterprise. There is
24 continuity between acts if they are ongoing over a
25 substantial period, or if they are part of the regular way
26 some entity does business or conducts its affairs; and

1 (2) which occurs after the effective date of this
2 Article, and the last of which falls within 3 years
3 (excluding any period of imprisonment) after the first
4 occurrence of predicate activity.

5 (g) "Unlawful death" includes the following offenses:
6 under the Code of 1961 or the Criminal Code of 2012: Sections
7 9-1 (first degree murder) or 9-2 (second degree murder).
8 (Source: P.A. 97-686, eff. 6-11-12; 97-1150, eff. 1-25-13.)

9 Section 10. The Code of Criminal Procedure of 1963 is
10 amended by changing Section 108B-3 as follows:

11 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

12 Sec. 108B-3. Authorization for the interception of private
13 communication.

14 (a) The State's Attorney, or a person designated in
15 writing or by law to act for him and to perform his duties
16 during his absence or disability, may authorize, in writing,
17 an ex parte application to the chief judge of a court of
18 competent jurisdiction for an order authorizing the
19 interception of a private communication when no party has
20 consented to the interception and (i) the interception may
21 provide evidence of, or may assist in the apprehension of a
22 person who has committed, is committing or is about to commit,
23 a violation of Section 8-1(b) (solicitation of murder), 8-1.2
24 (solicitation of murder for hire), 9-1 (first degree murder),

1 10-9 (involuntary servitude, involuntary sexual servitude of a
2 minor, or trafficking in persons), paragraph (1), (2), or (3)
3 of subsection (a) of Section 11-14.4 (promoting juvenile
4 prostitution), subdivision (a)(2)(A) or (a)(2)(B) of Section
5 11-14.3 (promoting prostitution), 11-15.1 (soliciting for a
6 minor engaged in prostitution), 11-16 (pandering), 11-17.1
7 (keeping a place of juvenile prostitution), 11-18.1
8 (patronizing a minor engaged in prostitution), 11-19.1
9 (juvenile pimping and aggravated juvenile pimping), or 29B-1
10 (money laundering) of the Criminal Code of 1961 or the
11 Criminal Code of 2012, Section 401, 401.1 (controlled
12 substance trafficking), 405, 405.1 (criminal drug conspiracy)
13 or 407 of the Illinois Controlled Substances Act or any
14 Section of the Methamphetamine Control and Community
15 Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3,
16 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection
17 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9), 24-1(a)(10),
18 or 24-1(c) of the Criminal Code of 1961 or the Criminal Code of
19 2012, or an offense listed as predicate activity under
20 subsection (e) of Section 33G-3 of the Criminal Code of 1961 or
21 the Criminal Code of 2012, or conspiracy to commit money
22 laundering or conspiracy to commit first degree murder; (ii)
23 in response to a clear and present danger of imminent death or
24 great bodily harm to persons resulting from: (1) a kidnapping
25 or the holding of a hostage by force or the threat of the
26 imminent use of force; or (2) the occupation by force or the

1 threat of the imminent use of force of any premises, place,
2 vehicle, vessel or aircraft; (iii) to aid an investigation or
3 prosecution of a civil action brought under the Illinois
4 Streetgang Terrorism Omnibus Prevention Act when there is
5 probable cause to believe the interception of the private
6 communication will provide evidence that a streetgang is
7 committing, has committed, or will commit a second or
8 subsequent gang-related offense or that the interception of
9 the private communication will aid in the collection of a
10 judgment entered under that Act; or (iv) upon information and
11 belief that a streetgang has committed, is committing, or is
12 about to commit a felony.

13 (b) The State's Attorney or a person designated in writing
14 or by law to act for the State's Attorney and to perform his or
15 her duties during his or her absence or disability, may
16 authorize, in writing, an ex parte application to the chief
17 judge of a circuit court for an order authorizing the
18 interception of a private communication when no party has
19 consented to the interception and the interception may provide
20 evidence of, or may assist in the apprehension of a person who
21 has committed, is committing or is about to commit, a
22 violation of an offense under Article 29D of the Criminal Code
23 of 1961 or the Criminal Code of 2012.

24 (b-1) Subsection (b) is inoperative on and after January
25 1, 2005.

26 (b-2) No conversations recorded or monitored pursuant to

1 subsection (b) shall be made inadmissible in a court of law by
2 virtue of subsection (b-1).

3 (c) As used in this Section, "streetgang" and
4 "gang-related" have the meanings ascribed to them in Section
5 10 of the Illinois Streetgang Terrorism Omnibus Prevention
6 Act.

7 (Source: P.A. 96-710, eff. 1-1-10; 96-1464, eff. 8-20-10;
8 97-897, eff. 1-1-13; 97-1150, eff. 1-25-13.)