



**93RD GENERAL ASSEMBLY**

**State of Illinois**

**2003 and 2004**

**HB3997**

Introduced 1/9/2004, by Dan Brady

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/2-10.4 new  
720 ILCS 5/2-10.5 new  
720 ILCS 5/12-2 from Ch. 38, par. 12-2  
720 ILCS 5/12-4 from Ch. 38, par. 12-4  
720 ILCS 5/12-14 from Ch. 38, par. 12-14

Amends the Criminal Code of 1961. Provides that it constitutes aggravated assault, aggravated battery, or aggravated criminal sexual assault to commit an assault, battery, or criminal sexual assault upon a mentally handicapped person. Defines mentally handicapped person. Effective immediately.

LRB093 15367 RLC 40969 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 1961 is amended by changing  
5 Sections 12-2, 12-4, and 12-14 and by adding Sections 2-10.4  
6 and 2-10.5 as follows:

7 (720 ILCS 5/2-10.4 new)

8 Sec. 2-10.4. Mentally handicapped person. "Mentally  
9 handicapped person" means a person who suffers from a  
10 disability that is attributable to: (1) mental retardation,  
11 cerebral palsy, epilepsy or autism; or to (2) any other  
12 condition that results in impairment similar to that caused by  
13 mental retardation and that requires services similar to those  
14 required by mentally retarded persons.

15 (720 ILCS 5/2-10.5 new)

16 Sec. 2-10.5. Mental retardation. "Mental retardation"  
17 means significantly subaverage general intellectual  
18 functioning that exists concurrently with impairment in  
19 adaptive behavior.

20 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

21 Sec. 12-2. Aggravated assault.

22 (a) A person commits an aggravated assault, when, in  
23 committing an assault, he:

24 (1) Uses a deadly weapon or any device manufactured and  
25 designed to be substantially similar in appearance to a  
26 firearm, other than by discharging a firearm in the  
27 direction of another person, a peace officer, a person  
28 summoned or directed by a peace officer, a correctional  
29 officer or a fireman or in the direction of a vehicle  
30 occupied by another person, a peace officer, a person

1 summoned or directed by a peace officer, a correctional  
2 officer or a fireman while the officer or fireman is  
3 engaged in the execution of any of his official duties, or  
4 to prevent the officer or fireman from performing his  
5 official duties, or in retaliation for the officer or  
6 fireman performing his official duties;

7 (2) Is hooded, robed or masked in such manner as to  
8 conceal his identity or any device manufactured and  
9 designed to be substantially similar in appearance to a  
10 firearm;

11 (3) Knows the individual assaulted to be a teacher or  
12 other person employed in any school and such teacher or  
13 other employee is upon the grounds of a school or grounds  
14 adjacent thereto, or is in any part of a building used for  
15 school purposes;

16 (4) Knows the individual assaulted to be a supervisor,  
17 director, instructor or other person employed in any park  
18 district and such supervisor, director, instructor or  
19 other employee is upon the grounds of the park or grounds  
20 adjacent thereto, or is in any part of a building used for  
21 park purposes;

22 (5) Knows the individual assaulted to be a caseworker,  
23 investigator, or other person employed by the State  
24 Department of Public Aid, a County Department of Public  
25 Aid, or the Department of Human Services (acting as  
26 successor to the Illinois Department of Public Aid under  
27 the Department of Human Services Act) and such caseworker,  
28 investigator, or other person is upon the grounds of a  
29 public aid office or grounds adjacent thereto, or is in any  
30 part of a building used for public aid purposes, or upon  
31 the grounds of a home of a public aid applicant, recipient  
32 or any other person being interviewed or investigated in  
33 the employees' discharge of his duties, or on grounds  
34 adjacent thereto, or is in any part of a building in which  
35 the applicant, recipient, or other such person resides or  
36 is located;

1           (6) Knows the individual assaulted to be a peace  
2 officer, or a community policing volunteer, or a fireman  
3 while the officer or fireman is engaged in the execution of  
4 any of his official duties, or to prevent the officer,  
5 community policing volunteer, or fireman from performing  
6 his official duties, or in retaliation for the officer,  
7 community policing volunteer, or fireman performing his  
8 official duties, and the assault is committed other than by  
9 the discharge of a firearm in the direction of the officer  
10 or fireman or in the direction of a vehicle occupied by the  
11 officer or fireman;

12           (7) Knows the individual assaulted to be an emergency  
13 medical technician - ambulance, emergency medical  
14 technician - intermediate, emergency medical technician -  
15 paramedic, ambulance driver or other medical assistance or  
16 first aid personnel engaged in the execution of any of his  
17 official duties, or to prevent the emergency medical  
18 technician - ambulance, emergency medical technician -  
19 intermediate, emergency medical technician - paramedic,  
20 ambulance driver, or other medical assistance or first aid  
21 personnel from performing his official duties, or in  
22 retaliation for the emergency medical technician -  
23 ambulance, emergency medical technician - intermediate,  
24 emergency medical technician - paramedic, ambulance  
25 driver, or other medical assistance or first aid personnel  
26 performing his official duties;

27           (8) Knows the individual assaulted to be the driver,  
28 operator, employee or passenger of any transportation  
29 facility or system engaged in the business of  
30 transportation of the public for hire and the individual  
31 assaulted is then performing in such capacity or then using  
32 such public transportation as a passenger or using any area  
33 of any description designated by the transportation  
34 facility or system as a vehicle boarding, departure, or  
35 transfer location;

36           (9) Or the individual assaulted is on or about a public

1 way, public property, or public place of accommodation or  
2 amusement;

3 (10) Knows the individual assaulted to be an employee  
4 of the State of Illinois, a municipal corporation therein  
5 or a political subdivision thereof, engaged in the  
6 performance of his authorized duties as such employee;

7 (11) Knowingly and without legal justification,  
8 commits an assault on a physically handicapped person or on  
9 a mentally handicapped person;

10 (12) Knowingly and without legal justification,  
11 commits an assault on a person 60 years of age or older;

12 (13) Discharges a firearm;

13 (14) Knows the individual assaulted to be a  
14 correctional officer, while the officer is engaged in the  
15 execution of any of his or her official duties, or to  
16 prevent the officer from performing his or her official  
17 duties, or in retaliation for the officer performing his or  
18 her official duties;

19 (15) Knows the individual assaulted to be a  
20 correctional employee or an employee of the Department of  
21 Human Services supervising or controlling sexually  
22 dangerous persons or sexually violent persons, while the  
23 employee is engaged in the execution of any of his or her  
24 official duties, or to prevent the employee from performing  
25 his or her official duties, or in retaliation for the  
26 employee performing his or her official duties, and the  
27 assault is committed other than by the discharge of a  
28 firearm in the direction of the employee or in the  
29 direction of a vehicle occupied by the employee; or

30 (16) Knows the individual assaulted to be an employee  
31 of a police or sheriff's department engaged in the  
32 performance of his or her official duties as such employee.

33 (a-5) A person commits an aggravated assault when he or she  
34 knowingly and without lawful justification shines or flashes a  
35 laser gunsight or other laser device that is attached or  
36 affixed to a firearm, or used in concert with a firearm, so

1 that the laser beam strikes near or in the immediate vicinity  
2 of any person.

3 (b) Sentence.

4 Aggravated assault as defined in paragraphs (1) through (5)  
5 and (8) through (12) of subsection (a) of this Section is a  
6 Class A misdemeanor. Aggravated assault as defined in  
7 paragraphs (13), (14), and (15) of subsection (a) of this  
8 Section and as defined in subsection (a-5) of this Section is a  
9 Class 4 felony. Aggravated assault as defined in paragraphs  
10 (6), (7), and (16) of subsection (a) of this Section is a Class  
11 A misdemeanor if a firearm is not used in the commission of the  
12 assault. Aggravated assault as defined in paragraphs (6), (7),  
13 and (16) of subsection (a) of this Section is a Class 4 felony  
14 if a firearm is used in the commission of the assault.

15 (Source: P.A. 91-672, eff. 1-1-00; 92-841, eff. 8-22-02;  
16 92-865, eff. 1-3-03; revised 1-9-03.)

17 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

18 Sec. 12-4. Aggravated Battery.

19 (a) A person who, in committing a battery, intentionally or  
20 knowingly causes great bodily harm, or permanent disability or  
21 disfigurement commits aggravated battery.

22 (b) In committing a battery, a person commits aggravated  
23 battery if he or she:

24 (1) Uses a deadly weapon other than by the discharge of  
25 a firearm;

26 (2) Is hooded, robed or masked, in such manner as to  
27 conceal his identity;

28 (3) Knows the individual harmed to be a teacher or  
29 other person employed in any school and such teacher or  
30 other employee is upon the grounds of a school or grounds  
31 adjacent thereto, or is in any part of a building used for  
32 school purposes;

33 (4) Knows the individual harmed to be a supervisor,  
34 director, instructor or other person employed in any park  
35 district and such supervisor, director, instructor or

1 other employee is upon the grounds of the park or grounds  
2 adjacent thereto, or is in any part of a building used for  
3 park purposes;

4 (5) Knows the individual harmed to be a caseworker,  
5 investigator, or other person employed by the State  
6 Department of Public Aid, a County Department of Public  
7 Aid, or the Department of Human Services (acting as  
8 successor to the Illinois Department of Public Aid under  
9 the Department of Human Services Act) and such caseworker,  
10 investigator, or other person is upon the grounds of a  
11 public aid office or grounds adjacent thereto, or is in any  
12 part of a building used for public aid purposes, or upon  
13 the grounds of a home of a public aid applicant, recipient,  
14 or any other person being interviewed or investigated in  
15 the employee's discharge of his duties, or on grounds  
16 adjacent thereto, or is in any part of a building in which  
17 the applicant, recipient, or other such person resides or  
18 is located;

19 (6) Knows the individual harmed to be a peace officer,  
20 a community policing volunteer, a correctional institution  
21 employee, an employee of the Department of Human Services  
22 supervising or controlling sexually dangerous persons or  
23 sexually violent persons, or a fireman while such officer,  
24 volunteer, employee or fireman is engaged in the execution  
25 of any official duties including arrest or attempted  
26 arrest, or to prevent the officer, volunteer, employee or  
27 fireman from performing official duties, or in retaliation  
28 for the officer, volunteer, employee or fireman performing  
29 official duties, and the battery is committed other than by  
30 the discharge of a firearm;

31 (7) Knows the individual harmed to be an emergency  
32 medical technician - ambulance, emergency medical  
33 technician - intermediate, emergency medical technician -  
34 paramedic, ambulance driver, other medical assistance,  
35 first aid personnel, or hospital personnel engaged in the  
36 performance of any of his or her official duties, or to

1 prevent the emergency medical technician - ambulance,  
2 emergency medical technician - intermediate, emergency  
3 medical technician - paramedic, ambulance driver, other  
4 medical assistance, first aid personnel, or hospital  
5 personnel from performing official duties, or in  
6 retaliation for performing official duties;

7 (8) Is, or the person battered is, on or about a public  
8 way, public property or public place of accommodation or  
9 amusement;

10 (9) Knows the individual harmed to be the driver,  
11 operator, employee or passenger of any transportation  
12 facility or system engaged in the business of  
13 transportation of the public for hire and the individual  
14 assaulted is then performing in such capacity or then using  
15 such public transportation as a passenger or using any area  
16 of any description designated by the transportation  
17 facility or system as a vehicle boarding, departure, or  
18 transfer location;

19 (10) Knowingly and without legal justification and by  
20 any means causes bodily harm to an individual of 60 years  
21 of age or older;

22 (11) Knows the individual harmed is pregnant;

23 (12) Knows the individual harmed to be a judge whom the  
24 person intended to harm as a result of the judge's  
25 performance of his or her official duties as a judge;

26 (13) Knows the individual harmed to be an employee of  
27 the Illinois Department of Children and Family Services  
28 engaged in the performance of his authorized duties as such  
29 employee;

30 (14) Knows the individual harmed to be a person who is  
31 physically handicapped or mentally handicapped;

32 (15) Knowingly and without legal justification and by  
33 any means causes bodily harm to a merchant who detains the  
34 person for an alleged commission of retail theft under  
35 Section 16A-5 of this Code. In this item (15), "merchant"  
36 has the meaning ascribed to it in Section 16A-2.4 of this



1 Code;

2 (16) Is, or the person battered is, in any building or  
3 other structure used to provide shelter or other services  
4 to victims or to the dependent children of victims of  
5 domestic violence pursuant to the Illinois Domestic  
6 Violence Act of 1986 or the Domestic Violence Shelters Act,  
7 or the person battered is within 500 feet of such a  
8 building or other structure while going to or from such a  
9 building or other structure. "Domestic violence" has the  
10 meaning ascribed to it in Section 103 of the Illinois  
11 Domestic Violence Act of 1986. "Building or other structure  
12 used to provide shelter" has the meaning ascribed to  
13 "shelter" in Section 1 of the Domestic Violence Shelters  
14 Act; or

15 (17) Knows the individual harmed to be an employee of a  
16 police or sheriff's department engaged in the performance  
17 of his or her official duties as such employee.

18 For the purpose of paragraph (14) of subsection (b) of this  
19 Section, a physically handicapped person is a person who  
20 suffers from a permanent and disabling physical  
21 characteristic, resulting from disease, injury, functional  
22 disorder or congenital condition.

23 (c) A person who administers to an individual or causes him  
24 to take, without his consent or by threat or deception, and for  
25 other than medical purposes, any intoxicating, poisonous,  
26 stupefying, narcotic, anesthetic, or controlled substance  
27 commits aggravated battery.

28 (d) A person who knowingly gives to another person any food  
29 that contains any substance or object that is intended to cause  
30 physical injury if eaten, commits aggravated battery.

31 (d-3) A person commits aggravated battery when he or she  
32 knowingly and without lawful justification shines or flashes a  
33 laser gunsight or other laser device that is attached or  
34 affixed to a firearm, or used in concert with a firearm, so  
35 that the laser beam strikes upon or against the person of  
36 another.

1 (d-5) An inmate of a penal institution or a sexually  
2 dangerous person or a sexually violent person in the custody of  
3 the Department of Human Services who causes or attempts to  
4 cause a correctional employee of the penal institution or an  
5 employee of the Department of Human Services to come into  
6 contact with blood, seminal fluid, urine, or feces, by  
7 throwing, tossing, or expelling that fluid or material commits  
8 aggravated battery. For purposes of this subsection (d-5),  
9 "correctional employee" means a person who is employed by a  
10 penal institution.

11 (e) Sentence.

12 Aggravated battery is a Class 3 felony, except a violation  
13 of subsection (a) is a Class 2 felony when the person knows the  
14 individual harmed to be a peace officer engaged in the  
15 execution of any of his or her official duties, or the battery  
16 is to prevent the officer from performing his or her official  
17 duties, or in retaliation for the officer performing his or her  
18 official duties.

19 (Source: P.A. 92-16, eff. 6-28-01; 92-516, eff. 1-1-02; 92-841,  
20 eff. 8-22-02; 92-865, eff. 1-3-03; 93-83, eff. 7-2-03.)

21 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

22 Sec. 12-14. Aggravated Criminal Sexual Assault.

23 (a) The accused commits aggravated criminal sexual assault  
24 if he or she commits criminal sexual assault and any of the  
25 following aggravating circumstances existed during, or for the  
26 purposes of paragraph (7) of this subsection (a) as part of the  
27 same course of conduct as, the commission of the offense:

28 (1) the accused displayed, threatened to use, or used a  
29 dangerous weapon, other than a firearm, or any object  
30 fashioned or utilized in such a manner as to lead the  
31 victim under the circumstances reasonably to believe it to  
32 be a dangerous weapon; or

33 (2) the accused caused bodily harm, except as provided  
34 in subsection (a)(10), to the victim; or

35 (3) the accused acted in such a manner as to threaten

1 or endanger the life of the victim or any other person; or

2 (4) the criminal sexual assault was perpetrated during  
3 the course of the commission or attempted commission of any  
4 other felony by the accused; or

5 (5) the victim was 60 years of age or over when the  
6 offense was committed; or

7 (6) the victim was a physically handicapped person or a  
8 mentally handicapped person; or

9 (7) the accused delivered (by injection, inhalation,  
10 ingestion, transfer of possession, or any other means) to  
11 the victim without his or her consent, or by threat or  
12 deception, and for other than medical purposes, any  
13 controlled substance; or

14 (8) the accused was armed with a firearm; or

15 (9) the accused personally discharged a firearm during  
16 the commission of the offense; or

17 (10) the accused, during the commission of the offense,  
18 personally discharged a firearm that proximately caused  
19 great bodily harm, permanent disability, permanent  
20 disfigurement, or death to another person.

21 (b) The accused commits aggravated criminal sexual assault  
22 if the accused was under 17 years of age and (i) commits an act  
23 of sexual penetration with a victim who was under 9 years of  
24 age when the act was committed; or (ii) commits an act of  
25 sexual penetration with a victim who was at least 9 years of  
26 age but under 13 years of age when the act was committed and  
27 the accused used force or threat of force to commit the act.

28 (c) The accused commits aggravated criminal sexual assault  
29 if he or she commits an act of sexual penetration with a victim  
30 who was a severely or profoundly mentally retarded person at  
31 the time the act was committed.

32 (d) Sentence.

33 (1) Aggravated criminal sexual assault in violation of  
34 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)  
35 or in violation of subsection (b) or (c) is a Class X  
36 felony. A violation of subsection (a)(1) is a Class X

1 felony for which 10 years shall be added to the term of  
2 imprisonment imposed by the court. A violation of  
3 subsection (a)(8) is a Class X felony for which 15 years  
4 shall be added to the term of imprisonment imposed by the  
5 court. A violation of subsection (a)(9) is a Class X felony  
6 for which 20 years shall be added to the term of  
7 imprisonment imposed by the court. A violation of  
8 subsection (a)(10) is a Class X felony for which 25 years  
9 or up to a term of natural life imprisonment shall be added  
10 to the term of imprisonment imposed by the court.

11 (2) A person who is convicted of a second or subsequent  
12 offense of aggravated criminal sexual assault, or who is  
13 convicted of the offense of aggravated criminal sexual  
14 assault after having previously been convicted of the  
15 offense of criminal sexual assault or the offense of  
16 predatory criminal sexual assault of a child, or who is  
17 convicted of the offense of aggravated criminal sexual  
18 assault after having previously been convicted under the  
19 laws of this or any other state of an offense that is  
20 substantially equivalent to the offense of criminal sexual  
21 assault, the offense of aggravated criminal sexual assault  
22 or the offense of predatory criminal sexual assault of a  
23 child, shall be sentenced to a term of natural life  
24 imprisonment. The commission of the second or subsequent  
25 offense is required to have been after the initial  
26 conviction for this paragraph (2) to apply.

27 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502,  
28 eff. 12-19-01; 92-721, eff. 1-1-03.)

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law.