



Sen. Don Harmon

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LRB094 15326 RSP 57360 a

1 AMENDMENT TO HOUSE BILL 4238

2 AMENDMENT NO. _____. Amend House Bill 4238 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1071 as follows:

6 (55 ILCS 5/5-1071) (from Ch. 34, par. 5-1071)

7 Sec. 5-1071. Dogs running at large. The county board of
8 each county may regulate and prohibit the running at large of
9 dogs in unincorporated areas of the county which have been
10 subdivided for residence purposes. The county board may impose
11 such fines or penalties as are deemed proper to effectuate any
12 such regulation or prohibition of dogs running at large, except
13 when a fine or penalty is already allowed by law. ~~No fine or
14 penalty may exceed \$50 for any one offense.~~

15 (Source: P.A. 86-962.)

16 Section 10. The Animal Control Act is amended by changing
17 Sections 16 and 26 and by adding Section 9.5 as follows:

18 (510 ILCS 5/9.5 new)

19 Sec. 9.5. Dogs hunting; in dog parks. A dog that is
20 actively engaged in a legal hunting activity or field trials,
21 including training, is not considered to be running at large if
22 the dog is monitored or supervised by a person and the dog is

1 on land that is open to hunting or on land with respect to
2 which the person has obtained written permission to hunt or
3 train a dog. A dog that is in a dog-friendly area of a park or
4 in a dog park is not considered to be running at large if the
5 dog is monitored or supervised by a person.

6 (510 ILCS 5/16) (from Ch. 8, par. 366)

7 Sec. 16. Animal attacks or injuries.

8 (a) If a dog or other animal, without provocation, attacks
9 or injures, whether directly or proximately, any person who is
10 peaceably conducting himself or herself in any place where he
11 or she may lawfully be, the owner of such dog or other animal
12 is liable in civil damages to such person for the full amount
13 of the injury sustained. For purposes of imposing liability
14 under this subsection, an animal pound, animal control
15 facility, animal shelter, or other animal rescue group is not
16 the owner of any animal that has been adopted.

17 (b) Except for willful and wanton misconduct, non-profit
18 organizations, including animal shelters and rescue groups,
19 and municipalities and other units of local government that
20 operate animal control agencies are not liable for attacks or
21 injuries that may occur after an animal is adopted.

22 (Source: P.A. 78-795.)

23 (510 ILCS 5/26) (from Ch. 8, par. 376)

24 Sec. 26. (a) Except as otherwise provided in this Act, any
25 ~~Any~~ person violating or aiding in or abetting the violation of
26 any provision of this Act, or counterfeiting or forging any
27 certificate, permit, or tag, or making any misrepresentation in
28 regard to any matter prescribed by this Act, or resisting,
29 obstructing, or impeding the Administrator or any authorized
30 officer in enforcing this Act, or refusing to produce for
31 inoculation any dog in his possession, or who removes a tag
32 from a dog for purposes of destroying or concealing its

1 identity, is guilty of a Class C misdemeanor for a first
2 offense and for a subsequent offense, is guilty of a Class B
3 misdemeanor.

4 Each day a person fails to comply constitutes a separate
5 offense. Each State's Attorney to whom the Administrator
6 reports any violation of this Act shall cause appropriate
7 proceedings to be instituted in the proper courts without delay
8 and to be prosecuted in the manner provided by law.

9 (b) If the owner of a vicious dog subject to enclosure:

10 (1) fails to maintain or keep the dog in an enclosure
11 or fails to spay or neuter the dog within the time period
12 prescribed; and

13 (2) the dog inflicts serious physical injury upon any
14 other person or causes the death of another person; and

15 (3) the attack is unprovoked in a place where such
16 person is peaceably conducting himself or herself and where
17 such person may lawfully be;

18 the owner shall be guilty of a Class 3 ~~Class 4~~ felony, unless
19 the owner knowingly allowed the dog to run at large or failed
20 to take steps to keep the dog in an enclosure then the owner
21 shall be guilty of a Class 2 ~~Class 3~~ felony. The penalty
22 provided in this paragraph shall be in addition to any other
23 criminal or civil sanction provided by law.

24 (c) If the owner of a dangerous dog knowingly fails to
25 comply with any order regarding the dog and the dog inflicts
26 serious physical injury on a person or a companion animal, the
27 owner shall be guilty of a Class 4 felony ~~Class A misdemeanor~~.

28 If the owner of a dangerous dog knowingly fails to comply with
29 any order regarding the dog and the dog kills a person the
30 owner shall be guilty of a Class 3 ~~Class 4~~ felony.

31 (d) If the owner of a dog knowingly allows it to run at
32 large in violation of this Act as specified in Section 9 and
33 the dog inflicts serious physical injury, as defined in this
34 Act, or death to a person, the owner is guilty of a Class A

1 misdemeanor. This subsection does not apply to a police dog
2 that inflicts physical or serious physical injury to a person
3 in the course of its duties. A good faith effort to retrieve
4 the dog in a timely fashion is an affirmative defense to this
5 subsection (d).

6 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

7 Section 15. The Unified Code of Corrections is amended by
8 changing Section 5-5-3.2 as follows:

9 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

10 Sec. 5-5-3.2. Factors in Aggravation.

11 (a) The following factors shall be accorded weight in favor
12 of imposing a term of imprisonment or may be considered by the
13 court as reasons to impose a more severe sentence under Section
14 5-8-1:

15 (1) the defendant's conduct caused or threatened
16 serious harm;

17 (2) the defendant received compensation for committing
18 the offense;

19 (3) the defendant has a history of prior delinquency or
20 criminal activity;

21 (4) the defendant, by the duties of his office or by
22 his position, was obliged to prevent the particular offense
23 committed or to bring the offenders committing it to
24 justice;

25 (5) the defendant held public office at the time of the
26 offense, and the offense related to the conduct of that
27 office;

28 (6) the defendant utilized his professional reputation
29 or position in the community to commit the offense, or to
30 afford him an easier means of committing it;

31 (7) the sentence is necessary to deter others from
32 committing the same crime;

1 (8) the defendant committed the offense against a
2 person 60 years of age or older or such person's property;

3 (9) the defendant committed the offense against a
4 person who is physically handicapped or such person's
5 property;

6 (10) by reason of another individual's actual or
7 perceived race, color, creed, religion, ancestry, gender,
8 sexual orientation, physical or mental disability, or
9 national origin, the defendant committed the offense
10 against (i) the person or property of that individual; (ii)
11 the person or property of a person who has an association
12 with, is married to, or has a friendship with the other
13 individual; or (iii) the person or property of a relative
14 (by blood or marriage) of a person described in clause (i)
15 or (ii). For the purposes of this Section, "sexual
16 orientation" means heterosexuality, homosexuality, or
17 bisexuality;

18 (11) the offense took place in a place of worship or on
19 the grounds of a place of worship, immediately prior to,
20 during or immediately following worship services. For
21 purposes of this subparagraph, "place of worship" shall
22 mean any church, synagogue or other building, structure or
23 place used primarily for religious worship;

24 (12) the defendant was convicted of a felony committed
25 while he was released on bail or his own recognizance
26 pending trial for a prior felony and was convicted of such
27 prior felony, or the defendant was convicted of a felony
28 committed while he was serving a period of probation,
29 conditional discharge, or mandatory supervised release
30 under subsection (d) of Section 5-8-1 for a prior felony;

31 (13) the defendant committed or attempted to commit a
32 felony while he was wearing a bulletproof vest. For the
33 purposes of this paragraph (13), a bulletproof vest is any
34 device which is designed for the purpose of protecting the

1 wearer from bullets, shot or other lethal projectiles;

2 (14) the defendant held a position of trust or
3 supervision such as, but not limited to, family member as
4 defined in Section 12-12 of the Criminal Code of 1961,
5 teacher, scout leader, baby sitter, or day care worker, in
6 relation to a victim under 18 years of age, and the
7 defendant committed an offense in violation of Section
8 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
9 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
10 against that victim;

11 (15) the defendant committed an offense related to the
12 activities of an organized gang. For the purposes of this
13 factor, "organized gang" has the meaning ascribed to it in
14 Section 10 of the Streetgang Terrorism Omnibus Prevention
15 Act;

16 (16) the defendant committed an offense in violation of
17 one of the following Sections while in a school, regardless
18 of the time of day or time of year; on any conveyance
19 owned, leased, or contracted by a school to transport
20 students to or from school or a school related activity; on
21 the real property of a school; or on a public way within
22 1,000 feet of the real property comprising any school:
23 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
25 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
26 33A-2 of the Criminal Code of 1961;

27 (16.5) the defendant committed an offense in violation
28 of one of the following Sections while in a day care
29 center, regardless of the time of day or time of year; on
30 the real property of a day care center, regardless of the
31 time of day or time of year; or on a public way within
32 1,000 feet of the real property comprising any day care
33 center, regardless of the time of day or time of year:
34 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,

1 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
2 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
3 33A-2 of the Criminal Code of 1961;

4 (17) the defendant committed the offense by reason of
5 any person's activity as a community policing volunteer or
6 to prevent any person from engaging in activity as a
7 community policing volunteer. For the purpose of this
8 Section, "community policing volunteer" has the meaning
9 ascribed to it in Section 2-3.5 of the Criminal Code of
10 1961;

11 (18) the defendant committed the offense in a nursing
12 home or on the real property comprising a nursing home. For
13 the purposes of this paragraph (18), "nursing home" means a
14 skilled nursing or intermediate long term care facility
15 that is subject to license by the Illinois Department of
16 Public Health under the Nursing Home Care Act;

17 (19) the defendant was a federally licensed firearm
18 dealer and was previously convicted of a violation of
19 subsection (a) of Section 3 of the Firearm Owners
20 Identification Card Act and has now committed either a
21 felony violation of the Firearm Owners Identification Card
22 Act or an act of armed violence while armed with a firearm;

23 ~~or~~

24 (20) the defendant (i) committed the offense of
25 reckless homicide under Section 9-3 of the Criminal Code of
26 1961 or the offense of driving under the influence of
27 alcohol, other drug or drugs, intoxicating compound or
28 compounds or any combination thereof under Section 11-501
29 of the Illinois Vehicle Code or a similar provision of a
30 local ordinance and (ii) was operating a motor vehicle in
31 excess of 20 miles per hour over the posted speed limit as
32 provided in Article VI of Chapter 11 of the Illinois
33 Vehicle Code; or-

34 (21) ~~(20)~~ the defendant (i) committed the offense of

1 reckless driving or aggravated reckless driving under
2 Section 11-503 of the Illinois Vehicle Code and (ii) was
3 operating a motor vehicle in excess of 20 miles per hour
4 over the posted speed limit as provided in Article VI of
5 Chapter 11 of the Illinois Vehicle Code.

6 For the purposes of this Section:

7 "School" is defined as a public or private elementary or
8 secondary school, community college, college, or university.

9 "Day care center" means a public or private State certified
10 and licensed day care center as defined in Section 2.09 of the
11 Child Care Act of 1969 that displays a sign in plain view
12 stating that the property is a day care center.

13 (b) The following factors may be considered by the court as
14 reasons to impose an extended term sentence under Section 5-8-2
15 upon any offender:

16 (1) When a defendant is convicted of any felony, after
17 having been previously convicted in Illinois or any other
18 jurisdiction of the same or similar class felony or greater
19 class felony, when such conviction has occurred within 10
20 years after the previous conviction, excluding time spent
21 in custody, and such charges are separately brought and
22 tried and arise out of different series of acts; or

23 (2) When a defendant is convicted of any felony and the
24 court finds that the offense was accompanied by
25 exceptionally brutal or heinous behavior indicative of
26 wanton cruelty; or

27 (3) When a defendant is convicted of voluntary
28 manslaughter, second degree murder, involuntary
29 manslaughter or reckless homicide in which the defendant
30 has been convicted of causing the death of more than one
31 individual; or

32 (4) When a defendant is convicted of any felony
33 committed against:

34 (i) a person under 12 years of age at the time of

1 the offense or such person's property;

2 (ii) a person 60 years of age or older at the time
3 of the offense or such person's property; or

4 (iii) a person physically handicapped at the time
5 of the offense or such person's property; or

6 (5) In the case of a defendant convicted of aggravated
7 criminal sexual assault or criminal sexual assault, when
8 the court finds that aggravated criminal sexual assault or
9 criminal sexual assault was also committed on the same
10 victim by one or more other individuals, and the defendant
11 voluntarily participated in the crime with the knowledge of
12 the participation of the others in the crime, and the
13 commission of the crime was part of a single course of
14 conduct during which there was no substantial change in the
15 nature of the criminal objective; or

16 (6) When a defendant is convicted of any felony and the
17 offense involved any of the following types of specific
18 misconduct committed as part of a ceremony, rite,
19 initiation, observance, performance, practice or activity
20 of any actual or ostensible religious, fraternal, or social
21 group:

22 (i) the brutalizing or torturing of humans or
23 animals;

24 (ii) the theft of human corpses;

25 (iii) the kidnapping of humans;

26 (iv) the desecration of any cemetery, religious,
27 fraternal, business, governmental, educational, or
28 other building or property; or

29 (v) ritualized abuse of a child; or

30 (7) When a defendant is convicted of first degree
31 murder, after having been previously convicted in Illinois
32 of any offense listed under paragraph (c)(2) of Section
33 5-5-3, when such conviction has occurred within 10 years
34 after the previous conviction, excluding time spent in

1 custody, and such charges are separately brought and tried
2 and arise out of different series of acts; or

3 (8) When a defendant is convicted of a felony other
4 than conspiracy and the court finds that the felony was
5 committed under an agreement with 2 or more other persons
6 to commit that offense and the defendant, with respect to
7 the other individuals, occupied a position of organizer,
8 supervisor, financier, or any other position of management
9 or leadership, and the court further finds that the felony
10 committed was related to or in furtherance of the criminal
11 activities of an organized gang or was motivated by the
12 defendant's leadership in an organized gang; or

13 (9) When a defendant is convicted of a felony violation
14 of Section 24-1 of the Criminal Code of 1961 and the court
15 finds that the defendant is a member of an organized gang;
16 or

17 (10) When a defendant committed the offense using a
18 firearm with a laser sight attached to it. For purposes of
19 this paragraph (10), "laser sight" has the meaning ascribed
20 to it in Section 24.6-5 of the Criminal Code of 1961; or

21 (11) When a defendant who was at least 17 years of age
22 at the time of the commission of the offense is convicted
23 of a felony and has been previously adjudicated a
24 delinquent minor under the Juvenile Court Act of 1987 for
25 an act that if committed by an adult would be a Class X or
26 Class 1 felony when the conviction has occurred within 10
27 years after the previous adjudication, excluding time
28 spent in custody; or

29 (12) When a defendant commits an offense involving the
30 illegal manufacture of a controlled substance under
31 Section 401 of the Illinois Controlled Substances Act, the
32 illegal manufacture of methamphetamine under Section 25 of
33 the Methamphetamine Control and Community Protection Act,
34 or the illegal possession of explosives and an emergency

1 response officer in the performance of his or her duties is
2 killed or injured at the scene of the offense while
3 responding to the emergency caused by the commission of the
4 offense. In this paragraph (12), "emergency" means a
5 situation in which a person's life, health, or safety is in
6 jeopardy; and "emergency response officer" means a peace
7 officer, community policing volunteer, fireman, emergency
8 medical technician-ambulance, emergency medical
9 technician-intermediate, emergency medical
10 technician-paramedic, ambulance driver, other medical
11 assistance or first aid personnel, or hospital emergency
12 room personnel; or.

13 (13) When a defendant commits any felony and the
14 defendant used, possessed, exercised control over, or
15 otherwise directed an animal to assault a law enforcement
16 officer engaged in the execution of his or her official
17 duties or in furtherance of the criminal activities of an
18 organized gang in which the defendant is engaged.

19 (b-1) For the purposes of this Section, "organized gang"
20 has the meaning ascribed to it in Section 10 of the Illinois
21 Streetgang Terrorism Omnibus Prevention Act.

22 (c) The court may impose an extended term sentence under
23 Section 5-8-2 upon any offender who was convicted of aggravated
24 criminal sexual assault or predatory criminal sexual assault of
25 a child under subsection (a)(1) of Section 12-14.1 of the
26 Criminal Code of 1961 where the victim was under 18 years of
27 age at the time of the commission of the offense.

28 (d) The court may impose an extended term sentence under
29 Section 5-8-2 upon any offender who was convicted of unlawful
30 use of weapons under Section 24-1 of the Criminal Code of 1961
31 for possessing a weapon that is not readily distinguishable as
32 one of the weapons enumerated in Section 24-1 of the Criminal
33 Code of 1961.

34 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,

1 eff. 9-11-05; revised 8-19-05.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".