



Sen. Don Harmon

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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 as follows:

18 (510 ILCS 5/16) (from Ch. 8, par. 366)

19 Sec. 16. Animal attacks or injuries. If a dog or other
20 animal, without provocation, attacks, attempts to attack, or
21 injures any person who is peaceably conducting himself or
22 herself in any place where he or she may lawfully be, the owner

1 of such dog or other animal is liable in civil damages to such
2 person for the full amount of the injury proximately caused
3 thereby sustained.

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

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

6 Sec. 26. (a) Except as otherwise provided in this Act, any
7 ~~Any~~ person violating or aiding in or abetting the violation of
8 any provision of this Act, or counterfeiting or forging any
9 certificate, permit, or tag, or making any misrepresentation in
10 regard to any matter prescribed by this Act, or resisting,
11 obstructing, or impeding the Administrator or any authorized
12 officer in enforcing this Act, or refusing to produce for
13 inoculation any dog in his possession, or who removes a tag
14 from a dog for purposes of destroying or concealing its
15 identity, is guilty of a Class C misdemeanor for a first
16 offense and for a subsequent offense, is guilty of a Class B
17 misdemeanor.

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

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

24 (1) fails to maintain or keep the dog in an enclosure
25 or fails to spay or neuter the dog within the time period
26 prescribed; and

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

29 (3) the attack is unprovoked in a place where such
30 person is peaceably conducting himself or herself and where
31 such person may lawfully be;

32 the owner shall be guilty of a Class 3 ~~Class 4~~ felony, unless
33 the owner knowingly allowed the dog to run at large or failed

1 to take steps to keep the dog in an enclosure then the owner
2 shall be guilty of a Class 2 ~~Class 3~~ felony. The penalty
3 provided in this paragraph shall be in addition to any other
4 criminal or civil sanction provided by law.

5 (c) If the owner of a dangerous dog knowingly fails to
6 comply with any order regarding the dog and the dog inflicts
7 serious physical injury on a person or a companion animal, the
8 owner shall be guilty of a Class 4 felony ~~Class A misdemeanor~~.
9 If the owner of a dangerous dog knowingly fails to comply with
10 any order regarding the dog and the dog kills a person the
11 owner shall be guilty of a Class 3 ~~Class 4~~ felony.

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

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

15 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

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

17 (a) The following factors shall be accorded weight in favor
18 of imposing a term of imprisonment or may be considered by the
19 court as reasons to impose a more severe sentence under Section
20 5-8-1:

21 (1) the defendant's conduct caused or threatened
22 serious harm;

23 (2) the defendant received compensation for committing
24 the offense;

25 (3) the defendant has a history of prior delinquency or
26 criminal activity;

27 (4) the defendant, by the duties of his office or by
28 his position, was obliged to prevent the particular offense
29 committed or to bring the offenders committing it to
30 justice;

31 (5) the defendant held public office at the time of the
32 offense, and the offense related to the conduct of that

1 office;

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

5 (7) the sentence is necessary to deter others from
6 committing the same crime;

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

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

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

24 (11) the offense took place in a place of worship or on
25 the grounds of a place of worship, immediately prior to,
26 during or immediately following worship services. For
27 purposes of this subparagraph, "place of worship" shall
28 mean any church, synagogue or other building, structure or
29 place used primarily for religious worship;

30 (12) the defendant was convicted of a felony committed
31 while he was released on bail or his own recognizance
32 pending trial for a prior felony and was convicted of such
33 prior felony, or the defendant was convicted of a felony
34 committed while he was serving a period of probation,

1 conditional discharge, or mandatory supervised release
2 under subsection (d) of Section 5-8-1 for a prior felony;

3 (13) the defendant committed or attempted to commit a
4 felony while he was wearing a bulletproof vest. For the
5 purposes of this paragraph (13), a bulletproof vest is any
6 device which is designed for the purpose of protecting the
7 wearer from bullets, shot or other lethal projectiles;

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

17 (15) the defendant committed an offense related to the
18 activities of an organized gang. For the purposes of this
19 factor, "organized gang" has the meaning ascribed to it in
20 Section 10 of the Streetgang Terrorism Omnibus Prevention
21 Act;

22 (16) the defendant committed an offense in violation of
23 one of the following Sections while in a school, regardless
24 of the time of day or time of year; on any conveyance
25 owned, leased, or contracted by a school to transport
26 students to or from school or a school related activity; on
27 the real property of a school; or on a public way within
28 1,000 feet of the real property comprising any school:
29 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
30 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
31 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
32 33A-2 of the Criminal Code of 1961;

33 (16.5) the defendant committed an offense in violation
34 of one of the following Sections while in a day care

1 center, regardless of the time of day or time of year; on
2 the real property of a day care center, regardless of the
3 time of day or time of year; or on a public way within
4 1,000 feet of the real property comprising any day care
5 center, regardless of the time of day or time of year:
6 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
7 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
8 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
9 33A-2 of the Criminal Code of 1961;

10 (17) the defendant committed the offense by reason of
11 any person's activity as a community policing volunteer or
12 to prevent any person from engaging in activity as a
13 community policing volunteer. For the purpose of this
14 Section, "community policing volunteer" has the meaning
15 ascribed to it in Section 2-3.5 of the Criminal Code of
16 1961;

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

23 (19) the defendant was a federally licensed firearm
24 dealer and was previously convicted of a violation of
25 subsection (a) of Section 3 of the Firearm Owners
26 Identification Card Act and has now committed either a
27 felony violation of the Firearm Owners Identification Card
28 Act or an act of armed violence while armed with a firearm;
29 ~~or~~

30 (20) the defendant (i) committed the offense of
31 reckless homicide under Section 9-3 of the Criminal Code of
32 1961 or the offense of driving under the influence of
33 alcohol, other drug or drugs, intoxicating compound or
34 compounds or any combination thereof under Section 11-501

1 of the Illinois Vehicle Code or a similar provision of a
2 local ordinance and (ii) was operating a motor vehicle in
3 excess of 20 miles per hour over the posted speed limit as
4 provided in Article VI of Chapter 11 of the Illinois
5 Vehicle Code; ~~or~~.

6 (21) ~~(20)~~ the defendant (i) committed the offense of
7 reckless driving or aggravated reckless driving under
8 Section 11-503 of the Illinois Vehicle Code and (ii) was
9 operating a motor vehicle in excess of 20 miles per hour
10 over the posted speed limit as provided in Article VI of
11 Chapter 11 of the Illinois Vehicle Code.

12 For the purposes of this Section:

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

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

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

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

29 (2) When a defendant is convicted of any felony and the
30 court finds that the offense was accompanied by
31 exceptionally brutal or heinous behavior indicative of
32 wanton cruelty; or

33 (3) When a defendant is convicted of voluntary
34 manslaughter, second degree murder, involuntary

1 manslaughter or reckless homicide in which the defendant
2 has been convicted of causing the death of more than one
3 individual; or

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

6 (i) a person under 12 years of age at the time of
7 the offense or such person's property;

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

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

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

22 (6) When a defendant is convicted of any felony and the
23 offense involved any of the following types of specific
24 misconduct committed as part of a ceremony, rite,
25 initiation, observance, performance, practice or activity
26 of any actual or ostensible religious, fraternal, or social
27 group:

28 (i) the brutalizing or torturing of humans or
29 animals;

30 (ii) the theft of human corpses;

31 (iii) the kidnapping of humans;

32 (iv) the desecration of any cemetery, religious,
33 fraternal, business, governmental, educational, or
34 other building or property; or

1 (v) ritualized abuse of a child; or

2 (7) When a defendant is convicted of first degree
3 murder, after having been previously convicted in Illinois
4 of any offense listed under paragraph (c)(2) of Section
5 5-5-3, when such conviction has occurred within 10 years
6 after the previous conviction, excluding time spent in
7 custody, and such charges are separately brought and tried
8 and arise out of different series of acts; or

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

19 (9) When a defendant is convicted of a felony violation
20 of Section 24-1 of the Criminal Code of 1961 and the court
21 finds that the defendant is a member of an organized gang;
22 or

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

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

1 (12) When a defendant commits an offense involving the
2 illegal manufacture of a controlled substance under
3 Section 401 of the Illinois Controlled Substances Act, the
4 illegal manufacture of methamphetamine under Section 25 of
5 the Methamphetamine Control and Community Protection Act,
6 or the illegal possession of explosives and an emergency
7 response officer in the performance of his or her duties is
8 killed or injured at the scene of the offense while
9 responding to the emergency caused by the commission of the
10 offense. In this paragraph (12), "emergency" means a
11 situation in which a person's life, health, or safety is in
12 jeopardy; and "emergency response officer" means a peace
13 officer, community policing volunteer, fireman, emergency
14 medical technician-ambulance, emergency medical
15 technician-intermediate, emergency medical
16 technician-paramedic, ambulance driver, other medical
17 assistance or first aid personnel, or hospital emergency
18 room personnel; ~~or.~~

19 (13) When a defendant commits any felony and the
20 defendant used, possessed, exercised control over, or
21 otherwise directed an animal to assault a law enforcement
22 officer engaged in the execution of his or her official
23 duties or in furtherance of the criminal activities of an
24 organized gang in which the defendant is engaged.

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

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

34 (d) The court may impose an extended term sentence under

1 Section 5-8-2 upon any offender who was convicted of unlawful
2 use of weapons under Section 24-1 of the Criminal Code of 1961
3 for possessing a weapon that is not readily distinguishable as
4 one of the weapons enumerated in Section 24-1 of the Criminal
5 Code of 1961.

6 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
7 eff. 9-11-05; revised 8-19-05.)".

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".