

SB3623



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3623

Introduced 2/10/2012, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

70 ILCS 3605/28b	from Ch. 111 2/3, par. 328b
625 ILCS 5/6-106.1	
720 ILCS 5/12-3.05	was 720 ILCS 5/12-4
720 ILCS 5/36-1	from Ch. 38, par. 36-1

Amends the Metropolitan Transit Authority Act, the Illinois Vehicle Code, and the Criminal Code of 1961. Provides that, except when greater penalties are imposed in the aggravated battery statute, aggravated battery that causes permanent disability or disfigurement is a Class 2 (rather than a Class 3) felony. Effective immediately.

LRB097 18990 RLC 65672 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 Metropolitan Transit Authority Act is
5 amended by changing Section 28b as follows:

6 (70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

7 Sec. 28b. Any person applying for a position as a driver of
8 a vehicle owned by a private carrier company which provides
9 public transportation pursuant to an agreement with the
10 Authority shall be required to authorize an investigation by
11 the private carrier company to determine if the applicant has
12 been convicted of any of the following offenses: (i) those
13 offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1,
14 10-4, 10-5, 10-6, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50,
15 11-1.60, 11-6, 11-9, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1,
16 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,
17 11-20.1B, 11-20.3, 11-21, 11-22, 11-30, 12-4.3, 12-4.4,
18 12-4.5, 12-6, 12-7.1, 12-11, 12-13, 12-14, 12-14.1, 12-15,
19 12-16, 12-16.1, 18-1, 18-2, 20-1, 20-1.1, 31A-1, 31A-1.1, and
20 33A-2, in subsection (a) and subsection (b), clause (1), of
21 Section 12-4, in subdivisions (a)(1), (a)(1.5), (b)(1), and
22 (f)(1) of Section 12-3.05, and in subsection (a-5) of Section
23 12-3.1 of the Criminal Code of 1961; (ii) those offenses

1 defined in the Cannabis Control Act except those offenses
2 defined in subsections (a) and (b) of Section 4, and subsection
3 (a) of Section 5 of the Cannabis Control Act (iii) those
4 offenses defined in the Illinois Controlled Substances Act;
5 (iv) those offenses defined in the Methamphetamine Control and
6 Community Protection Act; and (v) any offense committed or
7 attempted in any other state or against the laws of the United
8 States, which if committed or attempted in this State would be
9 punishable as one or more of the foregoing offenses. Upon
10 receipt of this authorization, the private carrier company
11 shall submit the applicant's name, sex, race, date of birth,
12 fingerprints and social security number to the Department of
13 State Police on forms prescribed by the Department. The
14 Department of State Police shall conduct an investigation to
15 ascertain if the applicant has been convicted of any of the
16 above enumerated offenses. The Department shall charge the
17 private carrier company a fee for conducting the investigation,
18 which fee shall be deposited in the State Police Services Fund
19 and shall not exceed the cost of the inquiry; and the applicant
20 shall not be charged a fee for such investigation by the
21 private carrier company. The Department of State Police shall
22 furnish, pursuant to positive identification, records of
23 convictions, until expunged, to the private carrier company
24 which requested the investigation. A copy of the record of
25 convictions obtained from the Department shall be provided to
26 the applicant. Any record of conviction received by the private

1 carrier company shall be confidential. Any person who releases
2 any confidential information concerning any criminal
3 convictions of an applicant shall be guilty of a Class A
4 misdemeanor, unless authorized by this Section.

5 (Source: P.A. 96-1551, Article 1, Section 920, eff. 7-1-11;
6 96-1551, Article 2, Section 960, eff. 7-1-11; revised 9-30-11.)

7 Section 10. The Illinois Vehicle Code is amended by
8 changing Section 6-106.1 as follows:

9 (625 ILCS 5/6-106.1)

10 Sec. 6-106.1. School bus driver permit.

11 (a) The Secretary of State shall issue a school bus driver
12 permit to those applicants who have met all the requirements of
13 the application and screening process under this Section to
14 insure the welfare and safety of children who are transported
15 on school buses throughout the State of Illinois. Applicants
16 shall obtain the proper application required by the Secretary
17 of State from their prospective or current employer and submit
18 the completed application to the prospective or current
19 employer along with the necessary fingerprint submission as
20 required by the Department of State Police to conduct
21 fingerprint based criminal background checks on current and
22 future information available in the state system and current
23 information available through the Federal Bureau of
24 Investigation's system. Applicants who have completed the

1 fingerprinting requirements shall not be subjected to the
2 fingerprinting process when applying for subsequent permits or
3 submitting proof of successful completion of the annual
4 refresher course. Individuals who on the effective date of this
5 Act possess a valid school bus driver permit that has been
6 previously issued by the appropriate Regional School
7 Superintendent are not subject to the fingerprinting
8 provisions of this Section as long as the permit remains valid
9 and does not lapse. The applicant shall be required to pay all
10 related application and fingerprinting fees as established by
11 rule including, but not limited to, the amounts established by
12 the Department of State Police and the Federal Bureau of
13 Investigation to process fingerprint based criminal background
14 investigations. All fees paid for fingerprint processing
15 services under this Section shall be deposited into the State
16 Police Services Fund for the cost incurred in processing the
17 fingerprint based criminal background investigations. All
18 other fees paid under this Section shall be deposited into the
19 Road Fund for the purpose of defraying the costs of the
20 Secretary of State in administering this Section. All
21 applicants must:

- 22 1. be 21 years of age or older;
- 23 2. possess a valid and properly classified driver's
24 license issued by the Secretary of State;
- 25 3. possess a valid driver's license, which has not been
26 revoked, suspended, or canceled for 3 years immediately

1 prior to the date of application, or have not had his or
2 her commercial motor vehicle driving privileges
3 disqualified within the 3 years immediately prior to the
4 date of application;

5 4. successfully pass a written test, administered by
6 the Secretary of State, on school bus operation, school bus
7 safety, and special traffic laws relating to school buses
8 and submit to a review of the applicant's driving habits by
9 the Secretary of State at the time the written test is
10 given;

11 5. demonstrate ability to exercise reasonable care in
12 the operation of school buses in accordance with rules
13 promulgated by the Secretary of State;

14 6. demonstrate physical fitness to operate school
15 buses by submitting the results of a medical examination,
16 including tests for drug use for each applicant not subject
17 to such testing pursuant to federal law, conducted by a
18 licensed physician, an advanced practice nurse who has a
19 written collaborative agreement with a collaborating
20 physician which authorizes him or her to perform medical
21 examinations, or a physician assistant who has been
22 delegated the performance of medical examinations by his or
23 her supervising physician within 90 days of the date of
24 application according to standards promulgated by the
25 Secretary of State;

26 7. affirm under penalties of perjury that he or she has

1 not made a false statement or knowingly concealed a
2 material fact in any application for permit;

3 8. have completed an initial classroom course,
4 including first aid procedures, in school bus driver safety
5 as promulgated by the Secretary of State; and after
6 satisfactory completion of said initial course an annual
7 refresher course; such courses and the agency or
8 organization conducting such courses shall be approved by
9 the Secretary of State; failure to complete the annual
10 refresher course, shall result in cancellation of the
11 permit until such course is completed;

12 9. not have been under an order of court supervision
13 for or convicted of 2 or more serious traffic offenses, as
14 defined by rule, within one year prior to the date of
15 application that may endanger the life or safety of any of
16 the driver's passengers within the duration of the permit
17 period;

18 10. not have been under an order of court supervision
19 for or convicted of reckless driving, aggravated reckless
20 driving, driving while under the influence of alcohol,
21 other drug or drugs, intoxicating compound or compounds or
22 any combination thereof, or reckless homicide resulting
23 from the operation of a motor vehicle within 3 years of the
24 date of application;

25 11. not have been convicted of committing or attempting
26 to commit any one or more of the following offenses: (i)

1 those offenses defined in Sections 8-1.2, 9-1, 9-1.2, 9-2,
2 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5,
3 10-5.1, 10-6, 10-7, 10-9, 11-1.20, 11-1.30, 11-1.40,
4 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6, 11-9, 11-9.1,
5 11-9.3, 11-9.4, 11-14, 11-14.1, 11-14.3, 11-14.4, 11-15,
6 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19,
7 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3,
8 11-21, 11-22, 11-23, 11-24, 11-25, 11-26, 11-30, 12-2.6,
9 12-3.1, 12-4, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4,
10 12-4.5, 12-4.6, 12-4.7, 12-4.9, 12-5.01, 12-6, 12-6.2,
11 12-7.1, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14,
12 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33,
13 16-16, 16-16.1, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1,
14 20-1.2, 20-1.3, 20-2, 24-1, 24-1.1, 24-1.2, 24-1.2-5,
15 24-1.6, 24-1.7, 24-2.1, 24-3.3, 24-3.5, 31A-1, 31A-1.1,
16 33A-2, and 33D-1, and in subsection (b) of Section 8-1, and
17 in subdivisions (a) (1), (a) (1.5), (a) (2), (b) (1), (e) (1),
18 (e) (2), (e) (3), (e) (4), and (f) (1) of Section 12-3.05, and
19 in subsection (a) and subsection (b), clause (1), of
20 Section 12-4, and in subsection (A), clauses (a) and (b),
21 of Section 24-3, and those offenses contained in Article
22 29D of the Criminal Code of 1961; (ii) those offenses
23 defined in the Cannabis Control Act except those offenses
24 defined in subsections (a) and (b) of Section 4, and
25 subsection (a) of Section 5 of the Cannabis Control Act;
26 (iii) those offenses defined in the Illinois Controlled

1 Substances Act; (iv) those offenses defined in the
2 Methamphetamine Control and Community Protection Act; (v)
3 any offense committed or attempted in any other state or
4 against the laws of the United States, which if committed
5 or attempted in this State would be punishable as one or
6 more of the foregoing offenses; (vi) the offenses defined
7 in Section 4.1 and 5.1 of the Wrongs to Children Act or
8 Section 11-9.1A of the Criminal Code of 1961; (vii) those
9 offenses defined in Section 6-16 of the Liquor Control Act
10 of 1934; and (viii) those offenses defined in the
11 Methamphetamine Precursor Control Act;

12 12. not have been repeatedly involved as a driver in
13 motor vehicle collisions or been repeatedly convicted of
14 offenses against laws and ordinances regulating the
15 movement of traffic, to a degree which indicates lack of
16 ability to exercise ordinary and reasonable care in the
17 safe operation of a motor vehicle or disrespect for the
18 traffic laws and the safety of other persons upon the
19 highway;

20 13. not have, through the unlawful operation of a motor
21 vehicle, caused an accident resulting in the death of any
22 person;

23 14. not have, within the last 5 years, been adjudged to
24 be afflicted with or suffering from any mental disability
25 or disease; and

26 15. consent, in writing, to the release of results of

1 reasonable suspicion drug and alcohol testing under
2 Section 6-106.1c of this Code by the employer of the
3 applicant to the Secretary of State.

4 (b) A school bus driver permit shall be valid for a period
5 specified by the Secretary of State as set forth by rule. It
6 shall be renewable upon compliance with subsection (a) of this
7 Section.

8 (c) A school bus driver permit shall contain the holder's
9 driver's license number, legal name, residence address, zip
10 code, and date of birth, a brief description of the holder and
11 a space for signature. The Secretary of State may require a
12 suitable photograph of the holder.

13 (d) The employer shall be responsible for conducting a
14 pre-employment interview with prospective school bus driver
15 candidates, distributing school bus driver applications and
16 medical forms to be completed by the applicant, and submitting
17 the applicant's fingerprint cards to the Department of State
18 Police that are required for the criminal background
19 investigations. The employer shall certify in writing to the
20 Secretary of State that all pre-employment conditions have been
21 successfully completed including the successful completion of
22 an Illinois specific criminal background investigation through
23 the Department of State Police and the submission of necessary
24 fingerprints to the Federal Bureau of Investigation for
25 criminal history information available through the Federal
26 Bureau of Investigation system. The applicant shall present the

1 certification to the Secretary of State at the time of
2 submitting the school bus driver permit application.

3 (e) Permits shall initially be provisional upon receiving
4 certification from the employer that all pre-employment
5 conditions have been successfully completed, and upon
6 successful completion of all training and examination
7 requirements for the classification of the vehicle to be
8 operated, the Secretary of State shall provisionally issue a
9 School Bus Driver Permit. The permit shall remain in a
10 provisional status pending the completion of the Federal Bureau
11 of Investigation's criminal background investigation based
12 upon fingerprinting specimens submitted to the Federal Bureau
13 of Investigation by the Department of State Police. The Federal
14 Bureau of Investigation shall report the findings directly to
15 the Secretary of State. The Secretary of State shall remove the
16 bus driver permit from provisional status upon the applicant's
17 successful completion of the Federal Bureau of Investigation's
18 criminal background investigation.

19 (f) A school bus driver permit holder shall notify the
20 employer and the Secretary of State if he or she is issued an
21 order of court supervision for or convicted in another state of
22 an offense that would make him or her ineligible for a permit
23 under subsection (a) of this Section. The written notification
24 shall be made within 5 days of the entry of the order of court
25 supervision or conviction. Failure of the permit holder to
26 provide the notification is punishable as a petty offense for a

1 first violation and a Class B misdemeanor for a second or
2 subsequent violation.

3 (g) Cancellation; suspension; notice and procedure.

4 (1) The Secretary of State shall cancel a school bus
5 driver permit of an applicant whose criminal background
6 investigation discloses that he or she is not in compliance
7 with the provisions of subsection (a) of this Section.

8 (2) The Secretary of State shall cancel a school bus
9 driver permit when he or she receives notice that the
10 permit holder fails to comply with any provision of this
11 Section or any rule promulgated for the administration of
12 this Section.

13 (3) The Secretary of State shall cancel a school bus
14 driver permit if the permit holder's restricted commercial
15 or commercial driving privileges are withdrawn or
16 otherwise invalidated.

17 (4) The Secretary of State may not issue a school bus
18 driver permit for a period of 3 years to an applicant who
19 fails to obtain a negative result on a drug test as
20 required in item 6 of subsection (a) of this Section or
21 under federal law.

22 (5) The Secretary of State shall forthwith suspend a
23 school bus driver permit for a period of 3 years upon
24 receiving notice that the holder has failed to obtain a
25 negative result on a drug test as required in item 6 of
26 subsection (a) of this Section or under federal law.

1 (6) The Secretary of State shall suspend a school bus
2 driver permit for a period of 3 years upon receiving notice
3 from the employer that the holder failed to perform the
4 inspection procedure set forth in subsection (a) or (b) of
5 Section 12-816 of this Code.

6 (7) The Secretary of State shall suspend a school bus
7 driver permit for a period of 3 years upon receiving notice
8 from the employer that the holder refused to submit to an
9 alcohol or drug test as required by Section 6-106.1c or has
10 submitted to a test required by that Section which
11 disclosed an alcohol concentration of more than 0.00 or
12 disclosed a positive result on a National Institute on Drug
13 Abuse five-drug panel, utilizing federal standards set
14 forth in 49 CFR 40.87.

15 The Secretary of State shall notify the State
16 Superintendent of Education and the permit holder's
17 prospective or current employer that the applicant has (1) has
18 failed a criminal background investigation or (2) is no longer
19 eligible for a school bus driver permit; and of the related
20 cancellation of the applicant's provisional school bus driver
21 permit. The cancellation shall remain in effect pending the
22 outcome of a hearing pursuant to Section 2-118 of this Code.
23 The scope of the hearing shall be limited to the issuance
24 criteria contained in subsection (a) of this Section. A
25 petition requesting a hearing shall be submitted to the
26 Secretary of State and shall contain the reason the individual

1 feels he or she is entitled to a school bus driver permit. The
2 permit holder's employer shall notify in writing to the
3 Secretary of State that the employer has certified the removal
4 of the offending school bus driver from service prior to the
5 start of that school bus driver's next workshift. An employing
6 school board that fails to remove the offending school bus
7 driver from service is subject to the penalties defined in
8 Section 3-14.23 of the School Code. A school bus contractor who
9 violates a provision of this Section is subject to the
10 penalties defined in Section 6-106.11.

11 All valid school bus driver permits issued under this
12 Section prior to January 1, 1995, shall remain effective until
13 their expiration date unless otherwise invalidated.

14 (h) When a school bus driver permit holder who is a service
15 member is called to active duty, the employer of the permit
16 holder shall notify the Secretary of State, within 30 days of
17 notification from the permit holder, that the permit holder has
18 been called to active duty. Upon notification pursuant to this
19 subsection, (i) the Secretary of State shall characterize the
20 permit as inactive until a permit holder renews the permit as
21 provided in subsection (i) of this Section, and (ii) if a
22 permit holder fails to comply with the requirements of this
23 Section while called to active duty, the Secretary of State
24 shall not characterize the permit as invalid.

25 (i) A school bus driver permit holder who is a service
26 member returning from active duty must, within 90 days, renew a

1 permit characterized as inactive pursuant to subsection (h) of
2 this Section by complying with the renewal requirements of
3 subsection (b) of this Section.

4 (j) For purposes of subsections (h) and (i) of this
5 Section:

6 "Active duty" means active duty pursuant to an executive
7 order of the President of the United States, an act of the
8 Congress of the United States, or an order of the Governor.

9 "Service member" means a member of the Armed Services or
10 reserve forces of the United States or a member of the Illinois
11 National Guard.

12 (Source: P.A. 96-89, eff. 7-27-09; 96-818, eff. 11-17-09;
13 96-962, eff. 7-2-10; 96-1000, eff. 7-2-10; 96-1182, eff.
14 7-22-10; 96-1551, Article 1, Section 950, eff. 7-1-11; 96-1551,
15 Article 2, Section 1025, eff. 7-1-11; 97-224, eff. 7-28-11;
16 97-229, eff. 7-28-11; 97-333, eff. 8-12-11; 97-466, eff.
17 1-1-12; revised 9-15-11.)

18 Section 15. The Criminal Code of 1961 is amended by
19 changing Sections 12-3.05 and 36-1 as follows:

20 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

21 Sec. 12-3.05. Aggravated battery.

22 (a) Offense based on injury. A person commits aggravated
23 battery when, in committing a battery, other than by the
24 discharge of a firearm, he or she knowingly does any of the

1 following:

2 (1) Causes great bodily harm ~~or permanent disability or~~
3 ~~disfigurement.~~

4 (1.5) Causes permanent disability or disfigurement.

5 (2) Causes severe and permanent disability, great
6 bodily harm, or disfigurement by means of a caustic or
7 flammable substance, a poisonous gas, a deadly biological
8 or chemical contaminant or agent, a radioactive substance,
9 or a bomb or explosive compound.

10 (3) Causes great bodily harm or permanent disability or
11 disfigurement to an individual whom the person knows to be
12 a peace officer, community policing volunteer, fireman,
13 private security officer, correctional institution
14 employee, or Department of Human Services employee
15 supervising or controlling sexually dangerous persons or
16 sexually violent persons:

17 (i) performing his or her official duties;

18 (ii) battered to prevent performance of his or her
19 official duties; or

20 (iii) battered in retaliation for performing his
21 or her official duties.

22 (4) Causes great bodily harm or permanent disability or
23 disfigurement to an individual 60 years of age or older.

24 (5) Strangles another individual.

25 (b) Offense based on injury to a child or intellectually
26 disabled ~~mentally retarded~~ person. A person who is at least 18

1 years of age commits aggravated battery when, in committing a
2 battery, he or she knowingly and without legal justification by
3 any means:

4 (1) causes great bodily harm or permanent disability or
5 disfigurement to any child under the age of 13 years, or to
6 any severely or profoundly intellectually disabled
7 ~~mentally retarded~~ person; or

8 (2) causes bodily harm or disability or disfigurement
9 to any child under the age of 13 years or to any severely
10 or profoundly intellectually disabled ~~mentally retarded~~
11 person.

12 (c) Offense based on location of conduct. A person commits
13 aggravated battery when, in committing a battery, other than by
14 the discharge of a firearm, he or she is or the person battered
15 is on or about a public way, public property, a public place of
16 accommodation or amusement, a sports venue, or a domestic
17 violence shelter.

18 (d) Offense based on status of victim. A person commits
19 aggravated battery when, in committing a battery, other than by
20 discharge of a firearm, he or she knows the individual battered
21 to be any of the following:

22 (1) A person 60 years of age or older.

23 (2) A person who is pregnant or physically handicapped.

24 (3) A teacher or school employee upon school grounds or
25 grounds adjacent to a school or in any part of a building
26 used for school purposes.

1 (4) A peace officer, community policing volunteer,
2 fireman, private security officer, correctional
3 institution employee, or Department of Human Services
4 employee supervising or controlling sexually dangerous
5 persons or sexually violent persons:

6 (i) performing his or her official duties;

7 (ii) battered to prevent performance of his or her
8 official duties; or

9 (iii) battered in retaliation for performing his
10 or her official duties.

11 (5) A judge, emergency management worker, emergency
12 medical technician, or utility worker:

13 (i) performing his or her official duties;

14 (ii) battered to prevent performance of his or her
15 official duties; or

16 (iii) battered in retaliation for performing his
17 or her official duties.

18 (6) An officer or employee of the State of Illinois, a
19 unit of local government, or a school district, while
20 performing his or her official duties.

21 (7) A transit employee performing his or her official
22 duties, or a transit passenger.

23 (8) A taxi driver on duty.

24 (9) A merchant who detains the person for an alleged
25 commission of retail theft under Section 16-26 of this Code
26 and the person without legal justification by any means

1 causes bodily harm to the merchant.

2 (10) A person authorized to serve process under Section
3 2-202 of the Code of Civil Procedure or a special process
4 server appointed by the circuit court while that individual
5 is in the performance of his or her duties as a process
6 server.

7 (e) Offense based on use of a firearm. A person commits
8 aggravated battery when, in committing a battery, he or she
9 knowingly does any of the following:

10 (1) Discharges a firearm, other than a machine gun or a
11 firearm equipped with a silencer, and causes any injury to
12 another person.

13 (2) Discharges a firearm, other than a machine gun or a
14 firearm equipped with a silencer, and causes any injury to
15 a person he or she knows to be a peace officer, community
16 policing volunteer, person summoned by a police officer,
17 fireman, private security officer, correctional
18 institution employee, or emergency management worker:

19 (i) performing his or her official duties;

20 (ii) battered to prevent performance of his or her
21 official duties; or

22 (iii) battered in retaliation for performing his
23 or her official duties.

24 (3) Discharges a firearm, other than a machine gun or a
25 firearm equipped with a silencer, and causes any injury to
26 a person he or she knows to be an emergency medical

1 technician employed by a municipality or other
2 governmental unit:

3 (i) performing his or her official duties;

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

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

8 (4) Discharges a firearm and causes any injury to a
9 person he or she knows to be a teacher, a student in a
10 school, or a school employee, and the teacher, student, or
11 employee is upon school grounds or grounds adjacent to a
12 school or in any part of a building used for school
13 purposes.

14 (5) Discharges a machine gun or a firearm equipped with
15 a silencer, and causes any injury to another person.

16 (6) Discharges a machine gun or a firearm equipped with
17 a silencer, and causes any injury to a person he or she
18 knows to be a peace officer, community policing volunteer,
19 person summoned by a police officer, fireman, private
20 security officer, correctional institution employee or
21 emergency management worker:

22 (i) performing his or her official duties;

23 (ii) battered to prevent performance of his or her
24 official duties; or

25 (iii) battered in retaliation for performing his
26 or her official duties.

1 (7) Discharges a machine gun or a firearm equipped with
2 a silencer, and causes any injury to a person he or she
3 knows to be an emergency medical technician employed by a
4 municipality or other governmental unit:

5 (i) performing his or her official duties;

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

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

10 (8) Discharges a machine gun or a firearm equipped with
11 a silencer, and causes any injury to a person he or she
12 knows to be a teacher, or a student in a school, or a
13 school employee, and the teacher, student, or employee is
14 upon school grounds or grounds adjacent to a school or in
15 any part of a building used for school purposes.

16 (f) Offense based on use of a weapon or device. A person
17 commits aggravated battery when, in committing a battery, he or
18 she does any of the following:

19 (1) Uses a deadly weapon other than by discharge of a
20 firearm, or uses an air rifle as defined in the Air Rifle
21 Act.

22 (2) Wears a hood, robe, or mask to conceal his or her
23 identity.

24 (3) Knowingly and without lawful justification shines
25 or flashes a laser gunsight or other laser device attached
26 to a firearm, or used in concert with a firearm, so that

1 the laser beam strikes upon or against the person of
2 another.

3 (g) Offense based on certain conduct. A person commits
4 aggravated battery when, other than by discharge of a firearm,
5 he or she does any of the following:

6 (1) Violates Section 401 of the Illinois Controlled
7 Substances Act by unlawfully delivering a controlled
8 substance to another and any user experiences great bodily
9 harm or permanent disability as a result of the injection,
10 inhalation, or ingestion of any amount of the controlled
11 substance.

12 (2) Knowingly administers to an individual or causes
13 him or her to take, without his or her consent or by threat
14 or deception, and for other than medical purposes, any
15 intoxicating, poisonous, stupefying, narcotic, anesthetic,
16 or controlled substance, or gives to another person any
17 food containing any substance or object intended to cause
18 physical injury if eaten.

19 (3) Knowingly causes or attempts to cause a
20 correctional institution employee or Department of Human
21 Services employee to come into contact with blood, seminal
22 fluid, urine, or feces by throwing, tossing, or expelling
23 the fluid or material, and the person is an inmate of a
24 penal institution or is a sexually dangerous person or
25 sexually violent person in the custody of the Department of
26 Human Services.

1 (h) Sentence. Unless otherwise provided, aggravated
2 battery is a Class 3 felony.

3 Aggravated battery as defined in subdivision (a)(1.5),
4 (a)(4), (d)(4), or (g)(3) is a Class 2 felony.

5 Aggravated battery as defined in subdivision (a)(3) or
6 (g)(1) is a Class 1 felony.

7 Aggravated battery as defined in subdivision (a)(1) is a
8 Class 1 felony when the aggravated battery was intentional and
9 involved the infliction of torture, as defined in paragraph
10 (14) of subsection (b) of Section 9-1 of this Code, as the
11 infliction of or subjection to extreme physical pain, motivated
12 by an intent to increase or prolong the pain, suffering, or
13 agony of the victim.

14 Aggravated battery under subdivision (a)(5) is a Class 1
15 felony if:

16 (A) the person used or attempted to use a dangerous
17 instrument while committing the offense; or

18 (B) the person caused great bodily harm or permanent
19 disability or disfigurement to the other person while
20 committing the offense; or

21 (C) the person has been previously convicted of a
22 violation of subdivision (a)(5) under the laws of this
23 State or laws similar to subdivision (a)(5) of any other
24 state.

25 Aggravated battery as defined in subdivision (e)(1) is a
26 Class X felony.

1 Aggravated battery as defined in subdivision (a)(2) is a
2 Class X felony for which a person shall be sentenced to a term
3 of imprisonment of a minimum of 6 years and a maximum of 45
4 years.

5 Aggravated battery as defined in subdivision (e)(5) is a
6 Class X felony for which a person shall be sentenced to a term
7 of imprisonment of a minimum of 12 years and a maximum of 45
8 years.

9 Aggravated battery as defined in subdivision (e)(2),
10 (e)(3), or (e)(4) is a Class X felony for which a person shall
11 be sentenced to a term of imprisonment of a minimum of 15 years
12 and a maximum of 60 years.

13 Aggravated battery as defined in subdivision (e)(6),
14 (e)(7), or (e)(8) is a Class X felony for which a person shall
15 be sentenced to a term of imprisonment of a minimum of 20 years
16 and a maximum of 60 years.

17 Aggravated battery as defined in subdivision (b)(1) is a
18 Class X felony, except that:

19 (1) if the person committed the offense while armed
20 with a firearm, 15 years shall be added to the term of
21 imprisonment imposed by the court;

22 (2) if, during the commission of the offense, the
23 person personally discharged a firearm, 20 years shall be
24 added to the term of imprisonment imposed by the court;

25 (3) if, during the commission of the offense, the
26 person personally discharged a firearm that proximately

1 caused great bodily harm, permanent disability, permanent
2 disfigurement, or death to another person, 25 years or up
3 to a term of natural life shall be added to the term of
4 imprisonment imposed by the court.

5 (i) Definitions. For the purposes of this Section:

6 "Building or other structure used to provide shelter" has
7 the meaning ascribed to "shelter" in Section 1 of the Domestic
8 Violence Shelters Act.

9 "Domestic violence" has the meaning ascribed to it in
10 Section 103 of the Illinois Domestic Violence Act of 1986.

11 "Domestic violence shelter" means any building or other
12 structure used to provide shelter or other services to victims
13 or to the dependent children of victims of domestic violence
14 pursuant to the Illinois Domestic Violence Act of 1986 or the
15 Domestic Violence Shelters Act, or any place within 500 feet of
16 such a building or other structure in the case of a person who
17 is going to or from such a building or other structure.

18 "Firearm" has the meaning provided under Section 1.1 of the
19 Firearm Owners Identification Card Act, and does not include an
20 air rifle as defined by Section 1 of the Air Rifle Act.

21 "Machine gun" has the meaning ascribed to it in Section
22 24-1 of this Code.

23 "Merchant" has the meaning ascribed to it in Section 16-0.1
24 of this Code.

25 "Strangle" means intentionally impeding the normal
26 breathing or circulation of the blood of an individual by

1 applying pressure on the throat or neck of that individual or
2 by blocking the nose or mouth of that individual.

3 (Source: P.A. 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
4 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-597, eff.
5 1-1-12; incorporates 97-227, eff. 1-1-12, 97-313, eff. 1-1-12,
6 and 97-467, eff. 1-1-12; revised 10-12-11.)

7 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

8 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
9 with the knowledge and consent of the owner in the commission
10 of, or in the attempt to commit as defined in Section 8-4 of
11 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
12 11-1.20, 11-1.30, 11-1.40, 11-6, 11-14.4 except for keeping a
13 place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
14 11-20.1, 11-20.1B, 11-20.3, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3,
15 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft is of
16 precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3, 20-1,
17 20-2, 24-1.2, 24-1.2-5, 24-1.5, 28-1, or 29D-15.2 of this Code,
18 subdivision (a) (1), (a) (1.5), (a) (2), (a) (4), (b) (1), (e) (1),
19 (e) (2), (e) (3), (e) (4), (e) (5), (e) (6), or (e) (7) of Section
20 12-3.05, paragraph (a) of Section 12-4 of this Code, paragraph
21 (a) of Section 11-1.50, paragraph (a) of Section 12-15,
22 paragraph (a), (c), or (d) of Section 11-1.60, or paragraphs
23 (a), (c) or (d) of Section 12-16 of this Code, or paragraph
24 (a) (6) or (a) (7) of Section 24-1 of this Code; (b) Section 21,
25 22, 23, 24 or 26 of the Cigarette Tax Act if the vessel,

1 vehicle or aircraft contains more than 10 cartons of such
2 cigarettes; (c) Section 28, 29 or 30 of the Cigarette Use Tax
3 Act if the vessel, vehicle or aircraft contains more than 10
4 cartons of such cigarettes; (d) Section 44 of the Environmental
5 Protection Act; (e) 11-204.1 of the Illinois Vehicle Code; (f)
6 (1) driving under the influence of alcohol or other drug or
7 drugs, intoxicating compound or compounds or any combination
8 thereof under Section 11-501 of the Illinois Vehicle Code
9 during a period in which his or her driving privileges are
10 revoked or suspended where the revocation or suspension was for
11 driving under the influence of alcohol or other drug or drugs,
12 intoxicating compound or compounds or any combination thereof,
13 Section 11-501.1, paragraph (b) of Section 11-401, or for
14 reckless homicide as defined in Section 9-3 of the Criminal
15 Code of 1961; (2) driving while under the influence of alcohol,
16 other drug or drugs, intoxicating compound or compounds or any
17 combination thereof and has been previously convicted of
18 reckless homicide or a similar provision of a law of another
19 state relating to reckless homicide in which the person was
20 determined to have been under the influence of alcohol, other
21 drug or drugs, or intoxicating compound or compounds as an
22 element of the offense or the person has previously been
23 convicted of committing a violation of driving under the
24 influence of alcohol or other drug or drugs, intoxicating
25 compound or compounds or any combination thereof and was
26 involved in a motor vehicle accident that resulted in death,

1 great bodily harm, or permanent disability or disfigurement to
2 another, when the violation was a proximate cause of the death
3 or injuries; (3) the person committed a violation of driving
4 under the influence of alcohol or other drug or drugs,
5 intoxicating compound or compounds or any combination thereof
6 under Section 11-501 of the Illinois Vehicle Code or a similar
7 provision for the third or subsequent time; (4) the person
8 committed the violation while he or she did not possess a
9 driver's license or permit or a restricted driving permit or a
10 judicial driving permit or a monitoring device driving permit;
11 or (5) the person committed the violation while he or she knew
12 or should have known that the vehicle he or she was driving was
13 not covered by a liability insurance policy; (g) an offense
14 described in subsection (g) of Section 6-303 of the Illinois
15 Vehicle Code; or (h) an offense described in subsection (e) of
16 Section 6-101 of the Illinois Vehicle Code; may be seized and
17 delivered forthwith to the sheriff of the county of seizure.

18 Within 15 days after such delivery the sheriff shall give
19 notice of seizure to each person according to the following
20 method: Upon each such person whose right, title or interest is
21 of record in the office of the Secretary of State, the
22 Secretary of Transportation, the Administrator of the Federal
23 Aviation Agency, or any other Department of this State, or any
24 other state of the United States if such vessel, vehicle or
25 aircraft is required to be so registered, as the case may be,
26 by mailing a copy of the notice by certified mail to the

1 address as given upon the records of the Secretary of State,
2 the Department of Aeronautics, Department of Public Works and
3 Buildings or any other Department of this State or the United
4 States if such vessel, vehicle or aircraft is required to be so
5 registered. Within that 15 day period the sheriff shall also
6 notify the State's Attorney of the county of seizure about the
7 seizure.

8 In addition, any mobile or portable equipment used in the
9 commission of an act which is in violation of Section 7g of the
10 Metropolitan Water Reclamation District Act shall be subject to
11 seizure and forfeiture under the same procedures provided in
12 this Article for the seizure and forfeiture of vessels,
13 vehicles and aircraft, and any such equipment shall be deemed a
14 vessel, vehicle or aircraft for purposes of this Article.

15 When a person discharges a firearm at another individual
16 from a vehicle with the knowledge and consent of the owner of
17 the vehicle and with the intent to cause death or great bodily
18 harm to that individual and as a result causes death or great
19 bodily harm to that individual, the vehicle shall be subject to
20 seizure and forfeiture under the same procedures provided in
21 this Article for the seizure and forfeiture of vehicles used in
22 violations of clauses (a), (b), (c), or (d) of this Section.

23 If the spouse of the owner of a vehicle seized for an
24 offense described in subsection (g) of Section 6-303 of the
25 Illinois Vehicle Code, a violation of subdivision (d)(1)(A),
26 (d)(1)(D), (d)(1)(G), (d)(1)(H), or (d)(1)(I) of Section

1 11-501 of the Illinois Vehicle Code, or Section 9-3 of this
2 Code makes a showing that the seized vehicle is the only source
3 of transportation and it is determined that the financial
4 hardship to the family as a result of the seizure outweighs the
5 benefit to the State from the seizure, the vehicle may be
6 forfeited to the spouse or family member and the title to the
7 vehicle shall be transferred to the spouse or family member who
8 is properly licensed and who requires the use of the vehicle
9 for employment or family transportation purposes. A written
10 declaration of forfeiture of a vehicle under this Section shall
11 be sufficient cause for the title to be transferred to the
12 spouse or family member. The provisions of this paragraph shall
13 apply only to one forfeiture per vehicle. If the vehicle is the
14 subject of a subsequent forfeiture proceeding by virtue of a
15 subsequent conviction of either spouse or the family member,
16 the spouse or family member to whom the vehicle was forfeited
17 under the first forfeiture proceeding may not utilize the
18 provisions of this paragraph in another forfeiture proceeding.
19 If the owner of the vehicle seized owns more than one vehicle,
20 the procedure set out in this paragraph may be used for only
21 one vehicle.

22 Property declared contraband under Section 40 of the
23 Illinois Streetgang Terrorism Omnibus Prevention Act may be
24 seized and forfeited under this Article.

25 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10;
26 96-1000, eff. 7-2-10; 96-1267, eff. 7-26-10; 96-1289, eff.

1 1-1-11; 96-1551, Article 1, Section 960, eff. 7-1-11; 96-1551,
2 Article 2, Section 1035, eff. 7-1-11; 97-333, eff. 8-12-11;
3 revised 9-14-11.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.