



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3783

by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-805

720 ILCS 5/12-3.05

was 720 ILCS 5/12-4

Amends the Juvenile Court Act of 1987. Provides that if a petition alleges commission by a minor 15 years of age or older of an act that constitutes the offense of aggravated battery by committing battery with the specific intent to cause another person to lose consciousness, the Juvenile Judge designated to hear and determine those motions shall, upon determining that there is probable cause that the allegations are true, enter an order permitting prosecution under the criminal laws of Illinois. Amends the Criminal Code of 2012. Provides that it is aggravated battery to commit a battery upon a person with the specific intent to cause that person to lose consciousness. Provides that the offense is a Class 2 felony.

LRB098 15211 RLC 50200 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 Juvenile Court Act of 1987 is amended by  
5 changing Section 5-805 as follows:

6 (705 ILCS 405/5-805)

7 Sec. 5-805. Transfer of jurisdiction.

8 (1) Mandatory transfers.

9 (a) If a petition alleges commission by a minor 15  
10 years of age or older of an act that constitutes a forcible  
11 felony under the laws of this State, and if a motion by the  
12 State's Attorney to prosecute the minor under the criminal  
13 laws of Illinois for the alleged forcible felony alleges  
14 that (i) the minor has previously been adjudicated  
15 delinquent or found guilty for commission of an act that  
16 constitutes a felony under the laws of this State or any  
17 other state and (ii) the act that constitutes the offense  
18 was committed in furtherance of criminal activity by an  
19 organized gang, the Juvenile Judge assigned to hear and  
20 determine those motions shall, upon determining that there  
21 is probable cause that both allegations are true, enter an  
22 order permitting prosecution under the criminal laws of  
23 Illinois.

1 (b) If a petition alleges commission by a minor 15  
2 years of age or older of an act that constitutes a felony  
3 under the laws of this State, and if a motion by a State's  
4 Attorney to prosecute the minor under the criminal laws of  
5 Illinois for the alleged felony alleges that (i) the minor  
6 has previously been adjudicated delinquent or found guilty  
7 for commission of an act that constitutes a forcible felony  
8 under the laws of this State or any other state and (ii)  
9 the act that constitutes the offense was committed in  
10 furtherance of criminal activities by an organized gang,  
11 the Juvenile Judge assigned to hear and determine those  
12 motions shall, upon determining that there is probable  
13 cause that both allegations are true, enter an order  
14 permitting prosecution under the criminal laws of  
15 Illinois.

16 (c) If a petition alleges commission by a minor 15  
17 years of age or older of: (i) an act that constitutes an  
18 offense enumerated in the presumptive transfer provisions  
19 of subsection (2); and (ii) the minor has previously been  
20 adjudicated delinquent or found guilty of a forcible  
21 felony, the Juvenile Judge designated to hear and determine  
22 those motions shall, upon determining that there is  
23 probable cause that both allegations are true, enter an  
24 order permitting prosecution under the criminal laws of  
25 Illinois.

26 (d) If a petition alleges commission by a minor 15

1 years of age or older of an act that constitutes the  
2 offense of aggravated discharge of a firearm committed in a  
3 school, on the real property comprising a school, within  
4 1,000 feet of the real property comprising a school, at a  
5 school related activity, or on, boarding, or departing from  
6 any conveyance owned, leased, or contracted by a school or  
7 school district to transport students to or from school or  
8 a school related activity, regardless of the time of day or  
9 the time of year, the juvenile judge designated to hear and  
10 determine those motions shall, upon determining that there  
11 is probable cause that the allegations are true, enter an  
12 order permitting prosecution under the criminal laws of  
13 Illinois.

14 (e) If a petition alleges commission by a minor 15  
15 years of age or older of an act that constitutes the  
16 offense of aggravated battery under paragraph (4) of  
17 subsection (g) of Section 12-3.05 of the Criminal Code of  
18 2012, the Juvenile Judge designated to hear and determine  
19 those motions shall, upon determining that there is  
20 probable cause that the allegations are true, enter an  
21 order permitting prosecution under the criminal laws of  
22 Illinois.

23 For purposes of this paragraph (d) of subsection (1):

24 "School" means a public or private elementary or  
25 secondary school, community college, college, or  
26 university.

1 "School related activity" means any sporting, social,  
2 academic, or other activity for which students' attendance  
3 or participation is sponsored, organized, or funded in  
4 whole or in part by a school or school district.

5 (2) Presumptive transfer.

6 (a) If the State's Attorney files a petition, at any  
7 time prior to commencement of the minor's trial, to permit  
8 prosecution under the criminal laws and the petition  
9 alleges the commission by a minor 15 years of age or older  
10 of: (i) a Class X felony other than armed violence; (ii)  
11 aggravated discharge of a firearm; (iii) armed violence  
12 with a firearm when the predicate offense is a Class 1 or  
13 Class 2 felony and the State's Attorney's motion to  
14 transfer the case alleges that the offense committed is in  
15 furtherance of the criminal activities of an organized  
16 gang; (iv) armed violence with a firearm when the predicate  
17 offense is a violation of the Illinois Controlled  
18 Substances Act, a violation of the Cannabis Control Act, or  
19 a violation of the Methamphetamine Control and Community  
20 Protection Act; (v) armed violence when the weapon involved  
21 was a machine gun or other weapon described in subsection  
22 (a) (7) of Section 24-1 of the Criminal Code of 1961 or the  
23 Criminal Code of 2012; (vi) an act in violation of Section  
24 401 of the Illinois Controlled Substances Act which is a  
25 Class X felony, while in a school, regardless of the time  
26 of day or the time of year, or on any conveyance owned,

1 leased, or contracted by a school to transport students to  
2 or from school or a school related activity, or on  
3 residential property owned, operated, or managed by a  
4 public housing agency or leased by a public housing agency  
5 as part of a scattered site or mixed-income development; or  
6 (vii) an act in violation of Section 401 of the Illinois  
7 Controlled Substances Act and the offense is alleged to  
8 have occurred while in a school or on a public way within  
9 1,000 feet of the real property comprising any school,  
10 regardless of the time of day or the time of year when the  
11 delivery or intended delivery of any amount of the  
12 controlled substance is to a person under 17 years of age,  
13 (to qualify for a presumptive transfer under paragraph (vi)  
14 or (vii) of this clause (2) (a), the violation cannot be  
15 based upon subsection (b) of Section 407 of the Illinois  
16 Controlled Substances Act) and, if the juvenile judge  
17 assigned to hear and determine motions to transfer a case  
18 for prosecution in the criminal court determines that there  
19 is probable cause to believe that the allegations in the  
20 petition and motion are true, there is a rebuttable  
21 presumption that the minor is not a fit and proper subject  
22 to be dealt with under the Juvenile Justice Reform  
23 Provisions of 1998 (Public Act 90-590), and that, except as  
24 provided in paragraph (b), the case should be transferred  
25 to the criminal court.

26 (b) The judge shall enter an order permitting

1 prosecution under the criminal laws of Illinois unless the  
2 judge makes a finding based on clear and convincing  
3 evidence that the minor would be amenable to the care,  
4 treatment, and training programs available through the  
5 facilities of the juvenile court based on an evaluation of  
6 the following:

7 (i) the age of the minor;

8 (ii) the history of the minor, including:

9 (A) any previous delinquent or criminal  
10 history of the minor,

11 (B) any previous abuse or neglect history of  
12 the minor, and

13 (C) any mental health, physical or educational  
14 history of the minor or combination of these  
15 factors;

16 (iii) the circumstances of the offense, including:

17 (A) the seriousness of the offense,

18 (B) whether the minor is charged through  
19 accountability,

20 (C) whether there is evidence the offense was  
21 committed in an aggressive and premeditated  
22 manner,

23 (D) whether there is evidence the offense  
24 caused serious bodily harm,

25 (E) whether there is evidence the minor  
26 possessed a deadly weapon;

1 (iv) the advantages of treatment within the  
2 juvenile justice system including whether there are  
3 facilities or programs, or both, particularly  
4 available in the juvenile system;

5 (v) whether the security of the public requires  
6 sentencing under Chapter V of the Unified Code of  
7 Corrections:

8 (A) the minor's history of services, including  
9 the minor's willingness to participate  
10 meaningfully in available services;

11 (B) whether there is a reasonable likelihood  
12 that the minor can be rehabilitated before the  
13 expiration of the juvenile court's jurisdiction;

14 (C) the adequacy of the punishment or  
15 services.

16 In considering these factors, the court shall give  
17 greater weight to the seriousness of the alleged offense  
18 and the minor's prior record of delinquency than to the  
19 other factors listed in this subsection.

20 For purposes of clauses (2) (a) (vi) and (vii):

21 "School" means a public or private elementary or secondary  
22 school, community college, college, or university.

23 "School related activity" means any sporting, social,  
24 academic, or other activity for which students' attendance or  
25 participation is sponsored, organized, or funded in whole or in  
26 part by a school or school district.

1 (3) Discretionary transfer.

2 (a) If a petition alleges commission by a minor 13  
3 years of age or over of an act that constitutes a crime  
4 under the laws of this State and, on motion of the State's  
5 Attorney to permit prosecution of the minor under the  
6 criminal laws, a Juvenile Judge assigned by the Chief Judge  
7 of the Circuit to hear and determine those motions, after  
8 hearing but before commencement of the trial, finds that  
9 there is probable cause to believe that the allegations in  
10 the motion are true and that it is not in the best  
11 interests of the public to proceed under this Act, the  
12 court may enter an order permitting prosecution under the  
13 criminal laws.

14 (b) In making its determination on the motion to permit  
15 prosecution under the criminal laws, the court shall  
16 consider among other matters:

17 (i) the age of the minor;

18 (ii) the history of the minor, including:

19 (A) any previous delinquent or criminal  
20 history of the minor,

21 (B) any previous abuse or neglect history of  
22 the minor, and

23 (C) any mental health, physical, or  
24 educational history of the minor or combination of  
25 these factors;

26 (iii) the circumstances of the offense, including:

- 1 (A) the seriousness of the offense,  
2 (B) whether the minor is charged through  
3 accountability,  
4 (C) whether there is evidence the offense was  
5 committed in an aggressive and premeditated  
6 manner,  
7 (D) whether there is evidence the offense  
8 caused serious bodily harm,  
9 (E) whether there is evidence the minor  
10 possessed a deadly weapon;  
11 (iv) the advantages of treatment within the  
12 juvenile justice system including whether there are  
13 facilities or programs, or both, particularly  
14 available in the juvenile system;  
15 (v) whether the security of the public requires  
16 sentencing under Chapter V of the Unified Code of  
17 Corrections:  
18 (A) the minor's history of services, including  
19 the minor's willingness to participate  
20 meaningfully in available services;  
21 (B) whether there is a reasonable likelihood  
22 that the minor can be rehabilitated before the  
23 expiration of the juvenile court's jurisdiction;  
24 (C) the adequacy of the punishment or  
25 services.

26 In considering these factors, the court shall give

1 greater weight to the seriousness of the alleged offense  
2 and the minor's prior record of delinquency than to the  
3 other factors listed in this subsection.

4 (4) The rules of evidence for this hearing shall be the  
5 same as under Section 5-705 of this Act. A minor must be  
6 represented in court by counsel before the hearing may be  
7 commenced.

8 (5) If criminal proceedings are instituted, the petition  
9 for adjudication of wardship shall be dismissed insofar as the  
10 act or acts involved in the criminal proceedings. Taking of  
11 evidence in a trial on petition for adjudication of wardship is  
12 a bar to criminal proceedings based upon the conduct alleged in  
13 the petition.

14 (Source: P.A. 97-1150, eff. 1-25-13.)

15 Section 10. The Criminal Code of 2012 is amended by  
16 changing Section 12-3.05 as follows:

17 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

18 Sec. 12-3.05. Aggravated battery.

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

23 (1) Causes great bodily harm or permanent disability or  
24 disfigurement.

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

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

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

20          (5) Strangles another individual.

21          (b) Offense based on injury to a child or intellectually  
22          disabled person. A person who is at least 18 years of age  
23          commits aggravated battery when, in committing a battery, he or  
24          she knowingly and without legal justification by any means:

25                 (1) causes great bodily harm or permanent disability or  
26          disfigurement to any child under the age of 13 years, or to

1 any severely or profoundly intellectually disabled person;

2 or

3 (2) causes bodily harm or disability or disfigurement  
4 to any child under the age of 13 years or to any severely  
5 or profoundly intellectually disabled person.

6 (c) Offense based on location of conduct. A person commits  
7 aggravated battery when, in committing a battery, other than by  
8 the discharge of a firearm, he or she is or the person battered  
9 is on or about a public way, public property, a public place of  
10 accommodation or amusement, a sports venue, or a domestic  
11 violence shelter.

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

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

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

18 (3) A teacher or school employee upon school grounds or  
19 grounds adjacent to a school or in any part of a building  
20 used for school purposes.

21 (4) A peace officer, community policing volunteer,  
22 fireman, private security officer, correctional  
23 institution employee, or Department of Human Services  
24 employee supervising or controlling sexually dangerous  
25 persons or sexually violent persons:

26 (i) performing his or her official duties;

1           (ii) battered to prevent performance of his or her  
2           official duties; or

3           (iii) battered in retaliation for performing his  
4           or her official duties.

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

7           (i) performing his or her official duties;

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

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

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

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

17          (8) A taxi driver on duty.

18          (9) A merchant who detains the person for an alleged  
19          commission of retail theft under Section 16-26 of this Code  
20          and the person without legal justification by any means  
21          causes bodily harm to the merchant.

22          (10) A person authorized to serve process under Section  
23          2-202 of the Code of Civil Procedure or a special process  
24          server appointed by the circuit court while that individual  
25          is in the performance of his or her duties as a process  
26          server.

1           (11) A nurse while in the performance of his or her  
2           duties as a nurse.

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

6           (1) Discharges a firearm, other than a machine gun or a  
7           firearm equipped with a silencer, and causes any injury to  
8           another person.

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

15                 (i) performing his or her official duties;

16                 (ii) battered to prevent performance of his or her  
17                 official duties; or

18                 (iii) battered in retaliation for performing his  
19                 or her official duties.

20          (3) Discharges a firearm, other than a machine gun or a  
21          firearm equipped with a silencer, and causes any injury to  
22          a person he or she knows to be an emergency medical  
23          technician employed by a municipality or other  
24          governmental unit:

25                 (i) performing his or her official duties;

26                 (ii) battered to prevent performance of his or her

1 official duties; or

2 (iii) battered in retaliation for performing his  
3 or her official duties.

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

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

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

18 (i) performing his or her official duties;

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

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

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

- 1 (i) performing his or her official duties;
- 2 (ii) battered to prevent performance of his or her
- 3 official duties; or
- 4 (iii) battered in retaliation for performing his
- 5 or her official duties.

6 (8) Discharges a machine gun or a firearm equipped with

7 a silencer, and causes any injury to a person he or she

8 knows to be a teacher, or a student in a school, or a

9 school employee, and the teacher, student, or employee is

10 upon school grounds or grounds adjacent to a school or in

11 any part of a building used for school purposes.

12 (f) Offense based on use of a weapon or device. A person

13 commits aggravated battery when, in committing a battery, he or

14 she does any of the following:

15 (1) Uses a deadly weapon other than by discharge of a

16 firearm, or uses an air rifle as defined in Section

17 24.8-0.1 of this Code ~~the Air Rifle Act~~.

18 (2) Wears a hood, robe, or mask to conceal his or her

19 identity.

20 (3) Knowingly and without lawful justification shines

21 or flashes a laser gunsight or other laser device attached

22 to a firearm, or used in concert with a firearm, so that

23 the laser beam strikes upon or against the person of

24 another.

25 (4) Knowingly video or audio records the offense with

26 the intent to disseminate the recording.

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

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

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

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

25 (4) Commits a battery upon a person with the specific  
26 intent to cause that person to lose consciousness.

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

3 Aggravated battery as defined in subdivision (a)(4),  
4 (d)(4), ~~or~~ (g)(3), or (g)(4) 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 24.8-0.1 of this Code.

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. 97-597, eff. 1-1-12; incorporates 97-227, eff.  
4 1-1-12, 97-313, eff. 1-1-12, and 97-467, eff. 1-1-12; 97-1109,  
5 eff. 1-1-13; 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; revised  
6 9-24-13.)