

1 AN ACT concerning criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 9-1, 9-2, 9-3, 12-2, and 12-4.2 as follows:

6 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

7 Sec. 9-1. First degree Murder - Death penalties -
8 Exceptions - Separate Hearings - Proof - Findings - Appellate
9 procedures - Reversals.

10 (a) A person who kills an individual without lawful
11 justification commits first degree murder if, in performing
12 the acts which cause the death:

13 (1) he either intends to kill or do great bodily
14 harm to that individual or another, or knows that such
15 acts will cause death to that individual or another; or

16 (2) he knows that such acts create a strong
17 probability of death or great bodily harm to that
18 individual or another; or

19 (3) he is attempting or committing a forcible
20 felony other than second degree murder.

21 (b) Aggravating Factors. A defendant who at the time of
22 the commission of the offense has attained the age of 18 or
23 more and who has been found guilty of first degree murder may
24 be sentenced to death if:

25 (1) the murdered individual was a peace officer or
26 fireman killed in the course of performing his official
27 duties, to prevent the performance of his official
28 duties, or in retaliation for performing his official
29 duties, and the defendant knew or should have known that
30 the murdered individual was a peace officer or fireman;
31 or

1 (2) the murdered individual was an employee of an
2 institution or facility of the Department of Corrections,
3 or any similar local correctional agency, killed in the
4 course of performing his official duties, to prevent the
5 performance of his official duties, or in retaliation for
6 performing his official duties, or the murdered
7 individual was an inmate at such institution or facility
8 and was killed on the grounds thereof, or the murdered
9 individual was otherwise present in such institution or
10 facility with the knowledge and approval of the chief
11 administrative officer thereof; or

12 (3) the defendant has been convicted of murdering
13 two or more individuals under subsection (a) of this
14 Section or under any law of the United States or of any
15 state which is substantially similar to subsection (a) of
16 this Section regardless of whether the deaths occurred
17 as the result of the same act or of several related or
18 unrelated acts so long as the deaths were the result of
19 either an intent to kill more than one person or of
20 separate acts which the defendant knew would cause death
21 or create a strong probability of death or great bodily
22 harm to the murdered individual or another; or

23 (4) the murdered individual was killed as a result
24 of the hijacking of an airplane, train, ship, bus or
25 other public conveyance; or

26 (5) the defendant committed the murder pursuant to
27 a contract, agreement or understanding by which he was to
28 receive money or anything of value in return for
29 committing the murder or procured another to commit the
30 murder for money or anything of value; or

31 (6) the murdered individual was killed in the
32 course of another felony if:

33 (a) the murdered individual:

34 (i) was actually killed by the defendant,

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or

(ii) received physical injuries personally inflicted by the defendant substantially contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of this Code, and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and

(b) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual under the circumstances of subdivision (ii) of subparagraph (a) of paragraph (6) of subsection (b) of this Section, the defendant acted with the intent to kill the murdered individual or with the knowledge that his acts created a strong probability of death or great bodily harm to the murdered individual or another; and

(c) the other felony was one of the following: armed robbery, armed violence, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, forcible detention, arson, aggravated arson, aggravated stalking, burglary, residential burglary, home invasion, calculated criminal drug conspiracy as defined in Section 405 of the Illinois Controlled Substances Act, streetgang criminal drug conspiracy as defined in Section 405.2 of the Illinois Controlled Substances Act, or the attempt to commit any of the

1 felonies listed in this subsection (c); or

2 (7) the murdered individual was under 12 years of
3 age and the death resulted from exceptionally brutal or
4 heinous behavior indicative of wanton cruelty; or

5 (8) the defendant committed the murder with intent
6 to prevent the murdered individual from testifying in any
7 criminal prosecution or giving material assistance to the
8 State in any investigation or prosecution, either against
9 the defendant or another; or the defendant committed the
10 murder because the murdered individual was a witness in
11 any prosecution or gave material assistance to the State
12 in any investigation or prosecution, either against the
13 defendant or another; or

14 (9) the defendant, while committing an offense
15 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
16 407 or 407.1 or subsection (b) of Section 404 of the
17 Illinois Controlled Substances Act, or while engaged in a
18 conspiracy or solicitation to commit such offense,
19 intentionally killed an individual or counseled,
20 commanded, induced, procured or caused the intentional
21 killing of the murdered individual; or

22 (10) the defendant was incarcerated in an
23 institution or facility of the Department of Corrections
24 at the time of the murder, and while committing an
25 offense punishable as a felony under Illinois law, or
26 while engaged in a conspiracy or solicitation to commit
27 such offense, intentionally killed an individual or
28 counseled, commanded, induced, procured or caused the
29 intentional killing of the murdered individual; or

30 (11) the murder was committed in a cold, calculated
31 and premeditated manner pursuant to a preconceived plan,
32 scheme or design to take a human life by unlawful means,
33 and the conduct of the defendant created a reasonable
34 expectation that the death of a human being would result

1 therefrom; or

2 (12) the murdered individual was an emergency
3 medical technician - ambulance, emergency medical
4 technician - intermediate, emergency medical technician -
5 paramedic, ambulance driver, or other medical assistance
6 or first aid personnel, employed by a municipality or
7 other governmental unit, killed in the course of
8 performing his official duties, to prevent the
9 performance of his official duties, or in retaliation for
10 performing his official duties, and the defendant knew or
11 should have known that the murdered individual was an
12 emergency medical technician - ambulance, emergency
13 medical technician - intermediate, emergency medical
14 technician - paramedic, ambulance driver, or other
15 medical assistance or first aid personnel; or

16 (13) the defendant was a principal administrator,
17 organizer, or leader of a calculated criminal drug
18 conspiracy consisting of a hierarchical position of
19 authority superior to that of all other members of the
20 conspiracy, and the defendant counseled, commanded,
21 induced, procured, or caused the intentional killing of
22 the murdered person; or

23 (14) the murder was intentional and involved the
24 infliction of torture. For the purpose of this Section
25 torture means the infliction of or subjection to extreme
26 physical pain, motivated by an intent to increase or
27 prolong the pain, suffering or agony of the victim; or

28 (15) the murder was committed as a result of the
29 intentional discharge of a firearm by the defendant from
30 a motor vehicle and the victim was not present within the
31 motor vehicle; or

32 (16) the murdered individual was 60 years of age or
33 older and the death resulted from exceptionally brutal or
34 heinous behavior indicative of wanton cruelty; or

1 (17) the murdered individual was a disabled person
2 and the defendant knew or should have known that the
3 murdered individual was disabled. For purposes of this
4 paragraph (17), "disabled person" means a person who
5 suffers from a permanent physical or mental impairment
6 resulting from disease, an injury, a functional disorder,
7 or a congenital condition that renders the person
8 incapable of adequately providing for his or her own
9 health or personal care; or

10 (18) the murder was committed by reason of any
11 person's activity as a community policing volunteer or to
12 prevent any person from engaging in activity as a
13 community policing volunteer; or

14 (19) the murdered individual was subject to an
15 order of protection and the murder was committed by a
16 person against whom the same order of protection was
17 issued under the Illinois Domestic Violence Act of 1986;
18 or

19 (20) the murdered individual was known by the
20 defendant to be a teacher or other person employed in any
21 school and the teacher or other employee is upon the
22 grounds of a school or grounds adjacent to a school, or
23 is in any part of a building used for school purposes;
24 or-

25 (21) the murder was committed using a firearm in or
26 within 500 feet of a church, synagogue, or other
27 building, structure, or place used for religious worship
28 or other religious purpose.

29 (c) Consideration of factors in Aggravation and
30 Mitigation.

31 The court shall consider, or shall instruct the jury to
32 consider any aggravating and any mitigating factors which are
33 relevant to the imposition of the death penalty. Aggravating
34 factors may include but need not be limited to those factors

1 set forth in subsection (b). Mitigating factors may include
2 but need not be limited to the following:

3 (1) the defendant has no significant history of
4 prior criminal activity;

5 (2) the murder was committed while the defendant
6 was under the influence of extreme mental or emotional
7 disturbance, although not such as to constitute a defense
8 to prosecution;

9 (3) the murdered individual was a participant in
10 the defendant's homicidal conduct or consented to the
11 homicidal act;

12 (4) the defendant acted under the compulsion of
13 threat or menace of the imminent infliction of death or
14 great bodily harm;

15 (5) the defendant was not personally present during
16 commission of the act or acts causing death.

17 (d) Separate sentencing hearing.

18 Where requested by the State, the court shall conduct a
19 separate sentencing proceeding to determine the existence of
20 factors set forth in subsection (b) and to consider any
21 aggravating or mitigating factors as indicated in subsection
22 (c). The proceeding shall be conducted:

23 (1) before the jury that determined the defendant's
24 guilt; or

25 (2) before a jury impanelled for the purpose of the
26 proceeding if:

27 A. the defendant was convicted upon a plea of
28 guilty; or

29 B. the defendant was convicted after a trial
30 before the court sitting without a jury; or

31 C. the court for good cause shown discharges
32 the jury that determined the defendant's guilt; or

33 (3) before the court alone if the defendant waives
34 a jury for the separate proceeding.

1 (e) Evidence and Argument.

2 During the proceeding any information relevant to any of
3 the factors set forth in subsection (b) may be presented by
4 either the State or the defendant under the rules governing
5 the admission of evidence at criminal trials. Any
6 information relevant to any additional aggravating factors or
7 any mitigating factors indicated in subsection (c) may be
8 presented by the State or defendant regardless of its
9 admissibility under the rules governing the admission of
10 evidence at criminal trials. The State and the defendant
11 shall be given fair opportunity to rebut any information
12 received at the hearing.

13 (f) Proof.

14 The burden of proof of establishing the existence of any
15 of the factors set forth in subsection (b) is on the State
16 and shall not be satisfied unless established beyond a
17 reasonable doubt.

18 (g) Procedure - Jury.

19 If at the separate sentencing proceeding the jury finds
20 that none of the factors set forth in subsection (b) exists,
21 the court shall sentence the defendant to a term of
22 imprisonment under Chapter V of the Unified Code of
23 Corrections. If there is a unanimous finding by the jury
24 that one or more of the factors set forth in subsection (b)
25 exist, the jury shall consider aggravating and mitigating
26 factors as instructed by the court and shall determine
27 whether the sentence of death shall be imposed. If the jury
28 determines unanimously that there are no mitigating factors
29 sufficient to preclude the imposition of the death sentence,
30 the court shall sentence the defendant to death.

31 Unless the jury unanimously finds that there are no
32 mitigating factors sufficient to preclude the imposition of
33 the death sentence the court shall sentence the defendant to
34 a term of imprisonment under Chapter V of the Unified Code of

1 Corrections.

2 (h) Procedure - No Jury.

3 In a proceeding before the court alone, if the court
4 finds that none of the factors found in subsection (b)
5 exists, the court shall sentence the defendant to a term of
6 imprisonment under Chapter V of the Unified Code of
7 Corrections.

8 If the Court determines that one or more of the factors
9 set forth in subsection (b) exists, the Court shall consider
10 any aggravating and mitigating factors as indicated in
11 subsection (c). If the Court determines that there are no
12 mitigating factors sufficient to preclude the imposition of
13 the death sentence, the Court shall sentence the defendant to
14 death.

15 Unless the court finds that there are no mitigating
16 factors sufficient to preclude the imposition of the sentence
17 of death, the court shall sentence the defendant to a term of
18 imprisonment under Chapter V of the Unified Code of
19 Corrections.

20 (i) Appellate Procedure.

21 The conviction and sentence of death shall be subject to
22 automatic review by the Supreme Court. Such review shall be
23 in accordance with rules promulgated by the Supreme Court.

24 (j) Disposition of reversed death sentence.

25 In the event that the death penalty in this Act is held
26 to be unconstitutional by the Supreme Court of the United
27 States or of the State of Illinois, any person convicted of
28 first degree murder shall be sentenced by the court to a term
29 of imprisonment under Chapter V of the Unified Code of
30 Corrections.

31 In the event that any death sentence pursuant to the
32 sentencing provisions of this Section is declared
33 unconstitutional by the Supreme Court of the United States or
34 of the State of Illinois, the court having jurisdiction over

1 a person previously sentenced to death shall cause the
2 defendant to be brought before the court, and the court shall
3 sentence the defendant to a term of imprisonment under
4 Chapter V of the Unified Code of Corrections.

5 (Source: P.A. 90-213, eff. 1-1-98; 90-651, eff. 1-1-99;
6 90-668, eff. 1-1-99; 91-357, eff. 7-29-99; 91-434, eff.
7 1-1-00.)

8 (720 ILCS 5/9-2) (from Ch. 38, par. 9-2)

9 Sec. 9-2. Second Degree Murder. (a) A person commits the
10 offense of second degree murder when he commits the offense
11 of first degree murder as defined in paragraphs (1) or (2) of
12 subsection (a) of Section 9-1 of this Code and either of the
13 following mitigating factors are present:

14 (1) At the time of the killing he is acting under a
15 sudden and intense passion resulting from serious provocation
16 by the individual killed or another whom the offender
17 endeavors to kill, but he negligently or accidentally causes
18 the death of the individual killed; or

19 (2) At the time of the killing he believes the
20 circumstances to be such that, if they existed, would justify
21 or exonerate the killing under the principles stated in
22 Article 7 of this Code, but his belief is unreasonable.

23 (b) Serious provocation is conduct sufficient to excite
24 an intense passion in a reasonable person.

25 (c) When a defendant is on trial for first degree murder
26 and evidence of either of the mitigating factors defined in
27 subsection (a) of this Section has been presented, the burden
28 of proof is on the defendant to prove either mitigating
29 factor by a preponderance of the evidence before the
30 defendant can be found guilty of second degree murder.
31 However, the burden of proof remains on the State to prove
32 beyond a reasonable doubt each of the elements of first
33 degree murder and, when appropriately raised, the absence of

1 circumstances at the time of the killing that would justify
2 or exonerate the killing under the principles stated in
3 Article 7 of this Code. In a jury trial for first degree
4 murder in which evidence of either of the mitigating factors
5 defined in subsection (a) of this Section has been presented
6 and the defendant has requested that the jury be given the
7 option of finding the defendant guilty of second degree
8 murder, the jury must be instructed that it may not consider
9 whether the defendant has met his burden of proof with regard
10 to second degree murder until and unless it has first
11 determined that the State has proven beyond a reasonable
12 doubt each of the elements of first degree murder.

13 (d) Sentence.

14 Second Degree Murder is a Class 1 felony. Second degree
15 murder committed using a firearm in or within 500 feet of a
16 church, synagogue, or other building, structure, or place
17 used for religious worship or other religious purpose is a
18 Class X felony.

19 (Source: P.A. 84-1450.)

20 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

21 Sec. 9-3. Involuntary Manslaughter and Reckless
22 Homicide.

23 (a) A person who unintentionally kills an individual
24 without lawful justification commits involuntary manslaughter
25 if his acts whether lawful or unlawful which cause the death
26 are such as are likely to cause death or great bodily harm to
27 some individual, and he performs them recklessly, except in
28 cases in which the cause of the death consists of the driving
29 of a motor vehicle or operating a snowmobile, all-terrain
30 vehicle, or watercraft, in which case the person commits
31 reckless homicide.

32 (b) In cases involving reckless homicide, being under
33 the influence of alcohol or any other drug or drugs at the

1 time of the alleged violation shall be presumed to be
2 evidence of a reckless act unless disproved by evidence to
3 the contrary.

4 (c) For the purposes of this Section, a person shall be
5 considered to be under the influence of alcohol or other
6 drugs while:

7 1. The alcohol concentration in the person's blood
8 or breath is 0.08 or more based on the definition of
9 blood and breath units in Section 11-501.2 of the
10 Illinois Vehicle Code;

11 2. Under the influence of alcohol to a degree that
12 renders the person incapable of safely driving a motor
13 vehicle or operating a snowmobile, all-terrain vehicle,
14 or watercraft;

15 3. Under the influence of any other drug or
16 combination of drugs to a degree that renders the person
17 incapable of safely driving a motor vehicle or operating
18 a snowmobile, all-terrain vehicle, or watercraft; or

19 4. Under the combined influence of alcohol and any
20 other drug or drugs to a degree which renders the person
21 incapable of safely driving a motor vehicle or operating
22 a snowmobile, all-terrain vehicle, or watercraft.

23 (d) Sentence.

24 (1) Involuntary manslaughter is a Class 3 felony.

25 (1.5) Involuntary manslaughter committed using a
26 firearm in or within 500 feet of a church, synagogue, or
27 other building, structure, or place used for religious
28 worship or other religious purpose is a Class 2 felony.

29 (2) Reckless homicide is a Class 3 felony.

30 (e) Except as otherwise provided in subsection (e-5), in
31 cases involving reckless homicide in which the defendant was
32 determined to have been under the influence of alcohol or any
33 other drug or drugs as an element of the offense, or in cases
34 in which the defendant is proven beyond a reasonable doubt to

1 have been under the influence of alcohol or any other drug or
2 drugs, the penalty shall be a Class 2 felony, for which a
3 person, if sentenced to a term of imprisonment, shall be
4 sentenced to a term of not less than 3 years and not more
5 than 14 years.

6 (e-5) In cases involving reckless homicide in which the
7 defendant was determined to have been under the influence of
8 alcohol or any other drug or drugs as an element of the
9 offense, or in cases in which the defendant is proven beyond
10 a reasonable doubt to have been under the influence of
11 alcohol or any other drug or drugs, if the defendant kills 2
12 or more individuals as part of a single course of conduct,
13 the penalty is a Class 2 felony, for which a person, if
14 sentenced to a term of imprisonment, shall be sentenced to a
15 term of not less than 6 years and not more than 28 years.

16 (f) In cases involving involuntary manslaughter in which
17 the victim was a family or household member as defined in
18 paragraph (3) of Section 112A-3 of the Code of Criminal
19 Procedure of 1963, the penalty shall be a Class 2 felony, for
20 which a person if sentenced to a term of imprisonment, shall
21 be sentenced to a term of not less than 3 years and not more
22 than 14 years.

23 (Source: P.A. 90-43, eff. 7-2-97; 90-119, eff. 1-1-98;
24 90-655, eff. 7-30-98; 91-6, eff. 1-1-00; 91-122, eff. 1-1-00;
25 revised 10-8-99.)

26 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)
27 Sec. 12-2. Aggravated assault.

28 (a) A person commits an aggravated assault, when, in
29 committing an assault, he:

30 (1) Uses a deadly weapon or any device manufactured
31 and designed to be substantially similar in appearance to
32 a firearm, other than by discharging a firearm in the
33 direction of another person, a peace officer, a person

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

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

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

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

25 (5) Knows the individual assaulted to be a
26 caseworker, investigator, or other person employed by the
27 State Department of Public Aid, a County Department of
28 Public Aid, or the Department of Human Services (acting
29 as successor to the Illinois Department of Public Aid
30 under the Department of Human Services Act) and such
31 caseworker, investigator, or other person is upon the
32 grounds of a public aid office or grounds adjacent
33 thereto, or is in any part of a building used for public
34 aid purposes, or upon the grounds of a home of a public

1 aid applicant, recipient or any other person being
2 interviewed or investigated in the employees' discharge
3 of his duties, or on grounds adjacent thereto, or is in
4 any part of a building in which the applicant, recipient,
5 or other such person resides or is located;

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

17 (7) Knows the individual assaulted to be an
18 emergency medical technician - ambulance, emergency
19 medical technician - intermediate, emergency medical
20 technician - paramedic, ambulance driver or other medical
21 assistance or first aid personnel employed by a
22 municipality or other governmental unit engaged in the
23 execution of any of his official duties, or to prevent
24 the emergency medical technician - ambulance, emergency
25 medical technician - intermediate, emergency medical
26 technician - paramedic, ambulance driver, or other
27 medical assistance or first aid personnel from performing
28 his official duties, or in retaliation for the emergency
29 medical technician - ambulance, emergency medical
30 technician - intermediate, emergency medical technician -
31 paramedic, ambulance driver, or other medical assistance
32 or first aid personnel performing his official duties;

33 (8) Knows the individual assaulted to be the
34 driver, operator, employee or passenger of any

1 transportation facility or system engaged in the business
2 of transportation of the public for hire and the
3 individual assaulted is then performing in such capacity
4 or then using such public transportation as a passenger
5 or using any area of any description designated by the
6 transportation facility or system as a vehicle boarding,
7 departure, or transfer location;

8 (9) Or the individual assaulted is on or about a
9 public way, public property, or public place of
10 accommodation or amusement;

11 (10) Knows the individual assaulted to be an
12 employee of the State of Illinois, a municipal
13 corporation therein or a political subdivision thereof,
14 engaged in the performance of his authorized duties as
15 such employee;

16 (11) Knowingly and without legal justification,
17 commits an assault on a physically handicapped person;

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

20 (13) Discharges a firearm;

21 (14) Knows the individual assaulted to be a
22 correctional officer, while the officer is engaged in the
23 execution of any of his or her official duties, or to
24 prevent the officer from performing his or her official
25 duties, or in retaliation for the officer performing his
26 or her official duties; or

27 (15) Knows the individual assaulted to be a
28 correctional employee, while the employee is engaged in
29 the execution of any of his or her official duties, or to
30 prevent the employee from performing his or her official
31 duties, or in retaliation for the employee performing his
32 or her official duties, and the assault is committed
33 other than by the discharge of a firearm in the direction
34 of the employee or in the direction of a vehicle occupied

1 by the employee; or-

2 (16) Knowingly commits the assault using a firearm
3 in or within 500 feet of a church, synagogue, or other
4 building, structure, or place used for religious worship
5 or other religious purpose.

6 (a-5) A person commits an aggravated assault when he or
7 she knowingly and without lawful justification shines or
8 flashes a laser gunsight or other laser device that is
9 attached or affixed to a firearm, or used in concert with a
10 firearm, so that the laser beam strikes near or in the
11 immediate vicinity of any person.

12 (b) Sentence.

13 Aggravated assault as defined in paragraphs (1) through
14 (5) and (7) through (12) of subsection (a) of this Section is
15 a Class A misdemeanor. Aggravated assault as defined in
16 paragraphs (13), (14), and (15) of subsection (a) of this
17 Section and as defined in subsection (a-5) of this Section is
18 a Class 4 felony. Aggravated assault as defined in paragraph
19 (6) of subsection (a) of this Section is a Class A
20 misdemeanor if a firearm is not used in the commission of the
21 assault. Aggravated assault as defined in paragraph (6) of
22 subsection (a) of this Section is a Class 4 felony if a
23 firearm is used in the commission of the assault. Aggravated
24 assault as defined in paragraph (16) of subsection (a) of
25 this Section is a Class A misdemeanor.

26 (Source: P.A. 90-406, eff. 8-15-97; 90-651, eff. 1-1-99;
27 91-672, eff. 1-1-00.)

28 (720 ILCS 5/12-4.2) (from Ch. 38, par. 12-4.2)

29 Sec. 12-4.2. Aggravated Battery with a firearm.

30 (a) A person commits aggravated battery with a firearm
31 when he, in committing a battery, knowingly or intentionally
32 by means of the discharging of a firearm (1) causes any
33 injury to another person, or (2) causes any injury to a

1 person he knows to be a peace officer, a community policing
2 volunteer, a correctional institution employee or a fireman
3 while the officer, volunteer, employee or fireman is engaged
4 in the execution of any of his official duties, or to prevent
5 the officer, volunteer, employee or fireman from performing
6 his official duties, or in retaliation for the officer,
7 volunteer, employee or fireman performing his official
8 duties, or (3) causes any injury to a person he knows to be
9 an emergency medical technician - ambulance, emergency
10 medical technician - intermediate, emergency medical
11 technician - paramedic, ambulance driver, or other medical
12 assistance or first aid personnel, employed by a municipality
13 or other governmental unit, while the emergency medical
14 technician - ambulance, emergency medical technician -
15 intermediate, emergency medical technician - paramedic,
16 ambulance driver, or other medical assistance or first aid
17 personnel is engaged in the execution of any of his official
18 duties, or to prevent the emergency medical technician -
19 ambulance, emergency medical technician - intermediate,
20 emergency medical technician - paramedic, ambulance driver,
21 or other medical assistance or first aid personnel from
22 performing his official duties, or in retaliation for the
23 emergency medical technician - ambulance, emergency medical
24 technician - intermediate, emergency medical technician -
25 paramedic, ambulance driver, or other medical assistance or
26 first aid personnel performing his official duties, or (4)
27 causes any injury to a person he or she knows to be a teacher
28 or other person employed in a school and the teacher or other
29 employee is upon grounds of a school or grounds adjacent to a
30 school, or is in any part of a building used for school
31 purposes, or (5) causes any injury in or within 500 feet of a
32 church, synagogue, or other building, structure, or place
33 used for religious worship or other religious purpose.

34 (b) A violation of subsection (a)(1) of this Section is

1 a Class X felony. A violation of subsection (a)(2),
2 subsection (a)(3), ~~or~~ subsection (a)(4), or subsection (a)(5)
3 of this Section is a Class X felony for which the sentence
4 shall be a term of imprisonment of no less than 15 years and
5 no more than 60 years.

6 (c) For purposes of this Section, "firearm" is defined
7 as in "An Act relating to the acquisition, possession and
8 transfer of firearms and firearm ammunition, to provide a
9 penalty for the violation thereof and to make an
10 appropriation in connection therewith", approved August 1,
11 1967, as amended.

12 (Source: P.A. 90-651, eff. 1-1-99; 91-434, eff. 1-1-00;
13 91-696, eff. 4-13-00.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.