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1 AMENDMENT TO HOUSE BILL 38

2 AMENDMENT NO. _____. Amend House Bill 38 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 9-1, 12-2, 12-3.05, and 24-1 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. ~~First degree murder; death penalties;~~
10 ~~exceptions; separate hearings; proof; findings; appellate~~
11 ~~procedures; reversals.~~

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

15 (1) he or she either intends to kill or do great bodily
16 harm to that individual or another, or knows that such acts

1 will cause death to that individual or another; or

2 (2) he or she knows that such acts create a strong
3 probability of death or great bodily harm to that
4 individual or another; or

5 (3) he or she is attempting or committing a forcible
6 felony other than second degree murder.

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

11 (1) the murdered individual was a peace officer or
12 fireman killed in the course of performing his official
13 duties, to prevent the performance of his or her official
14 duties, or in retaliation for performing his or her
15 official duties, and the defendant knew or should have
16 known that the murdered individual was a peace officer or
17 fireman; or

18 (2) the murdered individual was an employee of an
19 institution or facility of the Department of Corrections,
20 or any similar local correctional agency, killed in the
21 course of performing his or her official duties, to prevent
22 the performance of his or her official duties, or in
23 retaliation for performing his or her official duties, or
24 the murdered individual was an inmate at such institution
25 or facility and was killed on the grounds thereof, or the
26 murdered individual was otherwise present in such

1 institution or facility with the knowledge and approval of
2 the chief administrative officer thereof; or

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

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

17 (5) the defendant committed the murder pursuant to a
18 contract, agreement, or understanding by which he or she
19 was to receive money or anything of value in return for
20 committing the murder or procured another to commit the
21 murder for money or anything of value; or

22 (6) the murdered individual was killed in the course of
23 another felony if:

24 (a) the murdered individual:

25 (i) was actually killed by the defendant, or

26 (ii) received physical injuries personally

1 inflicted by the defendant substantially
2 contemporaneously with physical injuries caused by
3 one or more persons for whose conduct the defendant
4 is legally accountable under Section 5-2 of this
5 Code, and the physical injuries inflicted by
6 either the defendant or the other person or persons
7 for whose conduct he is legally accountable caused
8 the death of the murdered individual; and

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

19 (c) the other felony was an inherently violent
20 crime or the attempt to commit an inherently violent
21 crime. In this subparagraph (c), "inherently violent
22 crime" includes, but is not limited to, armed robbery,
23 robbery, predatory criminal sexual assault of a child,
24 aggravated criminal sexual assault, aggravated
25 kidnapping, aggravated vehicular hijacking, aggravated
26 arson, aggravated stalking, residential burglary, and

1 home invasion; or

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

5 (8) the defendant committed the murder with intent to
6 prevent the murdered individual from testifying or
7 participating in any criminal investigation or prosecution
8 or giving material assistance to the State in any
9 investigation or prosecution, either against the defendant
10 or another; or the defendant committed the murder because
11 the murdered individual was a witness in any prosecution or
12 gave material assistance to the State in any investigation
13 or prosecution, either against the defendant or another;
14 for purposes of this paragraph (8), "participating in any
15 criminal investigation or prosecution" is intended to
16 include those appearing in the proceedings in any capacity
17 such as trial judges, prosecutors, defense attorneys,
18 investigators, witnesses, or jurors; or

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

1 (10) the defendant was incarcerated in an institution
2 or facility of the Department of Corrections at the time of
3 the murder, and while committing an offense punishable as a
4 felony under Illinois law, or while engaged in a conspiracy
5 or solicitation to commit such offense, intentionally
6 killed an individual or counseled, commanded, induced,
7 procured or caused the intentional killing of the murdered
8 individual; or

9 (11) the murder was committed in a cold, calculated and
10 premeditated manner pursuant to a preconceived plan,
11 scheme or design to take a human life by unlawful means,
12 and the conduct of the defendant created a reasonable
13 expectation that the death of a human being would result
14 therefrom; or

15 (12) the murdered individual was an emergency medical
16 technician - ambulance, emergency medical technician -
17 intermediate, emergency medical technician - paramedic,
18 ambulance driver, or other medical assistance or first aid
19 personnel, employed by a municipality or other
20 governmental unit, killed in the course of performing his
21 official duties, to prevent the performance of his official
22 duties, or in retaliation for performing his official
23 duties, and the defendant knew or should have known that
24 the murdered individual was an emergency medical
25 technician - ambulance, emergency medical technician -
26 intermediate, emergency medical technician - paramedic,

1 ambulance driver, or other medical assistance or first aid
2 personnel; or

3 (13) the defendant was a principal administrator,
4 organizer, or leader of a calculated criminal drug
5 conspiracy consisting of a hierarchical position of
6 authority superior to that of all other members of the
7 conspiracy, and the defendant counseled, commanded,
8 induced, procured, or caused the intentional killing of the
9 murdered person; or

10 (14) the murder was intentional and involved the
11 infliction of torture. For the purpose of this Section
12 torture means the infliction of or subjection to extreme
13 physical pain, motivated by an intent to increase or
14 prolong the pain, suffering or agony of the victim; or

15 (15) the murder was committed as a result of the
16 intentional discharge of a firearm by the defendant from a
17 motor vehicle and the victim was not present within the
18 motor vehicle; or

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

22 (17) the murdered individual was a person with a
23 disability and the defendant knew or should have known that
24 the murdered individual was a person with a disability. For
25 purposes of this paragraph (17), "person with a disability"
26 means a person who suffers from a permanent physical or

1 mental impairment resulting from disease, an injury, a
2 functional disorder, or a congenital condition that
3 renders the person incapable of adequately providing for
4 his or her own health or personal care; or

5 (18) the murder was committed by reason of any person's
6 activity as a community policing volunteer or to prevent
7 any person from engaging in activity as a community
8 policing volunteer; or

9 (19) the murdered individual was subject to an order of
10 protection and the murder was committed by a person against
11 whom the same order of protection was issued under the
12 Illinois Domestic Violence Act of 1986; or

13 (20) the murdered individual was known by the defendant
14 to be a teacher or other person employed in any school and
15 the teacher or other employee is upon the grounds of a
16 school or grounds adjacent to a school, or is in any part
17 of a building used for school purposes; or

18 (21) the murder was committed by the defendant in
19 connection with or as a result of the offense of terrorism
20 as defined in Section 29D-14.9 of this Code; or -

21 (22) the murdered individual was a member of a
22 congregation engaged in prayer or other religious
23 activities at a church, synagogue, mosque, or other
24 building, structure, or place used for religious worship.

25 (b-5) Aggravating Factor; Natural Life Imprisonment. A
26 defendant who has been found guilty of first degree murder and

1 who at the time of the commission of the offense had attained
2 the age of 18 years or more may be sentenced to natural life
3 imprisonment if (i) the murdered individual was a physician,
4 physician assistant, psychologist, nurse, or advanced practice
5 registered nurse, (ii) the defendant knew or should have known
6 that the murdered individual was a physician, physician
7 assistant, psychologist, nurse, or advanced practice
8 registered nurse, and (iii) the murdered individual was killed
9 in the course of acting in his or her capacity as a physician,
10 physician assistant, psychologist, nurse, or advanced practice
11 registered nurse, or to prevent him or her from acting in that
12 capacity, or in retaliation for his or her acting in that
13 capacity.

14 (c) Consideration of factors in Aggravation and
15 Mitigation.

16 The court shall consider, or shall instruct the jury to
17 consider any aggravating and any mitigating factors which are
18 relevant to the imposition of the death penalty. Aggravating
19 factors may include but need not be limited to those factors
20 set forth in subsection (b). Mitigating factors may include but
21 need not be limited to the following:

22 (1) the defendant has no significant history of prior
23 criminal activity;

24 (2) the murder was committed while the defendant was
25 under the influence of extreme mental or emotional
26 disturbance, although not such as to constitute a defense

1 to prosecution;

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

5 (4) the defendant acted under the compulsion of threat
6 or menace of the imminent infliction of death or great
7 bodily harm;

8 (5) the defendant was not personally present during
9 commission of the act or acts causing death;

10 (6) the defendant's background includes a history of
11 extreme emotional or physical abuse;

12 (7) the defendant suffers from a reduced mental
13 capacity.

14 Provided, however, that an action that does not otherwise
15 mitigate first degree murder cannot qualify as a mitigating
16 factor for first degree murder because of the discovery,
17 knowledge, or disclosure of the victim's sexual orientation as
18 defined in Section 1-103 of the Illinois Human Rights Act.

19 (d) Separate sentencing hearing.

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

25 (1) before the jury that determined the defendant's
26 guilt; or

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

3 A. the defendant was convicted upon a plea of
4 guilty; or

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

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

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

11 (e) Evidence and Argument.

12 During the proceeding any information relevant to any of
13 the factors set forth in subsection (b) may be presented by
14 either the State or the defendant under the rules governing the
15 admission of evidence at criminal trials. Any information
16 relevant to any additional aggravating factors or any
17 mitigating factors indicated in subsection (c) may be presented
18 by the State or defendant regardless of its admissibility under
19 the rules governing the admission of evidence at criminal
20 trials. The State and the defendant shall be given fair
21 opportunity to rebut any information received at the hearing.

22 (f) Proof.

23 The burden of proof of establishing the existence of any of
24 the factors set forth in subsection (b) is on the State and
25 shall not be satisfied unless established beyond a reasonable
26 doubt.

1 (g) Procedure - Jury.

2 If at the separate sentencing proceeding the jury finds
3 that none of the factors set forth in subsection (b) exists,
4 the court shall sentence the defendant to a term of
5 imprisonment under Chapter V of the Unified Code of
6 Corrections. If there is a unanimous finding by the jury that
7 one or more of the factors set forth in subsection (b) exist,
8 the jury shall consider aggravating and mitigating factors as
9 instructed by the court and shall determine whether the
10 sentence of death shall be imposed. If the jury determines
11 unanimously, after weighing the factors in aggravation and
12 mitigation, that death is the appropriate sentence, the court
13 shall sentence the defendant to death. If the court does not
14 concur with the jury determination that death is the
15 appropriate sentence, the court shall set forth reasons in
16 writing including what facts or circumstances the court relied
17 upon, along with any relevant documents, that compelled the
18 court to non-concur with the sentence. This document and any
19 attachments shall be part of the record for appellate review.
20 The court shall be bound by the jury's sentencing
21 determination.

22 If after weighing the factors in aggravation and
23 mitigation, one or more jurors determines that death is not the
24 appropriate sentence, the court shall sentence the defendant to
25 a term of imprisonment under Chapter V of the Unified Code of
26 Corrections.

1 (h) Procedure - No Jury.

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

6 If the Court determines that one or more of the factors set
7 forth in subsection (b) exists, the Court shall consider any
8 aggravating and mitigating factors as indicated in subsection
9 (c). If the Court determines, after weighing the factors in
10 aggravation and mitigation, that death is the appropriate
11 sentence, the Court shall sentence the defendant to death.

12 If the court finds that death is not the appropriate
13 sentence, the court shall sentence the defendant to a term of
14 imprisonment under Chapter V of the Unified Code of
15 Corrections.

16 (h-5) Decertification as a capital case.

17 In a case in which the defendant has been found guilty of
18 first degree murder by a judge or jury, or a case on remand for
19 resentencing, and the State seeks the death penalty as an
20 appropriate sentence, on the court's own motion or the written
21 motion of the defendant, the court may decertify the case as a
22 death penalty case if the court finds that the only evidence
23 supporting the defendant's conviction is the uncorroborated
24 testimony of an informant witness, as defined in Section 115-21
25 of the Code of Criminal Procedure of 1963, concerning the
26 confession or admission of the defendant or that the sole

1 evidence against the defendant is a single eyewitness or single
2 accomplice without any other corroborating evidence. If the
3 court decertifies the case as a capital case under either of
4 the grounds set forth above, the court shall issue a written
5 finding. The State may pursue its right to appeal the
6 decertification pursuant to Supreme Court Rule 604(a)(1). If
7 the court does not decertify the case as a capital case, the
8 matter shall proceed to the eligibility phase of the sentencing
9 hearing.

10 (i) Appellate Procedure.

11 The conviction and sentence of death shall be subject to
12 automatic review by the Supreme Court. Such review shall be in
13 accordance with rules promulgated by the Supreme Court. The
14 Illinois Supreme Court may overturn the death sentence, and
15 order the imposition of imprisonment under Chapter V of the
16 Unified Code of Corrections if the court finds that the death
17 sentence is fundamentally unjust as applied to the particular
18 case. If the Illinois Supreme Court finds that the death
19 sentence is fundamentally unjust as applied to the particular
20 case, independent of any procedural grounds for relief, the
21 Illinois Supreme Court shall issue a written opinion explaining
22 this finding.

23 (j) Disposition of reversed death sentence.

24 In the event that the death penalty in this Act is held to
25 be unconstitutional by the Supreme Court of the United States
26 or of the State of Illinois, any person convicted of first

1 degree murder shall be sentenced by the court to a term of
2 imprisonment under Chapter V of the Unified Code of
3 Corrections.

4 In the event that any death sentence pursuant to the
5 sentencing provisions of this Section is declared
6 unconstitutional by the Supreme Court of the United States or
7 of the State of Illinois, the court having jurisdiction over a
8 person previously sentenced to death shall cause the defendant
9 to be brought before the court, and the court shall sentence
10 the defendant to a term of imprisonment under Chapter V of the
11 Unified Code of Corrections.

12 (k) Guidelines for seeking the death penalty.

13 The Attorney General and State's Attorneys Association
14 shall consult on voluntary guidelines for procedures governing
15 whether or not to seek the death penalty. The guidelines do not
16 have the force of law and are only advisory in nature.

17 (Source: P.A. 99-143, eff. 7-27-15; 100-460, eff. 1-1-18;
18 100-513, eff. 1-1-18; 100-863, eff. 8-14-18.)

19 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

20 Sec. 12-2. Aggravated assault.

21 (a) Offense based on location of conduct. A person commits
22 aggravated assault when he or she commits an assault against an
23 individual who is on or about a public way, public property, a
24 public place of accommodation or amusement, ~~or~~ a sports venue,
25 or in a church, synagogue, mosque, or other building,

1 structure, or place used for religious worship.

2 (b) Offense based on status of victim. A person commits
3 aggravated assault when, in committing an assault, he or she
4 knows the individual assaulted to be any of the following:

5 (1) A person with a physical disability or a person 60
6 years of age or older and the assault is without legal
7 justification.

8 (2) A teacher or school employee upon school grounds or
9 grounds adjacent to a school or in any part of a building
10 used for school purposes.

11 (3) A park district employee upon park grounds or
12 grounds adjacent to a park or in any part of a building
13 used for park purposes.

14 (4) A community policing volunteer, private security
15 officer, or utility worker:

16 (i) performing his or her official duties;

17 (ii) assaulted to prevent performance of his or her
18 official duties; or

19 (iii) assaulted in retaliation for performing his
20 or her official duties.

21 (4.1) A peace officer, fireman, emergency management
22 worker, or emergency medical services personnel:

23 (i) performing his or her official duties;

24 (ii) assaulted to prevent performance of his or her
25 official duties; or

26 (iii) assaulted in retaliation for performing his

1 or her official duties.

2 (5) A correctional officer or probation officer:

3 (i) performing his or her official duties;

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

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

8 (6) A correctional institution employee, a county
9 juvenile detention center employee who provides direct and
10 continuous supervision of residents of a juvenile
11 detention center, including a county juvenile detention
12 center employee who supervises recreational activity for
13 residents of a juvenile detention center, or a Department
14 of Human Services employee, Department of Human Services
15 officer, or employee of a subcontractor of the Department
16 of Human Services supervising or controlling sexually
17 dangerous persons or sexually violent persons:

18 (i) performing his or her official duties;

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

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

23 (7) An employee of the State of Illinois, a municipal
24 corporation therein, or a political subdivision thereof,
25 performing his or her official duties.

26 (8) A transit employee performing his or her official

1 duties, or a transit passenger.

2 (9) A sports official or coach actively participating
3 in any level of athletic competition within a sports venue,
4 on an indoor playing field or outdoor playing field, or
5 within the immediate vicinity of such a facility or field.

6 (10) A person authorized to serve process under Section
7 2-202 of the Code of Civil Procedure or a special process
8 server appointed by the circuit court, while that
9 individual is in the performance of his or her duties as a
10 process server.

11 (c) Offense based on use of firearm, device, or motor
12 vehicle. A person commits aggravated assault when, in
13 committing an assault, he or she does any of the following:

14 (1) Uses a deadly weapon, an air rifle as defined in
15 Section 24.8-0.1 of this Act, or any device manufactured
16 and designed to be substantially similar in appearance to a
17 firearm, other than by discharging a firearm.

18 (2) Discharges a firearm, other than from a motor
19 vehicle.

20 (3) Discharges a firearm from a motor vehicle.

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

23 (5) Knowingly and without lawful justification shines
24 or flashes a laser gun sight or other laser device attached
25 to a firearm, or used in concert with a firearm, so that
26 the laser beam strikes near or in the immediate vicinity of

1 any person.

2 (6) Uses a firearm, other than by discharging the
3 firearm, against a peace officer, community policing
4 volunteer, fireman, private security officer, emergency
5 management worker, emergency medical services personnel,
6 employee of a police department, employee of a sheriff's
7 department, or traffic control municipal employee:

8 (i) performing his or her official duties;

9 (ii) assaulted to prevent performance of his or her
10 official duties; or

11 (iii) assaulted in retaliation for performing his
12 or her official duties.

13 (7) Without justification operates a motor vehicle in a
14 manner which places a person, other than a person listed in
15 subdivision (b)(4), in reasonable apprehension of being
16 struck by the moving motor vehicle.

17 (8) Without justification operates a motor vehicle in a
18 manner which places a person listed in subdivision (b)(4),
19 in reasonable apprehension of being struck by the moving
20 motor vehicle.

21 (9) Knowingly video or audio records the offense with
22 the intent to disseminate the recording.

23 (d) Sentence. Aggravated assault as defined in subdivision
24 (a), (b)(1), (b)(2), (b)(3), (b)(4), (b)(7), (b)(8), (b)(9),
25 (c)(1), (c)(4), or (c)(9) is a Class A misdemeanor, except that
26 aggravated assault as defined in subdivision (b)(4) and (b)(7)

1 is a Class 4 felony if a Category I, Category II, or Category
2 III weapon is used in the commission of the assault. Aggravated
3 assault as defined in subdivision (b)(4.1), (b)(5), (b)(6),
4 (b)(10), (c)(2), (c)(5), (c)(6), or (c)(7) is a Class 4 felony.
5 Aggravated assault as defined in subdivision (c)(3) or (c)(8)
6 is a Class 3 felony.

7 (e) For the purposes of this Section, "Category I weapon",
8 "Category II weapon, and "Category III weapon" have the
9 meanings ascribed to those terms in Section 33A-1 of this Code.
10 (Source: P.A. 98-385, eff. 1-1-14; 99-78, eff. 7-20-15; 99-143,
11 eff. 7-27-15; 99-256, eff. 1-1-16; 99-642, eff. 7-28-16;
12 99-816, eff. 8-15-16.)

13 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

14 Sec. 12-3.05. Aggravated battery.

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

19 (1) Causes great bodily harm or permanent disability or
20 disfigurement.

21 (2) Causes severe and permanent disability, great
22 bodily harm, or disfigurement by means of a caustic or
23 flammable substance, a poisonous gas, a deadly biological
24 or chemical contaminant or agent, a radioactive substance,
25 or a bomb or explosive compound.

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

8 (i) performing his or her official duties;

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

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

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

15 (5) Strangles another individual.

16 (b) Offense based on injury to a child or person with an
17 intellectual disability. A person who is at least 18 years of
18 age commits aggravated battery when, in committing a battery,
19 he or she knowingly and without legal justification by any
20 means:

21 (1) causes great bodily harm or permanent disability or
22 disfigurement to any child under the age of 13 years, or to
23 any person with a severe or profound intellectual
24 disability; or

25 (2) causes bodily harm or disability or disfigurement
26 to any child under the age of 13 years or to any person

1 with a severe or profound intellectual disability.

2 (c) Offense based on location of conduct. A person commits
3 aggravated battery when, in committing a battery, other than by
4 the discharge of a firearm, he or she is or the person battered
5 is on or about a public way, public property, a public place of
6 accommodation or amusement, a sports venue, ~~or~~ a domestic
7 violence shelter, or in a church, synagoque, mosque, or other
8 building, structure, or place used for religious worship.

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

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

14 (2) A person who is pregnant or has a physical
15 disability.

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

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

24 (i) performing his or her official duties;

25 (ii) battered to prevent performance of his or her
26 official duties; or

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

3 (5) A judge, emergency management worker, emergency
4 medical services personnel, or utility worker:

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

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

15 (8) A taxi driver on duty.

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

20 (10) A person authorized to serve process under Section
21 2-202 of the Code of Civil Procedure or a special process
22 server appointed by the circuit court while that individual
23 is in the performance of his or her duties as a process
24 server.

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

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

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

7 (2) Discharges a firearm, other than a machine gun or a
8 firearm equipped with a silencer, and causes any injury to
9 a person he or she knows to be a peace officer, community
10 policing volunteer, person summoned by a police officer,
11 fireman, private security officer, correctional
12 institution employee, or emergency management 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 (3) Discharges a firearm, other than a machine gun or a
19 firearm equipped with a silencer, and causes any injury to
20 a person he or she knows to be emergency medical services
21 personnel:

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

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

9 (6) Discharges a machine gun or a firearm equipped with
10 a silencer, and causes any injury to a person he or she
11 knows to be a peace officer, community policing volunteer,
12 person summoned by a police officer, fireman, private
13 security officer, correctional institution employee or
14 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 (7) Discharges a machine gun or a firearm equipped with
21 a silencer, and causes any injury to a person he or she
22 knows to be emergency medical services personnel:

23 (i) performing his or her official duties;

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

26 (iii) battered in retaliation for performing his

1 or her official duties.

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

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

11 (1) Uses a deadly weapon other than by discharge of a
12 firearm, or uses an air rifle as defined in Section
13 24.8-0.1 of this Code.

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

16 (3) Knowingly and without lawful justification shines
17 or flashes a laser gunsight or other laser device attached
18 to a firearm, or used in concert with a firearm, so that
19 the laser beam strikes upon or against the person of
20 another.

21 (4) Knowingly video or audio records the offense with
22 the intent to disseminate the recording.

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

26 (1) Violates Section 401 of the Illinois Controlled

1 Substances Act by unlawfully delivering a controlled
2 substance to another and any user experiences great bodily
3 harm or permanent disability as a result of the injection,
4 inhalation, or ingestion of any amount of the controlled
5 substance.

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

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

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

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

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

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

8 Aggravated battery as defined in subdivision (a)(1) is a
9 Class 2 felony when the person causes great bodily harm or
10 permanent disability to an individual whom the person knows to
11 be a member of a congregation engaged in prayer or other
12 religious activities at a church, synagogue, mosque, or other
13 building, structure, or place used for religious worship.

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. ~~In 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. 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; 98-756,
4 eff. 7-16-14; 99-143, eff. 7-27-15; 99-816, eff. 8-15-16.)

5 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

6 Sec. 24-1. Unlawful use of weapons.

7 (a) A person commits the offense of unlawful use of weapons
8 when he knowingly:

9 (1) Sells, manufactures, purchases, possesses or
10 carries any bludgeon, black-jack, slung-shot, sand-club,
11 sand-bag, metal knuckles or other knuckle weapon
12 regardless of its composition, throwing star, or any knife,
13 commonly referred to as a switchblade knife, which has a
14 blade that opens automatically by hand pressure applied to
15 a button, spring or other device in the handle of the
16 knife, or a ballistic knife, which is a device that propels
17 a knifelike blade as a projectile by means of a coil
18 spring, elastic material or compressed gas; or

19 (2) Carries or possesses with intent to use the same
20 unlawfully against another, a dagger, dirk, billy,
21 dangerous knife, razor, stiletto, broken bottle or other
22 piece of glass, stun gun or taser or any other dangerous or
23 deadly weapon or instrument of like character; or

24 (2.5) Carries or possesses with intent to use the same
25 unlawfully against another, any firearm in a church,

1 synagogue, mosque, or other building, structure, or place
2 used for religious worship; or

3 (3) Carries on or about his person or in any vehicle, a
4 tear gas gun projector or bomb or any object containing
5 noxious liquid gas or substance, other than an object
6 containing a non-lethal noxious liquid gas or substance
7 designed solely for personal defense carried by a person 18
8 years of age or older; or

9 (4) Carries or possesses in any vehicle or concealed on
10 or about his person except when on his land or in his own
11 abode, legal dwelling, or fixed place of business, or on
12 the land or in the legal dwelling of another person as an
13 invitee with that person's permission, any pistol,
14 revolver, stun gun or taser or other firearm, except that
15 this subsection (a) (4) does not apply to or affect
16 transportation of weapons that meet one of the following
17 conditions:

18 (i) are broken down in a non-functioning state; or

19 (ii) are not immediately accessible; or

20 (iii) are unloaded and enclosed in a case, firearm
21 carrying box, shipping box, or other container by a
22 person who has been issued a currently valid Firearm
23 Owner's Identification Card; or

24 (iv) are carried or possessed in accordance with
25 the Firearm Concealed Carry Act by a person who has
26 been issued a currently valid license under the Firearm

1 Concealed Carry Act; or

2 (5) Sets a spring gun; or

3 (6) Possesses any device or attachment of any kind
4 designed, used or intended for use in silencing the report
5 of any firearm; or

6 (7) Sells, manufactures, purchases, possesses or
7 carries:

8 (i) a machine gun, which shall be defined for the
9 purposes of this subsection as any weapon, which
10 shoots, is designed to shoot, or can be readily
11 restored to shoot, automatically more than one shot
12 without manually reloading by a single function of the
13 trigger, including the frame or receiver of any such
14 weapon, or sells, manufactures, purchases, possesses,
15 or carries any combination of parts designed or
16 intended for use in converting any weapon into a
17 machine gun, or any combination or parts from which a
18 machine gun can be assembled if such parts are in the
19 possession or under the control of a person;

20 (ii) any rifle having one or more barrels less than
21 16 inches in length or a shotgun having one or more
22 barrels less than 18 inches in length or any weapon
23 made from a rifle or shotgun, whether by alteration,
24 modification, or otherwise, if such a weapon as
25 modified has an overall length of less than 26 inches;
26 or

1 (iii) any bomb, bomb-shell, grenade, bottle or
2 other container containing an explosive substance of
3 over one-quarter ounce for like purposes, such as, but
4 not limited to, black powder bombs and Molotov
5 cocktails or artillery projectiles; or

6 (8) Carries or possesses any firearm, stun gun or taser
7 or other deadly weapon in any place which is licensed to
8 sell intoxicating beverages, or at any public gathering
9 held pursuant to a license issued by any governmental body
10 or any public gathering at which an admission is charged,
11 excluding a place where a showing, demonstration or lecture
12 involving the exhibition of unloaded firearms is
13 conducted.

14 This subsection (a) (8) does not apply to any auction or
15 raffle of a firearm held pursuant to a license or permit
16 issued by a governmental body, nor does it apply to persons
17 engaged in firearm safety training courses; or

18 (9) Carries or possesses in a vehicle or on or about
19 his or her person any pistol, revolver, stun gun or taser
20 or firearm or ballistic knife, when he or she is hooded,
21 robed or masked in such manner as to conceal his or her
22 identity; or

23 (10) Carries or possesses on or about his or her
24 person, upon any public street, alley, or other public
25 lands within the corporate limits of a city, village, or
26 incorporated town, except when an invitee thereon or

1 therein, for the purpose of the display of such weapon or
2 the lawful commerce in weapons, or except when on his land
3 or in his or her own abode, legal dwelling, or fixed place
4 of business, or on the land or in the legal dwelling of
5 another person as an invitee with that person's permission,
6 any pistol, revolver, stun gun, or taser or other firearm,
7 except that this subsection (a) (10) does not apply to or
8 affect transportation of weapons that meet one of the
9 following conditions:

10 (i) are broken down in a non-functioning state; or

11 (ii) are not immediately accessible; or

12 (iii) are unloaded and enclosed in a case, firearm
13 carrying box, shipping box, or other container by a
14 person who has been issued a currently valid Firearm
15 Owner's Identification Card; or

16 (iv) are carried or possessed in accordance with
17 the Firearm Concealed Carry Act by a person who has
18 been issued a currently valid license under the Firearm
19 Concealed Carry Act.

20 A "stun gun or taser", as used in this paragraph (a)
21 means (i) any device which is powered by electrical
22 charging units, such as, batteries, and which fires one or
23 several barbs attached to a length of wire and which, upon
24 hitting a human, can send out a current capable of
25 disrupting the person's nervous system in such a manner as
26 to render him incapable of normal functioning or (ii) any

1 device which is powered by electrical charging units, such
2 as batteries, and which, upon contact with a human or
3 clothing worn by a human, can send out current capable of
4 disrupting the person's nervous system in such a manner as
5 to render him incapable of normal functioning; or

6 (11) Sells, manufactures, or purchases any explosive
7 bullet. For purposes of this paragraph (a) "explosive
8 bullet" means the projectile portion of an ammunition
9 cartridge which contains or carries an explosive charge
10 which will explode upon contact with the flesh of a human
11 or an animal. "Cartridge" means a tubular metal case having
12 a projectile affixed at the front thereof and a cap or
13 primer at the rear end thereof, with the propellant
14 contained in such tube between the projectile and the cap;
15 or

16 (12) (Blank); or

17 (13) Carries or possesses on or about his or her person
18 while in a building occupied by a unit of government, a
19 billy club, other weapon of like character, or other
20 instrument of like character intended for use as a weapon.
21 For the purposes of this Section, "billy club" means a
22 short stick or club commonly carried by police officers
23 which is either telescopic or constructed of a solid piece
24 of wood or other man-made material.

25 (b) Sentence. A person convicted of a violation of
26 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),

1 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
2 Class A misdemeanor. A person convicted of a violation of
3 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
4 person convicted of a violation of subsection 24-1(a)(6) or
5 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person
6 convicted of a violation of subsection 24-1(a)(7)(i) commits a
7 Class 2 felony and shall be sentenced to a term of imprisonment
8 of not less than 3 years and not more than 7 years, unless the
9 weapon is possessed in the passenger compartment of a motor
10 vehicle as defined in Section 1-146 of the Illinois Vehicle
11 Code, or on the person, while the weapon is loaded, in which
12 case it shall be a Class X felony. A person convicted of a
13 second or subsequent violation of subsection 24-1(a)(4),
14 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3
15 felony. A person convicted of a violation of subsection
16 24-1(a)(2.5) commits a Class 2 felony. The possession of each
17 weapon in violation of this Section constitutes a single and
18 separate violation.

19 (c) Violations in specific places.

20 (1) A person who violates subsection 24-1(a)(6) or
21 24-1(a)(7) in any school, regardless of the time of day or
22 the time of year, in residential property owned, operated
23 or managed by a public housing agency or leased by a public
24 housing agency as part of a scattered site or mixed-income
25 development, in a public park, in a courthouse, on the real
26 property comprising any school, regardless of the time of

1 day or the time of year, on residential property owned,
2 operated or managed by a public housing agency or leased by
3 a public housing agency as part of a scattered site or
4 mixed-income development, on the real property comprising
5 any public park, on the real property comprising any
6 courthouse, in any conveyance owned, leased or contracted
7 by a school to transport students to or from school or a
8 school related activity, in any conveyance owned, leased,
9 or contracted by a public transportation agency, or on any
10 public way within 1,000 feet of the real property
11 comprising any school, public park, courthouse, public
12 transportation facility, or residential property owned,
13 operated, or managed by a public housing agency or leased
14 by a public housing agency as part of a scattered site or
15 mixed-income development commits a Class 2 felony and shall
16 be sentenced to a term of imprisonment of not less than 3
17 years and not more than 7 years.

18 (1.5) A person who violates subsection 24-1(a)(4),
19 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
20 time of day or the time of year, in residential property
21 owned, operated, or managed by a public housing agency or
22 leased by a public housing agency as part of a scattered
23 site or mixed-income development, in a public park, in a
24 courthouse, on the real property comprising any school,
25 regardless of the time of day or the time of year, on
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency
2 as part of a scattered site or mixed-income development, on
3 the real property comprising any public park, on the real
4 property comprising any courthouse, in any conveyance
5 owned, leased, or contracted by a school to transport
6 students to or from school or a school related activity, in
7 any conveyance owned, leased, or contracted by a public
8 transportation agency, or on any public way within 1,000
9 feet of the real property comprising any school, public
10 park, courthouse, public transportation facility, or
11 residential property owned, operated, or managed by a
12 public housing agency or leased by a public housing agency
13 as part of a scattered site or mixed-income development
14 commits a Class 3 felony.

15 (2) A person who violates subsection 24-1(a)(1),
16 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
17 time of day or the time of year, in residential property
18 owned, operated or managed by a public housing agency or
19 leased by a public housing agency as part of a scattered
20 site or mixed-income development, in a public park, in a
21 courthouse, on the real property comprising any school,
22 regardless of the time of day or the time of year, on
23 residential property owned, operated or managed by a public
24 housing agency or leased by a public housing agency as part
25 of a scattered site or mixed-income development, on the
26 real property comprising any public park, on the real

1 property comprising any courthouse, in any conveyance
2 owned, leased or contracted by a school to transport
3 students to or from school or a school related activity, in
4 any conveyance owned, leased, or contracted by a public
5 transportation agency, or on any public way within 1,000
6 feet of the real property comprising any school, public
7 park, courthouse, public transportation facility, or
8 residential property owned, operated, or managed by a
9 public housing agency or leased by a public housing agency
10 as part of a scattered site or mixed-income development
11 commits a Class 4 felony. "Courthouse" means any building
12 that is used by the Circuit, Appellate, or Supreme Court of
13 this State for the conduct of official business.

14 (3) Paragraphs (1), (1.5), and (2) of this subsection
15 (c) shall not apply to law enforcement officers or security
16 officers of such school, college, or university or to
17 students carrying or possessing firearms for use in
18 training courses, parades, hunting, target shooting on
19 school ranges, or otherwise with the consent of school
20 authorities and which firearms are transported unloaded
21 enclosed in a suitable case, box, or transportation
22 package.

23 (4) For the purposes of this subsection (c), "school"
24 means any public or private elementary or secondary school,
25 community college, college, or university.

26 (5) For the purposes of this subsection (c), "public

1 transportation agency" means a public or private agency
2 that provides for the transportation or conveyance of
3 persons by means available to the general public, except
4 for transportation by automobiles not used for conveyance
5 of the general public as passengers; and "public
6 transportation facility" means a terminal or other place
7 where one may obtain public transportation.

8 (d) The presence in an automobile other than a public
9 omnibus of any weapon, instrument or substance referred to in
10 subsection (a) (7) is prima facie evidence that it is in the
11 possession of, and is being carried by, all persons occupying
12 such automobile at the time such weapon, instrument or
13 substance is found, except under the following circumstances:

14 (i) if such weapon, instrument or instrumentality is found upon
15 the person of one of the occupants therein; or (ii) if such
16 weapon, instrument or substance is found in an automobile
17 operated for hire by a duly licensed driver in the due, lawful
18 and proper pursuit of his or her trade, then such presumption
19 shall not apply to the driver.

20 (e) Exemptions.

21 (1) Crossbows, Common or Compound bows and Underwater
22 Spearguns are exempted from the definition of ballistic
23 knife as defined in paragraph (1) of subsection (a) of this
24 Section.

25 (2) The provision of paragraph (1) of subsection (a) of
26 this Section prohibiting the sale, manufacture, purchase,

1 possession, or carrying of any knife, commonly referred to
2 as a switchblade knife, which has a blade that opens
3 automatically by hand pressure applied to a button, spring
4 or other device in the handle of the knife, does not apply
5 to a person who possesses a currently valid Firearm Owner's
6 Identification Card previously issued in his or her name by
7 the Department of State Police or to a person or an entity
8 engaged in the business of selling or manufacturing
9 switchblade knives.

10 (Source: P.A. 99-29, eff. 7-10-15; 100-82, eff. 8-11-17.)".