

SB2004



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2004

Introduced 2/10/2011, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2
720 ILCS 5/12-4

from Ch. 38, par. 12-2

Amends the Criminal Code of 1961. Provides that the assault or battery of a person known by the offender to be a process server in the performance of the delivery of court documents is enhanced to aggravated assault or aggravated battery. Provides that the penalty for aggravated assault of a process server under such circumstances is a Class 4 felony. Provides that the aggravated battery of a process server under such circumstances is a Class 3 felony.

LRB097 10196 RLC 50389 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) A person commits an aggravated assault, when, in
9 committing an assault, he:

10 (1) Uses a deadly weapon, an air rifle as defined in
11 the Air Rifle Act, or any device manufactured and designed
12 to be substantially similar in appearance to a firearm,
13 other than by discharging a firearm in the direction of
14 another person, a peace officer, a person summoned or
15 directed by a peace officer, a correctional officer, a
16 private security officer, or a fireman or in the direction
17 of a vehicle occupied by another person, a peace officer, a
18 person summoned or directed by a peace officer, a
19 correctional officer, a private security officer, or a
20 fireman while the officer or fireman is engaged in the
21 execution of any of his official duties, or to prevent the
22 officer or fireman from performing his official duties, or
23 in retaliation for the officer or fireman performing his

1 official duties;

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

6 (3) Knows the individual assaulted to be a teacher or
7 other person employed in any school and such teacher or
8 other employee is upon the grounds of a school or grounds
9 adjacent thereto, or is in any part of a building used for
10 school purposes;

11 (4) Knows the individual assaulted to be a supervisor,
12 director, instructor or other person employed in any park
13 district and such supervisor, director, instructor or
14 other employee is upon the grounds of the park or grounds
15 adjacent thereto, or is in any part of a building used for
16 park purposes;

17 (5) Knows the individual assaulted to be a caseworker,
18 investigator, or other person employed by the Department of
19 Healthcare and Family Services (formerly State Department
20 of Public Aid), a County Department of Public Aid, or the
21 Department of Human Services (acting as successor to the
22 Illinois Department of Public Aid under the Department of
23 Human Services Act) and such caseworker, investigator, or
24 other person is upon the grounds of a public aid office or
25 grounds adjacent thereto, or is in any part of a building
26 used for public aid purposes, or upon the grounds of a home

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

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

17 (7) Knows the individual assaulted to be an emergency
18 medical technician - ambulance, emergency medical
19 technician - intermediate, emergency medical technician -
20 paramedic, ambulance driver or other medical assistance or
21 first aid personnel engaged in the execution of any of his
22 official duties, or to prevent the emergency medical
23 technician - ambulance, emergency medical technician -
24 intermediate, emergency medical technician - paramedic,
25 ambulance driver, or other medical assistance or first aid
26 personnel from performing his official duties, or in

1 retaliation for the emergency medical technician -
2 ambulance, emergency medical technician - intermediate,
3 emergency medical technician - paramedic, ambulance
4 driver, or other medical assistance or first aid personnel
5 performing his official duties;

6 (8) Knows the individual assaulted to be the driver,
7 operator, employee or passenger of any transportation
8 facility or system engaged in the business of
9 transportation of the public for hire and the individual
10 assaulted is then performing in such capacity or then using
11 such public transportation as a passenger or using any area
12 of any description designated by the transportation
13 facility or system as a vehicle boarding, departure, or
14 transfer location;

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

18 (9.5) Is, or the individual assaulted is, in or about a
19 publicly or privately owned sports or entertainment arena,
20 stadium, community or convention hall, special event
21 center, amusement facility, or a special event center in a
22 public park during any 24-hour period when a professional
23 sporting event, National Collegiate Athletic Association
24 (NCAA)-sanctioned sporting event, United States Olympic
25 Committee-sanctioned sporting event, or International
26 Olympic Committee-sanctioned sporting event is taking

1 place in this venue;

2 (10) Knows the individual assaulted to be an employee
3 of the State of Illinois, a municipal corporation therein
4 or a political subdivision thereof, engaged in the
5 performance of his authorized duties as such employee;

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

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

10 (13) Discharges a firearm, other than from a motor
11 vehicle;

12 (13.5) Discharges a firearm from a motor vehicle;

13 (14) Knows the individual assaulted to be a
14 correctional officer, while the officer is engaged in the
15 execution of any of his or her official duties, or to
16 prevent the officer from performing his or her official
17 duties, or in retaliation for the officer performing his or
18 her official duties;

19 (14.5) Knows the individual assaulted to be a probation
20 officer, as defined in the Probation and Probation Officers
21 Act, while the officer is engaged in the execution of any
22 of his or her official duties, or to prevent the officer
23 from performing his or her official duties, or in
24 retaliation for the officer performing his or her official
25 duties;

26 (15) Knows the individual assaulted to be a

1 correctional employee or an employee or officer of the
2 Department of Human Services supervising or controlling
3 sexually dangerous persons or sexually violent persons, or
4 an employee of a subcontractor of the Department of Human
5 Services supervising or controlling sexually dangerous
6 persons or sexually violent persons, while the employee or
7 officer is engaged in the execution of any of his or her
8 official duties, or to prevent the employee or officer from
9 performing his or her official duties, or in retaliation
10 for the employee or officer performing his or her official
11 duties, and the assault is committed other than by the
12 discharge of a firearm in the direction of the employee or
13 officer or in the direction of a vehicle occupied by the
14 employee or officer;

15 (16) Knows the individual assaulted to be an employee
16 of a police or sheriff's department, or a person who is
17 employed by a municipality and whose duties include traffic
18 control, engaged in the performance of his or her official
19 duties as such employee;

20 (17) Knows the individual assaulted to be a sports
21 official or coach at any level of competition and the act
22 causing the assault to the sports official or coach
23 occurred within an athletic facility or an indoor or
24 outdoor playing field or within the immediate vicinity of
25 the athletic facility or an indoor or outdoor playing field
26 at which the sports official or coach was an active

1 participant in the athletic contest held at the athletic
2 facility. For the purposes of this paragraph (17), "sports
3 official" means a person at an athletic contest who
4 enforces the rules of the contest, such as an umpire or
5 referee; and "coach" means a person recognized as a coach
6 by the sanctioning authority that conducted the athletic
7 contest;

8 (18) Knows the individual assaulted to be an emergency
9 management worker, while the emergency management worker
10 is engaged in the execution of any of his or her official
11 duties, or to prevent the emergency management worker from
12 performing his or her official duties, or in retaliation
13 for the emergency management worker performing his or her
14 official duties, and the assault is committed other than by
15 the discharge of a firearm in the direction of the
16 emergency management worker or in the direction of a
17 vehicle occupied by the emergency management worker; ~~or~~

18 (19) Knows the individual assaulted to be a utility
19 worker, while the utility worker is engaged in the
20 execution of his or her duties, or to prevent the utility
21 worker from performing his or her duties, or in retaliation
22 for the utility worker performing his or her duties. In
23 this paragraph (19), "utility worker" means a person
24 employed by a public utility as defined in Section 3-105 of
25 the Public Utilities Act and also includes an employee of a
26 municipally owned utility, an employee of a cable

1 television company, an employee of an electric cooperative
2 as defined in Section 3-119 of the Public Utilities Act, an
3 independent contractor or an employee of an independent
4 contractor working on behalf of a cable television company,
5 public utility, municipally owned utility, or an electric
6 cooperative, or an employee of a telecommunications
7 carrier as defined in Section 13-202 of the Public
8 Utilities Act, an independent contractor or an employee of
9 an independent contractor working on behalf of a
10 telecommunications carrier, or an employee of a telephone
11 or telecommunications cooperative as defined in Section
12 13-212 of the Public Utilities Act, or an independent
13 contractor or an employee of an independent contractor
14 working on behalf of a telephone or telecommunications
15 cooperative; or -

16 (20) Knows the individual assaulted to be a process
17 server in the performance of the delivery of court
18 documents.

19 (a-5) A person commits an aggravated assault when he or she
20 knowingly and without lawful justification shines or flashes a
21 laser gunsight or other laser device that is attached or
22 affixed to a firearm, or used in concert with a firearm, so
23 that the laser beam strikes near or in the immediate vicinity
24 of any person.

25 (a-10) A person commits an aggravated assault when he or
26 she knowingly and without justification operates a motor

1 vehicle in a manner which places a person in reasonable
2 apprehension of being struck by a moving vehicle.

3 (b) Sentence.

4 Aggravated assault as defined in paragraphs (1) through (5)
5 and (8) through (12) and (17) and (19) of subsection (a) of
6 this Section is a Class A misdemeanor. Aggravated assault as
7 defined in paragraphs (13), (14), (14.5), ~~and (15)~~, and (20) of
8 subsection (a) of this Section and as defined in subsection
9 (a-5) or (a-10) of this Section is a Class 4 felony. Aggravated
10 assault as defined in paragraphs (6) and (16) of subsection (a)
11 of this Section is a Class A misdemeanor if a Category I,
12 Category II, or Category III weapon is not used in the
13 commission of the assault. Aggravated assault as defined in
14 paragraphs (6) and (16) of subsection (a) of this Section is a
15 Class 4 felony if a Category I, Category II, or Category III
16 weapon is used in the commission of the assault. Aggravated
17 assault as defined in paragraphs (7) and (18) of subsection (a)
18 of this Section is a Class A misdemeanor if a firearm is not
19 used in the commission of the assault. Aggravated assault as
20 defined in paragraphs (7) and (18) of subsection (a) of this
21 Section is a Class 4 felony if a firearm is used in the
22 commission of the assault. Aggravated assault as defined in
23 subsection (a-10) where the victim was a person defined in
24 paragraph (6) or paragraph (13.5) of subsection (a) is a Class
25 3 felony. For the purposes of this subsection (b), "Category I
26 weapon", "Category II weapon", and "Category III weapon" have

1 the meanings ascribed to those terms in subsection (c) of
2 Section 33A-1 of this Code.

3 (c) For the purposes of paragraphs (1) and (6) of
4 subsection (a), "private security officer" means a registered
5 employee of a private security contractor agency under the
6 Private Detective, Private Alarm, Private Security,
7 Fingerprint Vendor, and Locksmith Act of 2004.

8 (Source: P.A. 95-236, eff. 1-1-08; 95-292, eff. 8-20-07;
9 95-331, eff. 8-21-07; 95-429, eff. 1-1-08; 95-591, eff.
10 9-10-07; 95-876, eff. 8-21-08; 96-201, eff. 8-10-09; 96-1000,
11 eff. 7-2-10; 96-1109, eff. 1-1-11; 96-1398, eff. 7-29-10;
12 revised 9-16-10.)

13 (720 ILCS 5/12-4)

14 Sec. 12-4. Aggravated Battery.

15 (a) A person who, in committing a battery, intentionally or
16 knowingly causes great bodily harm, or permanent disability or
17 disfigurement commits aggravated battery.

18 (b) In committing a battery, a person commits aggravated
19 battery if he or she:

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

23 (2) Is hooded, robed or masked, in such manner as to
24 conceal his identity;

25 (3) Knows the individual harmed to be a teacher or

1 other person employed in any school and such teacher or
2 other employee is upon the grounds of a school or grounds
3 adjacent thereto, or is in any part of a building used for
4 school purposes;

5 (4) (Blank);

6 (5) (Blank);

7 (6) Knows the individual harmed to be a community
8 policing volunteer while such volunteer is engaged in the
9 execution of any official duties, or to prevent the
10 volunteer from performing official duties, or in
11 retaliation for the volunteer performing official duties,
12 and the battery is committed other than by the discharge of
13 a firearm;

14 (7) Knows the individual harmed to be an emergency
15 medical technician - ambulance, emergency medical
16 technician - intermediate, emergency medical technician -
17 paramedic, ambulance driver, other medical assistance,
18 first aid personnel, or hospital personnel engaged in the
19 performance of any of his or her official duties, or to
20 prevent the emergency medical technician - ambulance,
21 emergency medical technician - intermediate, emergency
22 medical technician - paramedic, ambulance driver, other
23 medical assistance, first aid personnel, or hospital
24 personnel from performing official duties, or in
25 retaliation for performing official duties;

26 (8) Is, or the person battered is, on or about a public

1 way, public property or public place of accommodation or
2 amusement;

3 (8.5) Is, or the person battered is, on a publicly or
4 privately owned sports or entertainment arena, stadium,
5 community or convention hall, special event center,
6 amusement facility, or a special event center in a public
7 park during any 24-hour period when a professional sporting
8 event, National Collegiate Athletic Association
9 (NCAA)-sanctioned sporting event, United States Olympic
10 Committee-sanctioned sporting event, or International
11 Olympic Committee-sanctioned sporting event is taking
12 place in this venue;

13 (9) Knows the individual harmed to be the driver,
14 operator, employee or passenger of any transportation
15 facility or system engaged in the business of
16 transportation of the public for hire and the individual
17 assaulted is then performing in such capacity or then using
18 such public transportation as a passenger or using any area
19 of any description designated by the transportation
20 facility or system as a vehicle boarding, departure, or
21 transfer location;

22 (10) Knows the individual harmed to be an individual of
23 60 years of age or older;

24 (11) Knows the individual harmed is pregnant;

25 (12) Knows the individual harmed to be a judge whom the
26 person intended to harm as a result of the judge's

1 performance of his or her official duties as a judge;

2 (13) (Blank);

3 (14) Knows the individual harmed to be a person who is
4 physically handicapped;

5 (15) Knowingly and without legal justification and by
6 any means causes bodily harm to a merchant who detains the
7 person for an alleged commission of retail theft under
8 Section 16A-5 of this Code. In this item (15), "merchant"
9 has the meaning ascribed to it in Section 16A-2.4 of this
10 Code;

11 (16) Is, or the person battered is, in any building or
12 other structure used to provide shelter or other services
13 to victims or to the dependent children of victims of
14 domestic violence pursuant to the Illinois Domestic
15 Violence Act of 1986 or the Domestic Violence Shelters Act,
16 or the person battered is within 500 feet of such a
17 building or other structure while going to or from such a
18 building or other structure. "Domestic violence" has the
19 meaning ascribed to it in Section 103 of the Illinois
20 Domestic Violence Act of 1986. "Building or other structure
21 used to provide shelter" has the meaning ascribed to
22 "shelter" in Section 1 of the Domestic Violence Shelters
23 Act;

24 (17) (Blank);

25 (18) Knows the individual harmed to be an officer or
26 employee of the State of Illinois, a unit of local

1 government, or school district engaged in the performance
2 of his or her authorized duties as such officer or
3 employee;

4 (19) Knows the individual harmed to be an emergency
5 management worker engaged in the performance of any of his
6 or her official duties, or to prevent the emergency
7 management worker from performing official duties, or in
8 retaliation for the emergency management worker performing
9 official duties;

10 (20) Knows the individual harmed to be a private
11 security officer engaged in the performance of any of his
12 or her official duties, or to prevent the private security
13 officer from performing official duties, or in retaliation
14 for the private security officer performing official
15 duties; ~~or~~

16 (21) Knows the individual harmed to be a taxi driver
17 and the battery is committed while the taxi driver is on
18 duty; ~~or~~

19 (22) Knows the individual harmed to be a utility
20 worker, while the utility worker is engaged in the
21 execution of his or her duties, or to prevent the utility
22 worker from performing his or her duties, or in retaliation
23 for the utility worker performing his or her duties. In
24 this paragraph (22), "utility worker" means a person
25 employed by a public utility as defined in Section 3-105 of
26 the Public Utilities Act and also includes an employee of a

1 municipally owned utility, an employee of a cable
2 television company, an employee of an electric cooperative
3 as defined in Section 3-119 of the Public Utilities Act, an
4 independent contractor or an employee of an independent
5 contractor working on behalf of a cable television company,
6 public utility, municipally owned utility, or an electric
7 cooperative, or an employee of a telecommunications
8 carrier as defined in Section 13-202 of the Public
9 Utilities Act, an independent contractor or an employee of
10 an independent contractor working on behalf of a
11 telecommunications carrier, or an employee of a telephone
12 or telecommunications cooperative as defined in Section
13 13-212 of the Public Utilities Act, or an independent
14 contractor or an employee of an independent contractor
15 working on behalf of a telephone or telecommunications
16 cooperative; or -

17 (23) Knows the individual harmed to be a process server
18 in the performance of the delivery of court documents.

19 For the purpose of paragraph (14) of subsection (b) of this
20 Section, a physically handicapped person is a person who
21 suffers from a permanent and disabling physical
22 characteristic, resulting from disease, injury, functional
23 disorder or congenital condition.

24 For the purpose of paragraph (20) of subsection (b) and
25 subsection (e) of this Section, "private security officer"
26 means a registered employee of a private security contractor

1 agency under the Private Detective, Private Alarm, Private
2 Security, Fingerprint Vendor, and Locksmith Act of 2004.

3 (c) A person who administers to an individual or causes him
4 to take, without his consent or by threat or deception, and for
5 other than medical purposes, any intoxicating, poisonous,
6 stupefying, narcotic, anesthetic, or controlled substance
7 commits aggravated battery.

8 (d) A person who knowingly gives to another person any food
9 that contains any substance or object that is intended to cause
10 physical injury if eaten, commits aggravated battery.

11 (d-3) A person commits aggravated battery when he or she
12 knowingly and without lawful justification shines or flashes a
13 laser gunsight or other laser device that is attached or
14 affixed to a firearm, or used in concert with a firearm, so
15 that the laser beam strikes upon or against the person of
16 another.

17 (d-5) An inmate of a penal institution or a sexually
18 dangerous person or a sexually violent person in the custody of
19 the Department of Human Services who causes or attempts to
20 cause a correctional employee of the penal institution or an
21 employee of the Department of Human Services to come into
22 contact with blood, seminal fluid, urine, or feces, by
23 throwing, tossing, or expelling that fluid or material commits
24 aggravated battery. For purposes of this subsection (d-5),
25 "correctional employee" means a person who is employed by a
26 penal institution.

1 (d-6) A person commits aggravated battery when he or she,
2 in committing a battery, strangles another individual. For the
3 purposes of this subsection (d-6), "strangle" means
4 intentionally impeding the normal breathing or circulation of
5 the blood of an individual by applying pressure on the throat
6 or neck of that individual or by blocking the nose or mouth of
7 that individual.

8 (e) Sentence.

9 (1) Except as otherwise provided in paragraphs (2),
10 (3), (4), and (5) aggravated battery is a Class 3 felony.

11 (2) Aggravated battery that does not cause great bodily
12 harm or permanent disability or disfigurement is a Class 2
13 felony when the person knows the individual harmed to be a
14 peace officer, a community policing volunteer, a private
15 security officer, a correctional institution employee, an
16 employee of the Department of Human Services supervising or
17 controlling sexually dangerous persons or sexually violent
18 persons, or a fireman while such officer, volunteer,
19 employee, or fireman is engaged in the execution of any
20 official duties including arrest or attempted arrest, or to
21 prevent the officer, volunteer, employee, or fireman from
22 performing official duties, or in retaliation for the
23 officer, volunteer, employee, or fireman performing
24 official duties, and the battery is committed other than by
25 the discharge of a firearm.

26 (3) Aggravated battery that causes great bodily harm or

1 permanent disability or disfigurement in violation of
2 subsection (a) is a Class 1 felony when the person knows
3 the individual harmed to be a peace officer, a community
4 policing volunteer, a private security officer, a
5 correctional institution employee, an employee of the
6 Department of Human Services supervising or controlling
7 sexually dangerous persons or sexually violent persons, or
8 a fireman while such officer, volunteer, employee, or
9 fireman is engaged in the execution of any official duties
10 including arrest or attempted arrest, or to prevent the
11 officer, volunteer, employee, or fireman from performing
12 official duties, or in retaliation for the officer,
13 volunteer, employee, or fireman performing official
14 duties, and the battery is committed other than by the
15 discharge of a firearm.

16 (4) Aggravated battery under subsection (d-5) is a
17 Class 2 felony.

18 (5) Aggravated battery under subsection (d-6) is a
19 Class 1 felony if:

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

22 (B) the person caused great bodily harm or
23 permanent disability or disfigurement to the other
24 person while committing the offense; or

25 (C) the person has been previously convicted of a
26 violation of subsection (d-6) under the laws of this

1 State or laws similar to subsection (d-6) of any other
2 state.

3 (6) For purposes of this subsection (e), the term
4 "firearm" shall have the meaning provided under Section 1.1
5 of the Firearms Owners Identification Card Act, and shall
6 not include an air rifle as defined by Section 1 of the Air
7 Rifle Act.

8 (Source: P.A. 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331,
9 eff. 8-21-07; 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876,
10 eff. 8-21-08; 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
11 96-1000, eff. 7-2-10.)