



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5761

by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.05

was 720 ILCS 5/12-4

Amends the Criminal Code of 2012. Increases various penalties for aggravated battery. Provides that aggravated battery by causing great bodily harm or permanent disability or disfigurement to any child under the age of 13 years, or to any severely or profoundly intellectually disabled person is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 20 years and a maximum of 60 years. Provides that aggravated battery by causing great bodily harm or permanent disability or disfigurement is a Class X (rather than a Class 1) felony when the aggravated battery was intentional and involved the infliction of torture. Increases other penalties for aggravated battery.

LRB098 19144 RLC 54296 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 2012 is amended by changing
5 Section 12-3.05 as follows:

6 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

7 Sec. 12-3.05. Aggravated battery.

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

12 (1) Causes great bodily harm or permanent disability or
13 disfigurement.

14 (2) Causes severe and permanent disability, great
15 bodily harm, or disfigurement by means of a caustic or
16 flammable substance, a poisonous gas, a deadly biological
17 or chemical contaminant or agent, a radioactive substance,
18 or a bomb or explosive compound.

19 (3) Causes great bodily harm or permanent disability or
20 disfigurement to an individual whom the person knows to be
21 a peace officer, community policing volunteer, fireman,
22 private security officer, correctional institution
23 employee, or Department of Human Services employee

1 supervising or controlling sexually dangerous persons or
2 sexually violent persons:

3 (i) performing his or her official duties;

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

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

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

10 (5) Strangles another individual.

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

15 (1) causes great bodily harm or permanent disability or
16 disfigurement to any child under the age of 13 years, or to
17 any severely or profoundly intellectually disabled person;
18 or

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

22 (c) Offense based on location of conduct. A person commits
23 aggravated battery when, in committing a battery, other than by
24 the discharge of a firearm, he or she is or the person battered
25 is on or about a public way, public property, a public place of
26 accommodation or amusement, a sports venue, or a domestic

1 violence shelter.

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

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

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

8 (3) 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 (4) A peace officer, community policing volunteer,
12 fireman, private security officer, correctional
13 institution employee, or Department of Human Services
14 employee supervising or controlling sexually dangerous
15 persons or sexually violent persons:

16 (i) performing his or her official duties;

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

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

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

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

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

7 (8) A taxi driver on duty.

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

12 (10) A person authorized to serve process under Section
13 2-202 of the Code of Civil Procedure or a special process
14 server appointed by the circuit court while that individual
15 is in the performance of his or her duties as a process
16 server.

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

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

22 (1) Discharges a firearm, other than a machine gun or a
23 firearm equipped with a silencer, and causes any injury to
24 another person.

25 (2) Discharges a firearm, other than a machine gun or a
26 firearm equipped with a silencer, and causes any injury to

1 a person he or she knows to be a peace officer, community
2 policing volunteer, person summoned by a police officer,
3 fireman, private security officer, correctional
4 institution employee, or emergency management 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 (3) Discharges a firearm, other than a machine gun or a
11 firearm equipped with a silencer, and causes any injury to
12 a person he or she knows to be an emergency medical
13 technician employed by a municipality or other
14 governmental unit:

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 (4) Discharges a firearm and causes any injury to a
21 person he or she knows to be a teacher, a student in a
22 school, or a school employee, and the teacher, student, or
23 employee is upon school grounds or grounds adjacent to a
24 school or in any part of a building used for school
25 purposes.

26 (5) Discharges a machine gun or a firearm equipped with

1 a silencer, and causes any injury to another person.

2 (6) 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 peace officer, community policing volunteer,
5 person summoned by a police officer, fireman, private
6 security officer, correctional institution employee or
7 emergency management worker:

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

17 (i) performing his or her official duties;

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

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

22 (8) Discharges a machine gun or a firearm equipped with
23 a silencer, and causes any injury to a person he or she
24 knows to be a teacher, or a student in a school, or a
25 school employee, and the teacher, student, or employee is
26 upon school grounds or grounds adjacent to a school or in

1 any part of a building used for school purposes.

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

5 (1) Uses a deadly weapon other than by discharge of a
6 firearm, or uses an air rifle as defined in Section
7 24.8-0.1 of this Code ~~the Air Rifle Act~~.

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

10 (3) Knowingly and without lawful justification shines
11 or flashes a laser gunsight or other laser device attached
12 to a firearm, or used in concert with a firearm, so that
13 the laser beam strikes upon or against the person of
14 another.

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

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

20 (1) Violates Section 401 of the Illinois Controlled
21 Substances Act by unlawfully delivering a controlled
22 substance to another and any user experiences great bodily
23 harm or permanent disability as a result of the injection,
24 inhalation, or ingestion of any amount of the controlled
25 substance.

26 (2) Knowingly administers to an individual or causes

1 him or her to take, without his or her consent or by threat
2 or deception, and for other than medical purposes, any
3 intoxicating, poisonous, stupefying, narcotic, anesthetic,
4 or controlled substance, or gives to another person any
5 food containing any substance or object intended to cause
6 physical injury if eaten.

7 (3) Knowingly causes or attempts to cause a
8 correctional institution employee or Department of Human
9 Services employee to come into contact with blood, seminal
10 fluid, urine, or feces by throwing, tossing, or expelling
11 the fluid or material, and the person is an inmate of a
12 penal institution or is a sexually dangerous person or
13 sexually violent person in the custody of the Department of
14 Human Services.

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

17 Aggravated battery as defined in subdivision (a)(4),
18 (d)(4), or (g)(3) is a Class 1 ~~2~~ felony.

19 Aggravated battery as defined in subdivision (a)(3) or
20 (g)(1) is a Class X ~~±~~ felony.

21 Aggravated battery as defined in subdivision (a)(1) is a
22 Class X ~~±~~ felony when the aggravated battery was intentional
23 and involved the infliction of torture, as defined in paragraph
24 (14) of subsection (b) of Section 9-1 of this Code, as the
25 infliction of or subjection to extreme physical pain, motivated
26 by an intent to increase or prolong the pain, suffering, or

1 agony of the victim.

2 Aggravated battery under subdivision (a) (5) is a Class X ~~±~~
3 felony if:

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

6 (B) the person caused great bodily harm or permanent
7 disability or disfigurement to the other person while
8 committing the offense; or

9 (C) the person has been previously convicted of a
10 violation of subdivision (a) (5) under the laws of this
11 State or laws similar to subdivision (a) (5) of any other
12 state.

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

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

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

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

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

5 Aggravated battery as defined in subdivision (b)(1) is a
6 Class X felony for which a person shall be sentenced to a term
7 of imprisonment of a minimum of 20 years and a maximum of 60
8 years, except that:

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

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

15 (3) if, during the commission of the offense, the
16 person personally discharged a firearm that proximately
17 caused great bodily harm, permanent disability, permanent
18 disfigurement, or death to another person, 25 years or up
19 to a term of natural life shall be added to the term of
20 imprisonment imposed by the court.

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

22 "Building or other structure used to provide shelter" has
23 the meaning ascribed to "shelter" in Section 1 of the Domestic
24 Violence Shelters Act.

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

1 "Domestic violence shelter" means any building or other
2 structure used to provide shelter or other services to victims
3 or to the dependent children of victims of domestic violence
4 pursuant to the Illinois Domestic Violence Act of 1986 or the
5 Domestic Violence Shelters Act, or any place within 500 feet of
6 such a building or other structure in the case of a person who
7 is going to or from such a building or other structure.

8 "Firearm" has the meaning provided under Section 1.1 of the
9 Firearm Owners Identification Card Act, and does not include an
10 air rifle as defined by Section 24.8-0.1 of this Code.

11 "Machine gun" has the meaning ascribed to it in Section
12 24-1 of this Code.

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

15 "Strangle" means intentionally impeding the normal
16 breathing or circulation of the blood of an individual by
17 applying pressure on the throat or neck of that individual or
18 by blocking the nose or mouth of that individual.

19 (Source: P.A. 97-597, eff. 1-1-12; incorporates 97-227, eff.
20 1-1-12, 97-313, eff. 1-1-12, and 97-467, eff. 1-1-12; 97-1109,
21 eff. 1-1-13; 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; revised
22 9-24-13.)