

HB5681



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5681

by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

720 ILCS 5/33G-3

720 ILCS 5/48-1

was 720 ILCS 5/26-5

Amends the Criminal Code of 2012. Includes as a predicate offense under the Illinois Street Gang and Racketeer Influenced and Corrupt Organizations Law (or "RICO") a Class 2 felony or higher violation of the dog fighting statute. Increases the penalties for dog fighting by one class.

LRB100 18551 RLC 33769 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 Sections 33G-3 and 48-1 as follows:

6 (720 ILCS 5/33G-3)

7 (Section scheduled to be repealed on June 11, 2022)

8 Sec. 33G-3. Definitions. As used in this Article:

9 (a) "Another state" means any State of the United States  
10 (other than the State of Illinois), or the District of  
11 Columbia, or the Commonwealth of Puerto Rico, or any territory  
12 or possession of the United States, or any political  
13 subdivision, or any department, agency, or instrumentality  
14 thereof.

15 (b) "Enterprise" includes:

16 (1) any partnership, corporation, association,  
17 business or charitable trust, or other legal entity; and

18 (2) any group of individuals or other legal entities,  
19 or any combination thereof, associated in fact although not  
20 itself a legal entity. An association in fact must be held  
21 together by a common purpose of engaging in a course of  
22 conduct, and it may be associated together for purposes  
23 that are both legal and illegal. An association in fact

1           must:

2                   (A) have an ongoing organization or structure,  
3           either formal or informal;

4                   (B) the various members of the group must function  
5           as a continuing unit, even if the group changes  
6           membership by gaining or losing members over time; and

7                   (C) have an ascertainable structure distinct from  
8           that inherent in the conduct of a pattern of predicate  
9           activity.

10           As used in this Article, "enterprise" includes licit and  
11           illicit enterprises.

12           (c) "Labor organization" includes any organization, labor  
13           union, craft union, or any voluntary unincorporated  
14           association designed to further the cause of the rights of  
15           union labor that is constituted for the purpose, in whole or in  
16           part, of collective bargaining or of dealing with employers  
17           concerning grievances, terms or conditions of employment, or  
18           apprenticeships or applications for apprenticeships, or of  
19           other mutual aid or protection in connection with employment,  
20           including apprenticeships or applications for apprenticeships.

21           (d) "Operation or management" means directing or carrying  
22           out the enterprise's affairs and is limited to any person who  
23           knowingly serves as a leader, organizer, operator, manager,  
24           director, supervisor, financier, advisor, recruiter, supplier,  
25           or enforcer of an enterprise in violation of this Article.

26           (e) "Predicate activity" means any act that is a Class 2

1 felony or higher and constitutes a violation or violations of  
2 any of the following provisions of the laws of the State of  
3 Illinois (as amended or revised as of the date the activity  
4 occurred or, in the instance of a continuing offense, the date  
5 that charges under this Article are filed in a particular  
6 matter in the State of Illinois) or any act under the law of  
7 another jurisdiction for an offense that could be charged as a  
8 Class 2 felony or higher in this State:

9 (1) under the Criminal Code of 1961 or the Criminal  
10 Code of 2012: 8-1.2 (solicitation of murder for hire), 9-1  
11 (first degree murder), 9-3.3 (drug-induced homicide), 10-1  
12 (kidnapping), 10-2 (aggravated kidnapping), 10-3.1  
13 (aggravated unlawful restraint), 10-4 (forcible  
14 detention), 10-5(b)(10) (child abduction), 10-9  
15 (trafficking in persons, involuntary servitude, and  
16 related offenses), 11-1.20 (criminal sexual assault),  
17 11-1.30 (aggravated criminal sexual assault), 11-1.40  
18 (predatory criminal sexual assault of a child), 11-1.60  
19 (aggravated criminal sexual abuse), 11-6 (indecent  
20 solicitation of a child), 11-6.5 (indecent solicitation of  
21 an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting  
22 prostitution), 11-14.4 (promoting juvenile prostitution),  
23 11-18.1 (patronizing a minor engaged in prostitution;  
24 patronizing a juvenile prostitute), 12-3.05 (aggravated  
25 battery), 12-6.4 (criminal street gang recruitment),  
26 12-6.5 (compelling organization membership of persons),

1 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-7.5  
2 (cyberstalking), 12-11 or 19-6 (home invasion), 12-11.1 or  
3 18-6 (vehicular invasion), 18-1 (robbery; aggravated  
4 robbery), 18-2 (armed robbery), 18-3 (vehicular  
5 hijacking), 18-4 (aggravated vehicular hijacking), 18-5  
6 (aggravated robbery), 19-1 (burglary), 19-3 (residential  
7 burglary), 20-1 (arson; residential arson; place of  
8 worship arson), 20-1.1 (aggravated arson), 20-1.2  
9 (residential arson), 20-1.3 (place of worship arson),  
10 24-1.2 (aggravated discharge of a firearm), 24-1.2-5  
11 (aggravated discharge of a machine gun or silencer equipped  
12 firearm), 24-1.8 (unlawful possession of a firearm by a  
13 street gang member), 24-3.2 (unlawful discharge of firearm  
14 projectiles), 24-3.9 (aggravated possession of a stolen  
15 firearm), 24-3A (gunrunning), 26-5 or 48-1 (dog-fighting),  
16 29D-14.9 (terrorism), 29D-15 (soliciting support for  
17 terrorism), 29D-15.1 (causing a catastrophe), 29D-15.2  
18 (possession of a deadly substance), 29D-20 (making a  
19 terrorist threat), 29D-25 (falsely making a terrorist  
20 threat), 29D-29.9 (material support for terrorism), 29D-35  
21 (hindering prosecution of terrorism), 31A-1.2  
22 (unauthorized contraband in a penal institution), ~~or~~ 33A-3  
23 (armed violence), or 48-1 (dog fighting);

24 (2) under the Cannabis Control Act: Sections 5  
25 (manufacture or delivery of cannabis), 5.1 (cannabis  
26 trafficking), or 8 (production or possession of cannabis

1 plants), provided the offense either involves more than 500  
2 grams of any substance containing cannabis or involves more  
3 than 50 cannabis sativa plants;

4 (3) under the Illinois Controlled Substances Act:  
5 Sections 401 (manufacture or delivery of a controlled  
6 substance), 401.1 (controlled substance trafficking), 405  
7 (calculated criminal drug conspiracy), or 405.2 (street  
8 gang criminal drug conspiracy); or

9 (4) under the Methamphetamine Control and Community  
10 Protection Act: Sections 15 (methamphetamine  
11 manufacturing), or 55 (methamphetamine delivery).

12 (f) "Pattern of predicate activity" means:

13 (1) at least 3 occurrences of predicate activity that  
14 are in some way related to each other and that have  
15 continuity between them, and that are separate acts. Acts  
16 are related to each other if they are not isolated events,  
17 including if they have similar purposes, or results, or  
18 participants, or victims, or are committed a similar way,  
19 or have other similar distinguishing characteristics, or  
20 are part of the affairs of the same enterprise. There is  
21 continuity between acts if they are ongoing over a  
22 substantial period, or if they are part of the regular way  
23 some entity does business or conducts its affairs; and

24 (2) which occurs after the effective date of this  
25 Article, and the last of which falls within 3 years  
26 (excluding any period of imprisonment) after the first

1 occurrence of predicate activity.

2 (g) "Unlawful death" includes the following offenses:  
3 under the Code of 1961 or the Criminal Code of 2012: Sections  
4 9-1 (first degree murder) or 9-2 (second degree murder).  
5 (Source: P.A. 97-686, eff. 6-11-12; 97-1150, eff. 1-25-13.)

6 (720 ILCS 5/48-1) (was 720 ILCS 5/26-5)

7 Sec. 48-1. Dog fighting. (For other provisions that may  
8 apply to dog fighting, see the Humane Care for Animals Act. For  
9 provisions similar to this Section that apply to animals other  
10 than dogs, see in particular Section 4.01 of the Humane Care  
11 for Animals Act.)

12 (a) No person may own, capture, breed, train, or lease any  
13 dog which he or she knows is intended for use in any show,  
14 exhibition, program, or other activity featuring or otherwise  
15 involving a fight between the dog and any other animal or  
16 human, or the intentional killing of any dog for the purpose of  
17 sport, wagering, or entertainment.

18 (b) No person may promote, conduct, carry on, advertise,  
19 collect money for or in any other manner assist or aid in the  
20 presentation for purposes of sport, wagering, or entertainment  
21 of any show, exhibition, program, or other activity involving a  
22 fight between 2 or more dogs or any dog and human, or the  
23 intentional killing of any dog.

24 (c) No person may sell or offer for sale, ship, transport,  
25 or otherwise move, or deliver or receive any dog which he or

1 she knows has been captured, bred, or trained, or will be used,  
2 to fight another dog or human or be intentionally killed for  
3 purposes of sport, wagering, or entertainment.

4 (c-5) No person may solicit a minor to violate this  
5 Section.

6 (d) No person may manufacture for sale, shipment,  
7 transportation, or delivery any device or equipment which he or  
8 she knows or should know is intended for use in any show,  
9 exhibition, program, or other activity featuring or otherwise  
10 involving a fight between 2 or more dogs, or any human and dog,  
11 or the intentional killing of any dog for purposes of sport,  
12 wagering, or entertainment.

13 (e) No person may own, possess, sell or offer for sale,  
14 ship, transport, or otherwise move any equipment or device  
15 which he or she knows or should know is intended for use in  
16 connection with any show, exhibition, program, or activity  
17 featuring or otherwise involving a fight between 2 or more  
18 dogs, or any dog and human, or the intentional killing of any  
19 dog for purposes of sport, wagering or entertainment.

20 (f) No person may knowingly make available any site,  
21 structure, or facility, whether enclosed or not, that he or she  
22 knows is intended to be used for the purpose of conducting any  
23 show, exhibition, program, or other activity involving a fight  
24 between 2 or more dogs, or any dog and human, or the  
25 intentional killing of any dog or knowingly manufacture,  
26 distribute, or deliver fittings to be used in a fight between 2



1 or more dogs or a dog and human.

2 (g) No person may knowingly attend or otherwise patronize  
3 any show, exhibition, program, or other activity featuring or  
4 otherwise involving a fight between 2 or more dogs, or any dog  
5 and human, or the intentional killing of any dog for purposes  
6 of sport, wagering, or entertainment.

7 (h) No person may tie or attach or fasten any live animal  
8 to any machine or device propelled by any power for the purpose  
9 of causing the animal to be pursued by a dog or dogs. This  
10 subsection (h) applies only when the dog is intended to be used  
11 in a dog fight.

12 (i) Sentence.

13 (1) Any person convicted of violating subsection (a),  
14 (b), (c), or (h) of this Section is guilty of a Class 3 ~~4~~  
15 felony for a first violation and a Class 2 ~~3~~ felony for a  
16 second or subsequent violation, and may be fined an amount  
17 not to exceed \$50,000.

18 (1.5) A person who knowingly owns a dog for fighting  
19 purposes or for producing a fight between 2 or more dogs or  
20 a dog and human or who knowingly offers for sale or sells a  
21 dog bred for fighting is guilty of a Class 2 ~~3~~ felony and  
22 may be fined an amount not to exceed \$50,000, if the dog  
23 participates in a dogfight and any of the following factors  
24 is present:

25 (i) the dogfight is performed in the presence of a  
26 person under 18 years of age;

1           (ii) the dogfight is performed for the purpose of  
2 or in the presence of illegal wagering activity; or

3           (iii) the dogfight is performed in furtherance of  
4 streetgang related activity as defined in Section 10 of  
5 the Illinois Streetgang Terrorism Omnibus Prevention  
6 Act.

7           (1.7) A person convicted of violating subsection (c-5)  
8 of this Section is guilty of a Class 3 ~~4~~ felony.

9           (2) Any person convicted of violating subsection (d) or  
10 (e) of this Section is guilty of a Class 3 ~~4~~ felony for a  
11 first violation. A second or subsequent violation of  
12 subsection (d) or (e) of this Section is a Class 2 ~~3~~  
13 felony.

14           (2.5) Any person convicted of violating subsection (f)  
15 of this Section is guilty of a Class 3 ~~4~~ felony. Any person  
16 convicted of violating subsection (f) of this Section in  
17 which the site, structure, or facility made available to  
18 violate subsection (f) is located within 1,000 feet of a  
19 school, public park, playground, child care institution,  
20 day care center, part day child care facility, day care  
21 home, group day care home, or a facility providing programs  
22 or services exclusively directed toward persons under 18  
23 years of age is guilty of a Class 2 ~~3~~ felony for a first  
24 violation and a Class 1 ~~2~~ felony for a second or subsequent  
25 violation.

26           (3) Any person convicted of violating subsection (g) of

1           this Section is guilty of a Class 3 ~~4~~ felony for a first  
2           violation. A second or subsequent violation of subsection  
3           (g) of this Section is a Class 2 ~~3~~ felony. If a person  
4           under 13 years of age is present at any show, exhibition,  
5           program, or other activity prohibited in subsection (g),  
6           the parent, legal guardian, or other person who is 18 years  
7           of age or older who brings that person under 13 years of  
8           age to that show, exhibition, program, or other activity is  
9           guilty of a Class 2 ~~3~~ felony for a first violation and a  
10          Class 1 ~~2~~ felony for a second or subsequent violation.

11          (i-5) A person who commits a felony violation of this  
12          Section is subject to the property forfeiture provisions set  
13          forth in Article 124B of the Code of Criminal Procedure of  
14          1963.

15          (j) Any dog or equipment involved in a violation of this  
16          Section shall be immediately seized and impounded under Section  
17          12 of the Humane Care for Animals Act when located at any show,  
18          exhibition, program, or other activity featuring or otherwise  
19          involving a dog fight for the purposes of sport, wagering, or  
20          entertainment.

21          (k) Any vehicle or conveyance other than a common carrier  
22          that is used in violation of this Section shall be seized,  
23          held, and offered for sale at public auction by the sheriff's  
24          department of the proper jurisdiction, and the proceeds from  
25          the sale shall be remitted to the general fund of the county  
26          where the violation took place.

1           (1) Any veterinarian in this State who is presented with a  
2 dog for treatment of injuries or wounds resulting from fighting  
3 where there is a reasonable possibility that the dog was  
4 engaged in or utilized for a fighting event for the purposes of  
5 sport, wagering, or entertainment shall file a report with the  
6 Department of Agriculture and cooperate by furnishing the  
7 owners' names, dates, and descriptions of the dog or dogs  
8 involved. Any veterinarian who in good faith complies with the  
9 requirements of this subsection has immunity from any  
10 liability, civil, criminal, or otherwise, that may result from  
11 his or her actions. For the purposes of any proceedings, civil  
12 or criminal, the good faith of the veterinarian shall be  
13 rebuttably presumed.

14           (m) In addition to any other penalty provided by law, upon  
15 conviction for violating this Section, the court may order that  
16 the convicted person and persons dwelling in the same household  
17 as the convicted person who conspired, aided, or abetted in the  
18 unlawful act that was the basis of the conviction, or who knew  
19 or should have known of the unlawful act, may not own, harbor,  
20 or have custody or control of any dog or other animal for a  
21 period of time that the court deems reasonable.

22           (n) A violation of subsection (a) of this Section may be  
23 inferred from evidence that the accused possessed any device or  
24 equipment described in subsection (d), (e), or (h) of this  
25 Section, and also possessed any dog.

26           (o) When no longer required for investigations or court

1 proceedings relating to the events described or depicted  
2 therein, evidence relating to convictions for violations of  
3 this Section shall be retained and made available for use in  
4 training peace officers in detecting and identifying  
5 violations of this Section. Such evidence shall be made  
6 available upon request to other law enforcement agencies and to  
7 schools certified under the Illinois Police Training Act.

8 (p) For the purposes of this Section, "school" has the  
9 meaning ascribed to it in Section 11-9.3 of this Code; and  
10 "public park", "playground", "child care institution", "day  
11 care center", "part day child care facility", "day care home",  
12 "group day care home", and "facility providing programs or  
13 services exclusively directed toward persons under 18 years of  
14 age" have the meanings ascribed to them in Section 11-9.4 of  
15 this Code.

16 (Source: P.A. 96-226, eff. 8-11-09; 96-712, eff. 1-1-10;  
17 96-1000, eff. 7-2-10; 96-1091, eff. 1-1-11; 97-1108, eff.  
18 1-1-13.)