



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by Frank Aguilar

SYNOPSIS AS INTRODUCED:

720 ILCS 5/2-8.5 new	
720 ILCS 5/10-2	from Ch. 38, par. 10-2
720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/12-4	from Ch. 38, par. 12-4
720 ILCS 5/18-5	
720 ILCS 5/20-1.1	from Ch. 38, par. 20-1.1
720 ILCS 5/24-1.6	

Amends the Criminal Code of 1961. Provides that kidnaping, assault, battery, robbery, arson, or unlawful use of weapons committed by a gang member is enhanced to an aggravated kidnaping, aggravated assault, aggravated battery, aggravated robbery, aggravated arson, or aggravated unlawful use of a weapon.

LRB093 18407 RLC 44115 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 10-2, 12-2, 12-4, 18-5, 20-1.1, and 24-1.6 and by
6 adding Section 2-8.5 as follows:

7 (720 ILCS 5/2-8.5 new)

8 Sec. 2-8.5. Gang member. "Gang member" has the meaning
9 ascribed to it in Section 10 of the Illinois Streetgang
10 Terrorism Omnibus Prevention Act.

11 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

12 Sec. 10-2. Aggravated kidnaping.

13 (a) A kidnaper within the definition of paragraph (a) of
14 Section 10-1 is guilty of the offense of aggravated kidnaping
15 when he:

16 (1) Kidnaps for the purpose of obtaining ransom from
17 the person kidnaped or from any other person, or

18 (2) Takes as his victim a child under the age of 13
19 years, or a severely or profoundly mentally retarded
20 person, or

21 (3) Inflicts great bodily harm, other than by the
22 discharge of a firearm, or commits another felony upon his
23 victim, or

24 (4) Wears a hood, robe or mask or conceals his
25 identity, or

26 (5) Commits the offense of kidnaping while armed with a
27 dangerous weapon, other than a firearm, as defined in
28 Section 33A-1 of the "Criminal Code of 1961", or

29 (6) Commits the offense of kidnaping while armed with a
30 firearm, or

31 (7) During the commission of the offense of kidnaping,

1 personally discharged a firearm, or

2 (8) During the commission of the offense of kidnaping,
3 personally discharged a firearm that proximately caused
4 great bodily harm, permanent disability, permanent
5 disfigurement, or death to another person, or

6 (9) Is a gang member.

7 As used in this Section, "ransom" includes money, benefit
8 or other valuable thing or concession.

9 (b) Sentence. Aggravated kidnaping in violation of
10 paragraph (1), (2), (3), (4), ~~or~~ (5), or (9) of subsection (a)
11 is a Class X felony. A violation of subsection (a)(6) is a
12 Class X felony for which 15 years shall be added to the term of
13 imprisonment imposed by the court. A violation of subsection
14 (a)(7) is a Class X felony for which 20 years shall be added to
15 the term of imprisonment imposed by the court. A violation of
16 subsection (a)(8) is a Class X felony for which 25 years or up
17 to a term of natural life shall be added to the term of
18 imprisonment imposed by the court.

19 A person who is convicted of a second or subsequent offense
20 of aggravated kidnaping shall be sentenced to a term of natural
21 life imprisonment; provided, however, that a sentence of
22 natural life imprisonment shall not be imposed under this
23 Section unless the second or subsequent offense was committed
24 after conviction on the first offense.

25 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02.)

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

27 Sec. 12-2. Aggravated assault.

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

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

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

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

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

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

23 (5) Knows the individual assaulted to be a caseworker,
24 investigator, or other person employed by the State
25 Department of Public Aid, a County Department of Public
26 Aid, or the Department of Human Services (acting as
27 successor to the Illinois Department of Public Aid under
28 the Department of Human Services Act) and such caseworker,
29 investigator, or other person is upon the grounds of a
30 public aid office or grounds adjacent thereto, or is in any
31 part of a building used for public aid purposes, or upon
32 the grounds of a home of a public aid applicant, recipient
33 or any other person being interviewed or investigated in
34 the employees' discharge of his duties, or on grounds
35 adjacent thereto, or is in any part of a building in which
36 the applicant, recipient, or other such person resides or

1 is located;

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

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

28 (8) Knows the individual assaulted to be the driver,
29 operator, employee or passenger of any transportation
30 facility or system engaged in the business of
31 transportation of the public for hire and the individual
32 assaulted is then performing in such capacity or then using
33 such public transportation as a passenger or using any area
34 of any description designated by the transportation
35 facility or system as a vehicle boarding, departure, or
36 transfer location;

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

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

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

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

12 (13) Discharges a firearm;

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 (15) Knows the individual assaulted to be a
20 correctional employee or an employee of the Department of
21 Human Services supervising or controlling sexually
22 dangerous persons or sexually violent persons, while the
23 employee is engaged in the execution of any of his or her
24 official duties, or to prevent the employee from performing
25 his or her official duties, or in retaliation for the
26 employee performing his or her official duties, and the
27 assault is committed other than by the discharge of a
28 firearm in the direction of the employee or in the
29 direction of a vehicle occupied by the employee; or

30 (16) Knows the individual assaulted to be an employee
31 of a police or sheriff's department engaged in the
32 performance of his or her official duties as such employee.

33 (a-5) A person commits an aggravated assault when he or she
34 knowingly and without lawful justification shines or flashes a
35 laser gunsight or other laser device that is attached or
36 affixed to a firearm, or used in concert with a firearm, so

1 that the laser beam strikes near or in the immediate vicinity
2 of any person.

3 (a-6) A person commits an aggravated assault when he or she
4 commits an assault and at the time of the commission of the
5 assault was a gang member.

6 (b) Sentence.

7 Aggravated assault as defined in paragraphs (1) through (5)
8 and (8) through (12) of subsection (a) of this Section is a
9 Class A misdemeanor. Aggravated assault as defined in
10 paragraphs (13), (14), and (15) of subsection (a) of this
11 Section and as defined in subsections ~~subsection~~ (a-5) and
12 (a-6) of this Section is a Class 4 felony. Aggravated assault
13 as defined in paragraphs (6), (7), and (16) of subsection (a)
14 of this Section is a Class A misdemeanor if a firearm is not
15 used in the commission of the assault. Aggravated assault as
16 defined in paragraphs (6), (7), and (16) of subsection (a) of
17 this Section is a Class 4 felony if a firearm is used in the
18 commission of the assault.

19 (Source: P.A. 91-672, eff. 1-1-00; 92-841, eff. 8-22-02;
20 92-865, eff. 1-3-03; revised 1-9-03.)

21 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

22 Sec. 12-4. Aggravated Battery.

23 (a) A person who, in committing a battery, intentionally or
24 knowingly causes great bodily harm, or permanent disability or
25 disfigurement commits aggravated battery.

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

28 (1) Uses a deadly weapon other than by the discharge of
29 a firearm;

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

32 (3) Knows the individual harmed to be a teacher or
33 other person employed in any school and such teacher or
34 other employee is upon the grounds of a school or grounds
35 adjacent thereto, or is in any part of a building used for

1 school purposes;

2 (4) Knows the individual harmed to be a supervisor,
3 director, instructor or other person employed in any park
4 district and such supervisor, director, instructor or
5 other employee is upon the grounds of the park or grounds
6 adjacent thereto, or is in any part of a building used for
7 park purposes;

8 (5) Knows the individual harmed to be a caseworker,
9 investigator, or other person employed by the State
10 Department of Public Aid, a County Department of Public
11 Aid, or the Department of Human Services (acting as
12 successor to the Illinois Department of Public Aid under
13 the Department of Human Services Act) and such caseworker,
14 investigator, or other person is upon the grounds of a
15 public aid office or grounds adjacent thereto, or is in any
16 part of a building used for public aid purposes, or upon
17 the grounds of a home of a public aid applicant, recipient,
18 or any other person being interviewed or investigated in
19 the employee's discharge of his duties, or on grounds
20 adjacent thereto, or is in any part of a building in which
21 the applicant, recipient, or other such person resides or
22 is located;

23 (6) Knows the individual harmed to be a peace officer,
24 a community policing volunteer, a correctional institution
25 employee, an employee of the Department of Human Services
26 supervising or controlling sexually dangerous persons or
27 sexually violent persons, or a fireman while such officer,
28 volunteer, employee or fireman is engaged in the execution
29 of any official duties including arrest or attempted
30 arrest, or to prevent the officer, volunteer, employee or
31 fireman from performing official duties, or in retaliation
32 for the officer, volunteer, employee or fireman performing
33 official duties, and the battery is committed other than by
34 the discharge of a firearm;

35 (7) Knows the individual harmed to be an emergency
36 medical technician - ambulance, emergency medical

1 technician - intermediate, emergency medical technician -
2 paramedic, ambulance driver, other medical assistance,
3 first aid personnel, or hospital personnel engaged in the
4 performance of any of his or her official duties, or to
5 prevent the emergency medical technician - ambulance,
6 emergency medical technician - intermediate, emergency
7 medical technician - paramedic, ambulance driver, other
8 medical assistance, first aid personnel, or hospital
9 personnel from performing official duties, or in
10 retaliation for performing official duties;

11 (8) Is, or the person battered is, on or about a public
12 way, public property or public place of accommodation or
13 amusement;

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

23 (10) Knowingly and without legal justification and by
24 any means causes bodily harm to an individual of 60 years
25 of age or older;

26 (11) Knows the individual harmed is pregnant;

27 (12) Knows the individual harmed to be a judge whom the
28 person intended to harm as a result of the judge's
29 performance of his or her official duties as a judge;

30 (13) Knows the individual harmed to be an employee of
31 the Illinois Department of Children and Family Services
32 engaged in the performance of his authorized duties as such
33 employee;

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

36 (15) Knowingly and without legal justification and by

1 any means causes bodily harm to a merchant who detains the
2 person for an alleged commission of retail theft under
3 Section 16A-5 of this Code. In this item (15), "merchant"
4 has the meaning ascribed to it in Section 16A-2.4 of this
5 Code;

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

19 (17) Knows the individual harmed to be an employee of a
20 police or sheriff's department engaged in the performance
21 of his or her official duties as such employee.

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

27 (c) A person who administers to an individual or causes him
28 to take, without his consent or by threat or deception, and for
29 other than medical purposes, any intoxicating, poisonous,
30 stupefying, narcotic, anesthetic, or controlled substance
31 commits aggravated battery.

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

35 (d-3) A person commits aggravated battery when he or she
36 knowingly and without lawful justification shines or flashes a

1 laser gunsight or other laser device that is attached or
2 affixed to a firearm, or used in concert with a firearm, so
3 that the laser beam strikes upon or against the person of
4 another.

5 (d-5) An inmate of a penal institution or a sexually
6 dangerous person or a sexually violent person in the custody of
7 the Department of Human Services who causes or attempts to
8 cause a correctional employee of the penal institution or an
9 employee of the Department of Human Services to come into
10 contact with blood, seminal fluid, urine, or feces, by
11 throwing, tossing, or expelling that fluid or material commits
12 aggravated battery. For purposes of this subsection (d-5),
13 "correctional employee" means a person who is employed by a
14 penal institution.

15 (d-6) A person commits aggravated battery when he or she
16 commits battery and at the time of the commission of the
17 offense was a gang member.

18 (e) Sentence.

19 Aggravated battery is a Class 3 felony, except a violation
20 of subsection (a) is a Class 2 felony when the person knows the
21 individual harmed to be a peace officer engaged in the
22 execution of any of his or her official duties, or the battery
23 is to prevent the officer from performing his or her official
24 duties, or in retaliation for the officer performing his or her
25 official duties.

26 (Source: P.A. 92-16, eff. 6-28-01; 92-516, eff. 1-1-02; 92-841,
27 eff. 8-22-02; 92-865, eff. 1-3-03; 93-83, eff. 7-2-03.)

28 (720 ILCS 5/18-5)

29 Sec. 18-5. Aggravated robbery.

30 (a) A person commits aggravated robbery when he or she
31 takes property from the person or presence of another by the
32 use of force or by threatening the imminent use of force while
33 indicating verbally or by his or her actions to the victim that
34 he or she is presently armed with a firearm or other dangerous
35 weapon, including a knife, club, ax, or bludgeon. This offense

1 shall be applicable even though it is later determined that he
2 or she had no firearm or other dangerous weapon, including a
3 knife, club, ax, or bludgeon, in his or her possession when he
4 or she committed the robbery.

5 (a-5) A person commits aggravated robbery when he or she
6 takes property from the person or presence of another by
7 delivering (by injection, inhalation, ingestion, transfer of
8 possession, or any other means) to the victim without his or
9 her consent, or by threat or deception, and for other than
10 medical purposes, any controlled substance.

11 (a-6) A person commits aggravated robbery when he or she
12 commits a robbery and at the time of the commission of the
13 offense was a gang member.

14 (b) Sentence. Aggravated robbery is a Class 1 felony.
15 (Source: P.A. 90-593, eff. 1-1-99; 90-735, eff. 8-11-98;
16 91-357, eff. 7-29-99.)

17 (720 ILCS 5/20-1.1) (from Ch. 38, par. 20-1.1)

18 Sec. 20-1.1. Aggravated Arson.

19 (a) A person commits aggravated arson when in the course of
20 committing arson he or she knowingly damages, partially or
21 totally, any building or structure, including any adjacent
22 building or structure, including all or any part of a school
23 building, house trailer, watercraft, motor vehicle, or
24 railroad car, and (1) he knows or reasonably should know that
25 one or more persons are present therein or (2) any person
26 suffers great bodily harm, or permanent disability or
27 disfigurement as a result of the fire or explosion or (3) a
28 fireman or policeman who is present at the scene acting in the
29 line of duty, is injured as a result of the fire or explosion.
30 For purposes of this Section, property "of another" means a
31 building or other property, whether real or personal, in which
32 a person other than the offender has an interest that the
33 offender has no authority to defeat or impair, even though the
34 offender may also have an interest in the building or property;
35 and "school building" means any public or private preschool,

1 elementary or secondary school, community college, college, or
2 university.

3 (a-5) A person commits aggravated arson when he or she
4 commits an arson and at the time of the commission of the
5 offense was a gang member.

6 (b) Sentence. Aggravated arson is a Class X felony.

7 (Source: P.A. 92-421, eff. 8-17-01; P.A. 93-335, eff. 7-24-03.)

8 (720 ILCS 5/24-1.6)

9 Sec. 24-1.6. Aggravated unlawful use of a weapon.

10 (a) A person commits the offense of aggravated unlawful use
11 of a weapon when he or she knowingly:

12 (1) Carries on or about his or her person or in any
13 vehicle or concealed on or about his or her person except
14 when on his or her land or in his or her abode or fixed
15 place of business any pistol, revolver, stun gun or taser
16 or other firearm; or

17 (2) Carries or possesses on or about his or her person,
18 upon any public street, alley, or other public lands within
19 the corporate limits of a city, village or incorporated
20 town, except when an invitee thereon or therein, for the
21 purpose of the display of such weapon or the lawful
22 commerce in weapons, or except when on his or her own land
23 or in his or her own abode or fixed place of business, any
24 pistol, revolver, stun gun or taser or other firearm; and

25 (3) One of the following factors is present:

26 (A) the firearm possessed was uncased, loaded and
27 immediately accessible at the time of the offense; or

28 (B) the firearm possessed was uncased, unloaded
29 and the ammunition for the weapon was immediately
30 accessible at the time of the offense; or

31 (C) the person possessing the firearm has not been
32 issued a currently valid Firearm Owner's
33 Identification Card; or

34 (D) the person possessing the weapon was
35 previously adjudicated a delinquent minor under the

1 Juvenile Court Act of 1987 for an act that if committed
2 by an adult would be a felony; or

3 (E) the person possessing the weapon was engaged in
4 a misdemeanor violation of the Cannabis Control Act or
5 in a misdemeanor violation of the Illinois Controlled
6 Substances Act; or

7 (F) the person possessing the weapon is a member of
8 a street gang or is engaged in street gang related
9 activity, as defined in Section 10 of the Illinois
10 Streetgang Terrorism Omnibus Prevention Act; or

11 (G) the person possessing the weapon had a order of
12 protection issued against him or her within the
13 previous 2 years; or

14 (H) the person possessing the weapon was engaged in
15 the commission or attempted commission of a
16 misdemeanor involving the use or threat of violence
17 against the person or property of another; or

18 (I) the person possessing the weapon was under 21
19 years of age and in possession of a handgun as defined
20 in Section 24-3, unless the person under 21 is engaged
21 in lawful activities under the Wildlife Code or
22 described in subsection 24-2(b)(1), (b)(3), or
23 24-2(f).

24 (a-5) A person commits the offense of aggravated unlawful
25 use of a weapon when he or she commits the offense of unlawful
26 use of weapons and at the time of the commission of the offense
27 was a gang member.

28 (b) "Stun gun or taser" as used in this Section has the
29 same definition given to it in Section 24-1 of this Code.

30 (c) This Section does not apply to or affect the
31 transportation or possession of weapons that:

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

33 (ii) are not immediately accessible; or

34 (iii) are unloaded and enclosed in a case, firearm
35 carrying box, shipping box, or other container by a
36 person who has been issued a currently valid Firearm

1 Owner's Identification Card.

2 (d) Sentence. Aggravated unlawful use of a weapon is a
3 Class 4 felony; a second or subsequent offense is a Class 2
4 felony. Aggravated unlawful use of a weapon by a person who has
5 been previously convicted of a felony in this State or another
6 jurisdiction is a Class 2 felony.

7 (Source: P.A. 91-690, eff. 4-13-00.)