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09400HB4238ham002

LRB094 15326 RSP 55672 a

1 AMENDMENT TO HOUSE BILL 4238

2 AMENDMENT NO. _____. Amend House Bill 4238, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Counties Code is amended by changing
6 Section 5-1071 as follows:

7 (55 ILCS 5/5-1071) (from Ch. 34, par. 5-1071)

8 Sec. 5-1071. Dogs running at large. The county board of
9 each county may regulate and prohibit the running at large of
10 dogs in unincorporated areas of the county which have been
11 subdivided for residence purposes. The county board may impose
12 such fines or penalties as are deemed proper to effectuate any
13 such regulation or prohibition of dogs running at large, except
14 when a fine or penalty is already allowed by law. ~~No fine or
15 penalty may exceed \$50 for any one offense.~~

16 (Source: P.A. 86-962.)

17 Section 10. The Animal Control Act is amended by changing
18 Section 26 and by adding Section 9.5 as follows:

19 (510 ILCS 5/9.5 new)

20 Sec. 9.5. Dogs hunting; in dog parks. A dog that is
21 actively engaged in a legal hunting activity, including
22 training, is not considered to be running at large if the dog

1 is monitored or supervised by a person and the dog is on land
2 that is open to hunting or on land with respect to which the
3 person has obtained written permission to hunt or train a dog.
4 A dog that is in a dog-friendly area of a park or in a dog park
5 is not considered to be running at large if the dog is
6 monitored or supervised by a person.

7 (510 ILCS 5/26) (from Ch. 8, par. 376)

8 Sec. 26. (a) Except as otherwise provided in this Act, any
9 ~~Any~~ person violating or aiding in or abetting the violation of
10 any provision of this Act, or counterfeiting or forging any
11 certificate, permit, or tag, or making any misrepresentation in
12 regard to any matter prescribed by this Act, or resisting,
13 obstructing, or impeding the Administrator or any authorized
14 officer in enforcing this Act, or refusing to produce for
15 inoculation any dog in his possession, or who removes a tag
16 from a dog for purposes of destroying or concealing its
17 identity, is guilty of a Class C misdemeanor for a first
18 offense and for a subsequent offense, is guilty of a Class B
19 misdemeanor.

20 Each day a person fails to comply constitutes a separate
21 offense. Each State's Attorney to whom the Administrator
22 reports any violation of this Act shall cause appropriate
23 proceedings to be instituted in the proper courts without delay
24 and to be prosecuted in the manner provided by law.

25 (b) If the owner of a vicious dog subject to enclosure:

26 (1) fails to maintain or keep the dog in an enclosure
27 or fails to spay or neuter the dog within the time period
28 prescribed; and

29 (2) the dog inflicts serious physical injury upon any
30 other person or causes the death of another person; and

31 (3) the attack is unprovoked in a place where such
32 person is peaceably conducting himself or herself and where
33 such person may lawfully be;

1 the owner shall be guilty of a Class 4 felony, unless the owner
2 knowingly allowed the dog to run at large or failed to take
3 steps to keep the dog in an enclosure then the owner shall be
4 guilty of a Class 3 felony. The penalty provided in this
5 paragraph shall be in addition to any other criminal or civil
6 sanction provided by law.

7 (c) If the owner of a dangerous dog knowingly fails to
8 comply with any order regarding the dog and the dog inflicts
9 serious physical injury on a person or a companion animal, the
10 owner shall be guilty of a Class A misdemeanor. If the owner of
11 a dangerous dog knowingly fails to comply with any order
12 regarding the dog and the dog kills a person the owner shall be
13 guilty of a Class 4 felony.

14 (d) If the owner of a dog knowingly allows it to run at
15 large in violation of this Act as specified in Section 9 and
16 the dog inflicts serious physical injury, as defined in this
17 Act, or death to a person, the owner is guilty of a Class 4
18 felony. This subsection does not apply to a police dog that
19 inflicts physical or serious physical injury to a person in the
20 course of its duties.

21 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

22 Section 15. The Unified Code of Corrections is amended by
23 changing Section 5-5-3.2 as follows:

24 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

25 Sec. 5-5-3.2. Factors in Aggravation.

26 (a) The following factors shall be accorded weight in favor
27 of imposing a term of imprisonment or may be considered by the
28 court as reasons to impose a more severe sentence under Section
29 5-8-1:

30 (1) the defendant's conduct caused or threatened
31 serious harm;

32 (2) the defendant received compensation for committing

1 the offense;

2 (3) the defendant has a history of prior delinquency or
3 criminal activity;

4 (4) the defendant, by the duties of his office or by
5 his position, was obliged to prevent the particular offense
6 committed or to bring the offenders committing it to
7 justice;

8 (5) the defendant held public office at the time of the
9 offense, and the offense related to the conduct of that
10 office;

11 (6) the defendant utilized his professional reputation
12 or position in the community to commit the offense, or to
13 afford him an easier means of committing it;

14 (7) the sentence is necessary to deter others from
15 committing the same crime;

16 (8) the defendant committed the offense against a
17 person 60 years of age or older or such person's property;

18 (9) the defendant committed the offense against a
19 person who is physically handicapped or such person's
20 property;

21 (10) by reason of another individual's actual or
22 perceived race, color, creed, religion, ancestry, gender,
23 sexual orientation, physical or mental disability, or
24 national origin, the defendant committed the offense
25 against (i) the person or property of that individual; (ii)
26 the person or property of a person who has an association
27 with, is married to, or has a friendship with the other
28 individual; or (iii) the person or property of a relative
29 (by blood or marriage) of a person described in clause (i)
30 or (ii). For the purposes of this Section, "sexual
31 orientation" means heterosexuality, homosexuality, or
32 bisexuality;

33 (11) the offense took place in a place of worship or on
34 the grounds of a place of worship, immediately prior to,

1 during or immediately following worship services. For
2 purposes of this subparagraph, "place of worship" shall
3 mean any church, synagogue or other building, structure or
4 place used primarily for religious worship;

5 (12) the defendant was convicted of a felony committed
6 while he was released on bail or his own recognizance
7 pending trial for a prior felony and was convicted of such
8 prior felony, or the defendant was convicted of a felony
9 committed while he was serving a period of probation,
10 conditional discharge, or mandatory supervised release
11 under subsection (d) of Section 5-8-1 for a prior felony;

12 (13) the defendant committed or attempted to commit a
13 felony while he was wearing a bulletproof vest. For the
14 purposes of this paragraph (13), a bulletproof vest is any
15 device which is designed for the purpose of protecting the
16 wearer from bullets, shot or other lethal projectiles;

17 (14) the defendant held a position of trust or
18 supervision such as, but not limited to, family member as
19 defined in Section 12-12 of the Criminal Code of 1961,
20 teacher, scout leader, baby sitter, or day care worker, in
21 relation to a victim under 18 years of age, and the
22 defendant committed an offense in violation of Section
23 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
24 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
25 against that victim;

26 (15) the defendant committed an offense related to the
27 activities of an organized gang. For the purposes of this
28 factor, "organized gang" has the meaning ascribed to it in
29 Section 10 of the Streetgang Terrorism Omnibus Prevention
30 Act;

31 (16) the defendant committed an offense in violation of
32 one of the following Sections while in a school, regardless
33 of the time of day or time of year; on any conveyance
34 owned, leased, or contracted by a school to transport

1 students to or from school or a school related activity; on
2 the real property of a school; or on a public way within
3 1,000 feet of the real property comprising any school:
4 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
5 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
6 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
7 33A-2 of the Criminal Code of 1961;

8 (16.5) the defendant committed an offense in violation
9 of one of the following Sections while in a day care
10 center, regardless of the time of day or time of year; on
11 the real property of a day care center, regardless of the
12 time of day or time of year; or on a public way within
13 1,000 feet of the real property comprising any day care
14 center, regardless of the time of day or time of year:
15 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
16 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
17 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
18 33A-2 of the Criminal Code of 1961;

19 (17) the defendant committed the offense by reason of
20 any person's activity as a community policing volunteer or
21 to prevent any person from engaging in activity as a
22 community policing volunteer. For the purpose of this
23 Section, "community policing volunteer" has the meaning
24 ascribed to it in Section 2-3.5 of the Criminal Code of
25 1961;

26 (18) the defendant committed the offense in a nursing
27 home or on the real property comprising a nursing home. For
28 the purposes of this paragraph (18), "nursing home" means a
29 skilled nursing or intermediate long term care facility
30 that is subject to license by the Illinois Department of
31 Public Health under the Nursing Home Care Act;

32 (19) the defendant was a federally licensed firearm
33 dealer and was previously convicted of a violation of
34 subsection (a) of Section 3 of the Firearm Owners

1 Identification Card Act and has now committed either a
2 felony violation of the Firearm Owners Identification Card
3 Act or an act of armed violence while armed with a firearm;

4 ~~or~~

5 (20) the defendant (i) committed the offense of
6 reckless homicide under Section 9-3 of the Criminal Code of
7 1961 or the offense of driving under the influence of
8 alcohol, other drug or drugs, intoxicating compound or
9 compounds or any combination thereof under Section 11-501
10 of the Illinois Vehicle Code or a similar provision of a
11 local ordinance and (ii) was operating a motor vehicle in
12 excess of 20 miles per hour over the posted speed limit as
13 provided in Article VI of Chapter 11 of the Illinois
14 Vehicle Code; or

15 (21) ~~(20)~~ the defendant (i) committed the offense of
16 reckless driving or aggravated reckless driving under
17 Section 11-503 of the Illinois Vehicle Code and (ii) was
18 operating a motor vehicle in excess of 20 miles per hour
19 over the posted speed limit as provided in Article VI of
20 Chapter 11 of the Illinois Vehicle Code.

21 For the purposes of this Section:

22 "School" is defined as a public or private elementary or
23 secondary school, community college, college, or university.

24 "Day care center" means a public or private State certified
25 and licensed day care center as defined in Section 2.09 of the
26 Child Care Act of 1969 that displays a sign in plain view
27 stating that the property is a day care center.

28 (b) The following factors may be considered by the court as
29 reasons to impose an extended term sentence under Section 5-8-2
30 upon any offender:

31 (1) When a defendant is convicted of any felony, after
32 having been previously convicted in Illinois or any other
33 jurisdiction of the same or similar class felony or greater
34 class felony, when such conviction has occurred within 10

1 years after the previous conviction, excluding time spent
2 in custody, and such charges are separately brought and
3 tried and arise out of different series of acts; or

4 (2) When a defendant is convicted of any felony and the
5 court finds that the offense was accompanied by
6 exceptionally brutal or heinous behavior indicative of
7 wanton cruelty; or

8 (3) When a defendant is convicted of voluntary
9 manslaughter, second degree murder, involuntary
10 manslaughter or reckless homicide in which the defendant
11 has been convicted of causing the death of more than one
12 individual; or

13 (4) When a defendant is convicted of any felony
14 committed against:

15 (i) a person under 12 years of age at the time of
16 the offense or such person's property;

17 (ii) a person 60 years of age or older at the time
18 of the offense or such person's property; or

19 (iii) a person physically handicapped at the time
20 of the offense or such person's property; or

21 (5) In the case of a defendant convicted of aggravated
22 criminal sexual assault or criminal sexual assault, when
23 the court finds that aggravated criminal sexual assault or
24 criminal sexual assault was also committed on the same
25 victim by one or more other individuals, and the defendant
26 voluntarily participated in the crime with the knowledge of
27 the participation of the others in the crime, and the
28 commission of the crime was part of a single course of
29 conduct during which there was no substantial change in the
30 nature of the criminal objective; or

31 (6) When a defendant is convicted of any felony and the
32 offense involved any of the following types of specific
33 misconduct committed as part of a ceremony, rite,
34 initiation, observance, performance, practice or activity

1 of any actual or ostensible religious, fraternal, or social
2 group:

3 (i) the brutalizing or torturing of humans or
4 animals;

5 (ii) the theft of human corpses;

6 (iii) the kidnapping of humans;

7 (iv) the desecration of any cemetery, religious,
8 fraternal, business, governmental, educational, or
9 other building or property; or

10 (v) ritualized abuse of a child; or

11 (7) When a defendant is convicted of first degree
12 murder, after having been previously convicted in Illinois
13 of any offense listed under paragraph (c)(2) of Section
14 5-5-3, when such conviction has occurred within 10 years
15 after the previous conviction, excluding time spent in
16 custody, and such charges are separately brought and tried
17 and arise out of different series of acts; or

18 (8) When a defendant is convicted of a felony other
19 than conspiracy and the court finds that the felony was
20 committed under an agreement with 2 or more other persons
21 to commit that offense and the defendant, with respect to
22 the other individuals, occupied a position of organizer,
23 supervisor, financier, or any other position of management
24 or leadership, and the court further finds that the felony
25 committed was related to or in furtherance of the criminal
26 activities of an organized gang or was motivated by the
27 defendant's leadership in an organized gang; or

28 (9) When a defendant is convicted of a felony violation
29 of Section 24-1 of the Criminal Code of 1961 and the court
30 finds that the defendant is a member of an organized gang;
31 or

32 (10) When a defendant committed the offense using a
33 firearm with a laser sight attached to it. For purposes of
34 this paragraph (10), "laser sight" has the meaning ascribed

1 to it in Section 24.6-5 of the Criminal Code of 1961; or

2 (11) When a defendant who was at least 17 years of age
3 at the time of the commission of the offense is convicted
4 of a felony and has been previously adjudicated a
5 delinquent minor under the Juvenile Court Act of 1987 for
6 an act that if committed by an adult would be a Class X or
7 Class 1 felony when the conviction has occurred within 10
8 years after the previous adjudication, excluding time
9 spent in custody; or

10 (12) When a defendant commits an offense involving the
11 illegal manufacture of a controlled substance under
12 Section 401 of the Illinois Controlled Substances Act, the
13 illegal manufacture of methamphetamine under Section 25 of
14 the Methamphetamine Control and Community Protection Act,
15 or the illegal possession of explosives and an emergency
16 response officer in the performance of his or her duties is
17 killed or injured at the scene of the offense while
18 responding to the emergency caused by the commission of the
19 offense. In this paragraph (12), "emergency" means a
20 situation in which a person's life, health, or safety is in
21 jeopardy; and "emergency response officer" means a peace
22 officer, community policing volunteer, fireman, emergency
23 medical technician-ambulance, emergency medical
24 technician-intermediate, emergency medical
25 technician-paramedic, ambulance driver, other medical
26 assistance or first aid personnel, or hospital emergency
27 room personnel; or -

28 (13) When a defendant commits any felony and the
29 defendant used, possessed, exercised control over, or
30 otherwise directed an animal to assault a law enforcement
31 officer engaged in the execution of his or her official
32 duties or in furtherance of the criminal activities of an
33 organized gang in which the defendant is engaged.

34 (b-1) For the purposes of this Section, "organized gang"

1 has the meaning ascribed to it in Section 10 of the Illinois
2 Streetgang Terrorism Omnibus Prevention Act.

3 (c) The court may impose an extended term sentence under
4 Section 5-8-2 upon any offender who was convicted of aggravated
5 criminal sexual assault or predatory criminal sexual assault of
6 a child under subsection (a)(1) of Section 12-14.1 of the
7 Criminal Code of 1961 where the victim was under 18 years of
8 age at the time of the commission of the offense.

9 (d) The court may impose an extended term sentence under
10 Section 5-8-2 upon any offender who was convicted of unlawful
11 use of weapons under Section 24-1 of the Criminal Code of 1961
12 for possessing a weapon that is not readily distinguishable as
13 one of the weapons enumerated in Section 24-1 of the Criminal
14 Code of 1961.

15 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
16 eff. 9-11-05; revised 8-19-05.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."