



Rep. Constance A. Howard

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09400SB2737ham001

LRB094 18851 RLC 60508 a

1 AMENDMENT TO SENATE BILL 2737

2 AMENDMENT NO. _____. Amend Senate Bill 2737 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 3-7 and 12-7 as follows:

6 (720 ILCS 5/3-7) (from Ch. 38, par. 3-7)

7 Sec. 3-7. Periods excluded from limitation.

8 The period within which a prosecution must be commenced
9 does not include any period in which:

10 (a) The defendant is not usually and publicly resident
11 within this State; or

12 (b) The defendant is a public officer and the offense
13 charged is theft of public funds while in public office; or

14 (c) A prosecution is pending against the defendant for the
15 same conduct, even if the indictment or information which
16 commences the prosecution is quashed or the proceedings thereon
17 are set aside, or are reversed on appeal; or

18 (d) A proceeding or an appeal from a proceeding relating to
19 the quashing or enforcement of a Grand Jury subpoena issued in
20 connection with an investigation of a violation of a criminal
21 law of this State is pending. However, the period within which
22 a prosecution must be commenced includes any period in which
23 the State brings a proceeding or an appeal from a proceeding
24 specified in this subsection (d); or

1 (e) A material witness is placed on active military duty or
2 leave. In this subsection (e), "material witness" includes, but
3 is not limited to, the arresting officer, occurrence witness,
4 or the alleged victim of the offense.

5 If a person is charged with using unlawful force or threats
6 to obtain information or a confession, and the victim of such
7 force or threat is incarcerated as a consequence of this
8 unlawful conduct (whether the incarceration is directly or
9 indirectly, in whole or in part, the result of the unlawful
10 force or threats), the period within which a prosecution must
11 be commenced is tolled during the period of the incarceration.

12 (Source: P.A. 93-417, eff. 8-5-03.)

13 (720 ILCS 5/12-7) (from Ch. 38, par. 12-7)

14 Sec. 12-7. Compelling confession or information by force or
15 threat.

16 (a) A person who, with intent to obtain a confession,
17 statement or information regarding any offense, inflicts or
18 threatens to inflict physical harm upon the person threatened
19 or upon any other person commits the offense of compelling a
20 confession or information by force or threat.

21 (b) Independent of any criminal prosecution or the result
22 thereof, any person suffering injury to his or her person or
23 damage to his or her property as a result of having been
24 compelled to confess or provide information by force or threat
25 may bring a civil action for damages, injunctive relief, or
26 other appropriate relief. Upon a finding of liability, the
27 court shall award actual damages, including damages for
28 emotional distress, punitive damages, when appropriate, and
29 any suitable equitable relief. A judgment in favor of the
30 prevailing plaintiff shall include an award for reasonable
31 attorney's fees and costs.

32 (c) Independent of any criminal prosecution or the result
33 thereof, any person suffering damages as a result of

1 retaliatory action may bring a civil action for damages,
2 injunctive relief, or other appropriate relief. A judgment in
3 favor of the prevailing plaintiff shall include an award for
4 reasonable attorney's fees and costs.

5 (d) For purposes of this Section, "retaliatory action"
6 means: (1) tortious conduct directed against an individual, or
7 (2) the reprimand, discharge, suspension, demotion, or denial
8 of promotion or change in the terms and conditions of
9 employment, that is taken in retaliation because he or she has
10 opposed or reported that which he or she reasonably and in good
11 faith believed to be the use of force or threat to compel a
12 confession or information regarding an offense, or because he
13 or she has made a charge, filed a complaint, testified,
14 assisted, or participated in an investigation, proceeding, or
15 hearing involving the use of force or threat to compel a
16 confession or information regarding an offense.

17 (e) ~~(b)~~ Sentence.

18 Compelling a confession or information is a: (1) Class 4
19 felony if the defendant uses threats to inflict physical harm
20 to obtain a confession, statement, or information but does not
21 inflict physical harm on the victim, (2) Class 1 felony if the
22 defendant inflicts physical harm on the victim to obtain a
23 confession, statement, or information, but does not torture the
24 victim, and (3) Class X felony if the defendant tortures the
25 victim to obtain a confession, statement, or information. For
26 purposes of this subsection (e), "torture" means the infliction
27 of or subjection to severe physical pain.

28 (Source: P.A. 77-2638.)

29 Section 10. The Code of Civil Procedure is amended by
30 changing Section 13-202 as follows:

31 (735 ILCS 5/13-202) (from Ch. 110, par. 13-202)

32 Sec. 13-202. Personal injury - Penalty. Actions for damages

1 for an injury to the person, or for false imprisonment, or
2 malicious prosecution, or for a statutory penalty, or for
3 abduction, or for seduction, or for criminal conversation,
4 except damages resulting from first degree murder or the
5 commission of a Class X felony and the perpetrator thereof is
6 convicted of such crime, shall be commenced within 2 years next
7 after the cause of action accrued but such an action against a
8 defendant arising from a crime committed by the defendant in
9 whose name an escrow account was established under the
10 "Criminal Victims' Escrow Account Act" shall be commenced
11 within 2 years after the establishment of such account. If
12 false imprisonment, malicious prosecution, or compelling of a
13 confession or information by force or threat results in whole
14 or in part in a criminal prosecution of the plaintiff, the
15 2-year period set out in this Section shall be tolled until the
16 plaintiff is released from incarceration, or the criminal
17 prosecution has been resolved in favor of the above referred
18 plaintiff, whether as a result of trial court proceedings,
19 direct appeal, State or federal collateral proceedings, or
20 action by the Governor, whichever event last occurs.

21 (Source: P.A. 84-1450.)".