



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0440

Introduced 1/26/2007, by Rep. Brent Hassert - Ruth Munson

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

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

LRB095 03707 RLC 23734 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 1961 is amended by changing
5 Sections 10-2, 12-2, 12-4, 18-5, and 20-1.1 and by adding
6 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

1 victim, or

2 (4) Wears a hood, robe or mask or conceals his
3 identity, or

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

7 (6) Commits the offense of kidnaping while armed with a
8 firearm, or

9 (7) During the commission of the offense of kidnaping,
10 personally discharged a firearm, or

11 (8) During the commission of the offense of kidnaping,
12 personally discharged a firearm that proximately caused
13 great bodily harm, permanent disability, permanent
14 disfigurement, or death to another person, or

15 (9) Is a gang member.

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

18 (b) Sentence. Aggravated kidnaping in violation of
19 paragraph (1), (2), (3), (4), ~~or~~ (5), or (9) of subsection (a)
20 is a Class X felony. A violation of subsection (a)(6) is a
21 Class X felony for which 15 years shall be added to the term of
22 imprisonment imposed by the court. A violation of subsection
23 (a)(7) is a Class X felony for which 20 years shall be added to
24 the term of imprisonment imposed by the court. A violation of
25 subsection (a)(8) is a Class X felony for which 25 years or up
26 to a term of natural life shall be added to the term of

1 imprisonment imposed by the court.

2 A person who is convicted of a second or subsequent offense
3 of aggravated kidnaping shall be sentenced to a term of natural
4 life imprisonment; provided, however, that a sentence of
5 natural life imprisonment shall not be imposed under this
6 Section unless the second or subsequent offense was committed
7 after conviction on the first offense.

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

9 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

10 Sec. 12-2. Aggravated assault.

11 (a) A person commits an aggravated assault, when, in
12 committing an assault, he:

13 (1) Uses a deadly weapon or any device manufactured and
14 designed to be substantially similar in appearance to a
15 firearm, other than by discharging a firearm in the
16 direction of another person, a peace officer, a person
17 summoned or directed by a peace officer, a correctional
18 officer or a fireman or in the direction of a vehicle
19 occupied by another person, a peace officer, a person
20 summoned or directed by a peace officer, a correctional
21 officer or a fireman while the officer or fireman is
22 engaged in the execution of any of his official duties, or
23 to prevent the officer or fireman from performing his
24 official duties, or in retaliation for the officer or
25 fireman performing his official duties;

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

5 (3) Knows the individual assaulted to be a teacher or
6 other person employed in any school and such teacher or
7 other employee is upon the grounds of a school or grounds
8 adjacent thereto, or is in any part of a building used for
9 school purposes;

10 (4) Knows the individual assaulted to be a supervisor,
11 director, instructor or other person employed in any park
12 district and such supervisor, director, instructor or
13 other employee is upon the grounds of the park or grounds
14 adjacent thereto, or is in any part of a building used for
15 park purposes;

16 (5) Knows the individual assaulted to be a caseworker,
17 investigator, or other person employed by the Department of
18 Healthcare and Family Services (formerly State Department
19 of Public Aid), a County Department of Public Aid, or the
20 Department of Human Services (acting as successor to the
21 Illinois Department of Public Aid under the Department of
22 Human Services Act) and such caseworker, investigator, or
23 other person is upon the grounds of a public aid office or
24 grounds adjacent thereto, or is in any part of a building
25 used for public aid purposes, or upon the grounds of a home
26 of a public aid applicant, recipient or any other person

1 being interviewed or investigated in the employees'
2 discharge of his duties, or on grounds adjacent thereto, or
3 is in any part of a building in which the applicant,
4 recipient, or other such person resides or is located;

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

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

1 ambulance, emergency medical technician - intermediate,
2 emergency medical technician - paramedic, ambulance
3 driver, or other medical assistance or first aid personnel
4 performing his official duties;

5 (8) Knows the individual assaulted to be the driver,
6 operator, employee or passenger of any transportation
7 facility or system engaged in the business of
8 transportation of the public for hire and the individual
9 assaulted is then performing in such capacity or then using
10 such public transportation as a passenger or using any area
11 of any description designated by the transportation
12 facility or system as a vehicle boarding, departure, or
13 transfer location;

14 (9) Or the individual assaulted is on or about a public
15 way, public property, or public place of accommodation or
16 amusement;

17 (9.5) Is, or the individual assaulted is, in or about a
18 publicly or privately owned sports or entertainment arena,
19 stadium, community or convention hall, special event
20 center, amusement facility, or a special event center in a
21 public park during any 24-hour period when a professional
22 sporting event, National Collegiate Athletic Association
23 (NCAA)-sanctioned sporting event, United States Olympic
24 Committee-sanctioned sporting event, or International
25 Olympic Committee-sanctioned sporting event is taking
26 place in this venue;

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

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

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

9 (13) Discharges a firearm;

10 (14) Knows the individual assaulted to be a
11 correctional officer, while the officer is engaged in the
12 execution of any of his or her official duties, or to
13 prevent the officer from performing his or her official
14 duties, or in retaliation for the officer performing his or
15 her official duties;

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

1 (16) Knows the individual assaulted to be an employee
2 of a police or sheriff's department engaged in the
3 performance of his or her official duties as such employee;
4 ~~or~~

5 (17) Knows the individual assaulted to be a sports
6 official or coach at any level of competition and the act
7 causing the assault to the sports official or coach
8 occurred within an athletic facility or an indoor or
9 outdoor playing field or within the immediate vicinity of
10 the athletic facility or an indoor or outdoor playing field
11 at which the sports official or coach was an active
12 participant in the athletic contest held at the athletic
13 facility. For the purposes of this paragraph (17), "sports
14 official" means a person at an athletic contest who
15 enforces the rules of the contest, such as an umpire or
16 referee; and "coach" means a person recognized as a coach
17 by the sanctioning authority that conducted the athletic
18 contest; or.

19 (18) Knows the individual assaulted to be an emergency
20 management worker, while the emergency management worker
21 is engaged in the execution of any of his or her official
22 duties, or to prevent the emergency management worker from
23 performing his or her official duties, or in retaliation
24 for the emergency management worker performing his or her
25 official duties, and the assault is committed other than by
26 the discharge of a firearm in the direction of the

1 emergency management worker or in the direction of a
2 vehicle occupied by the emergency management worker.

3 (a-5) A person commits an aggravated assault when he or she
4 knowingly and without lawful justification shines or flashes a
5 laser gunsight or other laser device that is attached or
6 affixed to a firearm, or used in concert with a firearm, so
7 that the laser beam strikes near or in the immediate vicinity
8 of any person.

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

12 (b) Sentence.

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

25 (Source: P.A. 93-692, eff. 1-1-05; 94-243, eff. 1-1-06; 94-482,
26 eff. 1-1-06; revised 12-15-05.)

1 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

2 Sec. 12-4. Aggravated Battery.

3 (a) A person who, in committing a battery, intentionally or
4 knowingly causes great bodily harm, or permanent disability or
5 disfigurement commits aggravated battery.

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

8 (1) Uses a deadly weapon other than by the discharge of
9 a firearm;

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

12 (3) Knows the individual harmed 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) (Blank);

18 (5) (Blank);

19 (6) Knows the individual harmed to be a community
20 policing volunteer while such volunteer is engaged in the
21 execution of any official duties, or to prevent the
22 volunteer from performing official duties, or in
23 retaliation for the volunteer performing official duties,
24 and the battery is committed other than by the discharge of
25 a firearm;

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

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

16 (8.5) Is, or the person battered is, on a publicly or
17 privately owned sports or entertainment arena, stadium,
18 community or convention hall, special event center,
19 amusement facility, or a special event center in a public
20 park during any 24-hour period when a professional sporting
21 event, National Collegiate Athletic Association
22 (NCAA)-sanctioned sporting event, United States Olympic
23 Committee-sanctioned sporting event, or International
24 Olympic Committee-sanctioned sporting event is taking
25 place in this venue;

26 (9) Knows the individual harmed to be the driver,

1 operator, employee or passenger of any transportation
2 facility or system engaged in the business of
3 transportation of the public for hire and the individual
4 assaulted is then performing in such capacity or then using
5 such public transportation as a passenger or using any area
6 of any description designated by the transportation
7 facility or system as a vehicle boarding, departure, or
8 transfer location;

9 (10) Knows the individual harmed to be an individual of
10 60 years of age or older;

11 (11) Knows the individual harmed is pregnant;

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

15 (13) (Blank);

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

18 (15) Knowingly and without legal justification and by
19 any means causes bodily harm to a merchant who detains the
20 person for an alleged commission of retail theft under
21 Section 16A-5 of this Code. In this item (15), "merchant"
22 has the meaning ascribed to it in Section 16A-2.4 of this
23 Code;

24 (16) Is, or the person battered is, in any building or
25 other structure used to provide shelter or other services
26 to victims or to the dependent children of victims of

1 domestic violence pursuant to the Illinois Domestic
2 Violence Act of 1986 or the Domestic Violence Shelters Act,
3 or the person battered is within 500 feet of such a
4 building or other structure while going to or from such a
5 building or other structure. "Domestic violence" has the
6 meaning ascribed to it in Section 103 of the Illinois
7 Domestic Violence Act of 1986. "Building or other structure
8 used to provide shelter" has the meaning ascribed to
9 "shelter" in Section 1 of the Domestic Violence Shelters
10 Act;

11 (17) (Blank); ~~or~~

12 (18) Knows the individual harmed to be an officer or
13 employee of the State of Illinois, a unit of local
14 government, or school district engaged in the performance
15 of his or her authorized duties as such officer or
16 employee; or;

17 (19) ~~(18)~~ Knows the individual harmed to be an
18 emergency management worker engaged in the performance of
19 any of his or her official duties, or to prevent the
20 emergency management worker from performing official
21 duties, or in retaliation for the emergency management
22 worker performing official duties.

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

1 disorder or congenital condition.

2 (c) A person who administers to an individual or causes him
3 to take, without his consent or by threat or deception, and for
4 other than medical purposes, any intoxicating, poisonous,
5 stupefying, narcotic, anesthetic, or controlled substance
6 commits aggravated battery.

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

10 (d-3) A person commits aggravated battery when he or she
11 knowingly and without lawful justification shines or flashes a
12 laser gunsight or other laser device that is attached or
13 affixed to a firearm, or used in concert with a firearm, so
14 that the laser beam strikes upon or against the person of
15 another.

16 (d-5) An inmate of a penal institution or a sexually
17 dangerous person or a sexually violent person in the custody of
18 the Department of Human Services who causes or attempts to
19 cause a correctional employee of the penal institution or an
20 employee of the Department of Human Services to come into
21 contact with blood, seminal fluid, urine, or feces, by
22 throwing, tossing, or expelling that fluid or material commits
23 aggravated battery. For purposes of this subsection (d-5),
24 "correctional employee" means a person who is employed by a
25 penal institution.

26 (d-6) A person commits aggravated battery when he or she

1 commits battery and at the time of the commission of the
2 offense was a gang member.

3 (e) Sentence.

4 (1) Except as otherwise provided in paragraphs (2) and
5 (3), aggravated battery is a Class 3 felony.

6 (2) Aggravated battery that does not cause great bodily
7 harm or permanent disability or disfigurement is a Class 2
8 felony when the person knows the individual harmed to be a
9 peace officer, a community policing volunteer, a
10 correctional institution employee, an employee of the
11 Department of Human Services supervising or controlling
12 sexually dangerous persons or sexually violent persons, or
13 a fireman while such officer, volunteer, employee, or
14 fireman is engaged in the execution of any official duties
15 including arrest or attempted arrest, or to prevent the
16 officer, volunteer, employee, or fireman from performing
17 official duties, or in retaliation for the officer,
18 volunteer, employee, or fireman performing official
19 duties, and the battery is committed other than by the
20 discharge of a firearm.

21 (3) Aggravated battery that causes great bodily harm or
22 permanent disability or disfigurement in violation of
23 subsection (a) is a Class 1 felony when the person knows
24 the individual harmed to be a peace officer, a community
25 policing volunteer, a correctional institution employee,
26 an employee of the Department of Human Services supervising

1 or controlling sexually dangerous persons or sexually
2 violent persons, or a fireman while such officer,
3 volunteer, employee, or fireman is engaged in the execution
4 of any official duties including arrest or attempted
5 arrest, or to prevent the officer, volunteer, employee, or
6 fireman from performing official duties, or in retaliation
7 for the officer, volunteer, employee, or fireman
8 performing official duties, and the battery is committed
9 other than by the discharge of a firearm.

10 (Source: P.A. 93-83, eff. 7-2-03; 94-243, eff. 1-1-06; 94-327,
11 eff. 1-1-06; 94-333, eff. 7-26-05; 94-363, eff. 7-29-05;
12 94-482, eff. 1-1-06; revised 8-19-05.)

13 (720 ILCS 5/18-5)

14 Sec. 18-5. Aggravated robbery.

15 (a) A person commits aggravated robbery when he or she
16 takes property from the person or presence of another by the
17 use of force or by threatening the imminent use of force while
18 indicating verbally or by his or her actions to the victim that
19 he or she is presently armed with a firearm or other dangerous
20 weapon, including a knife, club, ax, or bludgeon. This offense
21 shall be applicable even though it is later determined that he
22 or she had no firearm or other dangerous weapon, including a
23 knife, club, ax, or bludgeon, in his or her possession when he
24 or she committed the robbery.

25 (a-5) A person commits aggravated robbery when he or she

1 takes property from the person or presence of another by
2 delivering (by injection, inhalation, ingestion, transfer of
3 possession, or any other means) to the victim without his or
4 her consent, or by threat or deception, and for other than
5 medical purposes, any controlled substance.

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

9 (b) Sentence. Aggravated robbery is a Class 1 felony.

10 (Source: P.A. 90-593, eff. 1-1-99; 90-735, eff. 8-11-98;
11 91-357, eff. 7-29-99.)

12 (720 ILCS 5/20-1.1) (from Ch. 38, par. 20-1.1)

13 Sec. 20-1.1. Aggravated Arson.

14 (a) A person commits aggravated arson when in the course of
15 committing arson he or she knowingly damages, partially or
16 totally, any building or structure, including any adjacent
17 building or structure, including all or any part of a school
18 building, house trailer, watercraft, motor vehicle, or
19 railroad car, and (1) he knows or reasonably should know that
20 one or more persons are present therein or (2) any person
21 suffers great bodily harm, or permanent disability or
22 disfigurement as a result of the fire or explosion or (3) a
23 fireman, policeman, or correctional officer who is present at
24 the scene acting in the line of duty is injured as a result of
25 the fire or explosion. For purposes of this Section, property

1 "of another" means a building or other property, whether real
2 or personal, in which a person other than the offender has an
3 interest that the offender has no authority to defeat or
4 impair, even though the offender may also have an interest in
5 the building or property; and "school building" means any
6 public or private preschool, elementary or secondary school,
7 community college, college, or university.

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

11 (b) Sentence. Aggravated arson is a Class X felony.
12 (Source: P.A. 93-335, eff. 7-24-03; 94-127, eff. 7-7-05;
13 94-393, eff. 8-1-05.)