



Rep. Constance A. Howard

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LRB096 05322 RLC 22921 a

1 AMENDMENT TO HOUSE BILL 1963

2 AMENDMENT NO. _____. Amend House Bill 1963 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by adding
5 Section 18-6 as follows:

6 (720 ILCS 5/18-6 new)

7 Sec. 18-6. Electronic fund transfer terminal; forced
8 transfer of funds.

9 (a) It is unlawful to use force or to threaten the use of
10 force against another person to effect or to attempt to effect
11 a transaction at an electronic fund transfer terminal located
12 in this State.

13 (b) Sentence. A violation of this Section is a Class X
14 felony.

15 (c) In this Section, "electronic fund transfer terminal"
16 has the meaning ascribed to it in Section 2.14 of the Illinois

1 Credit Card and Debit Card Act.

2 Section 10. The Unified Code of Corrections is amended by
3 changing Section 5-5-3.2 as follows:

4 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

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

6 (a) The following factors shall be accorded weight in favor
7 of imposing a term of imprisonment or may be considered by the
8 court as reasons to impose a more severe sentence under Section
9 5-8-1:

10 (1) the defendant's conduct caused or threatened
11 serious harm;

12 (2) the defendant received compensation for committing
13 the offense;

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

16 (4) the defendant, by the duties of his office or by
17 his position, was obliged to prevent the particular offense
18 committed or to bring the offenders committing it to
19 justice;

20 (5) the defendant held public office at the time of the
21 offense, and the offense related to the conduct of that
22 office;

23 (6) the defendant utilized his professional reputation
24 or position in the community to commit the offense, or to

1 afford him an easier means of committing it;

2 (7) the sentence is necessary to deter others from
3 committing the same crime;

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

6 (9) the defendant committed the offense against a
7 person who is physically handicapped or such person's
8 property;

9 (10) by reason of another individual's actual or
10 perceived race, color, creed, religion, ancestry, gender,
11 sexual orientation, physical or mental disability, or
12 national origin, the defendant committed the offense
13 against (i) the person or property of that individual; (ii)
14 the person or property of a person who has an association
15 with, is married to, or has a friendship with the other
16 individual; or (iii) the person or property of a relative
17 (by blood or marriage) of a person described in clause (i)
18 or (ii). For the purposes of this Section, "sexual
19 orientation" means heterosexuality, homosexuality, or
20 bisexuality;

21 (11) the offense took place in a place of worship or on
22 the grounds of a place of worship, immediately prior to,
23 during or immediately following worship services. For
24 purposes of this subparagraph, "place of worship" shall
25 mean any church, synagogue or other building, structure or
26 place used primarily for religious worship;

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

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

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

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

1 (16) the defendant committed an offense in violation of
2 one of the following Sections while in a school, regardless
3 of the time of day or time of year; on any conveyance
4 owned, leased, or contracted by a school to transport
5 students to or from school or a school related activity; on
6 the real property of a school; or on a public way within
7 1,000 feet of the real property comprising any school:
8 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
9 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
10 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
11 33A-2 of the Criminal Code of 1961;

12 (16.5) the defendant committed an offense in violation
13 of one of the following Sections while in a day care
14 center, regardless of the time of day or time of year; on
15 the real property of a day care center, regardless of the
16 time of day or time of year; or on a public way within
17 1,000 feet of the real property comprising any day care
18 center, regardless of the time of day or time of year:
19 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
20 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
21 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
22 33A-2 of the Criminal Code of 1961;

23 (17) the defendant committed the offense by reason of
24 any person's activity as a community policing volunteer or
25 to prevent any person from engaging in activity as a
26 community policing volunteer. For the purpose of this

1 Section, "community policing volunteer" has the meaning
2 ascribed to it in Section 2-3.5 of the Criminal Code of
3 1961;

4 (18) the defendant committed the offense in a nursing
5 home or on the real property comprising a nursing home. For
6 the purposes of this paragraph (18), "nursing home" means a
7 skilled nursing or intermediate long term care facility
8 that is subject to license by the Illinois Department of
9 Public Health under the Nursing Home Care Act;

10 (19) the defendant was a federally licensed firearm
11 dealer and was previously convicted of a violation of
12 subsection (a) of Section 3 of the Firearm Owners
13 Identification Card Act and has now committed either a
14 felony violation of the Firearm Owners Identification Card
15 Act or an act of armed violence while armed with a firearm;

16 (20) the defendant (i) committed the offense of
17 reckless homicide under Section 9-3 of the Criminal Code of
18 1961 or the offense of driving under the influence of
19 alcohol, other drug or drugs, intoxicating compound or
20 compounds or any combination thereof under Section 11-501
21 of the Illinois Vehicle Code or a similar provision of a
22 local ordinance and (ii) was operating a motor vehicle in
23 excess of 20 miles per hour over the posted speed limit as
24 provided in Article VI of Chapter 11 of the Illinois
25 Vehicle Code;

26 (21) the defendant (i) committed the offense of

1 reckless driving or aggravated reckless driving under
2 Section 11-503 of the Illinois Vehicle Code and (ii) was
3 operating a motor vehicle in excess of 20 miles per hour
4 over the posted speed limit as provided in Article VI of
5 Chapter 11 of the Illinois Vehicle Code;

6 (22) the defendant committed the offense against a
7 person that the defendant knew, or reasonably should have
8 known, was a member of the Armed Forces of the United
9 States serving on active duty. For purposes of this clause
10 (22), the term "Armed Forces" means any of the Armed Forces
11 of the United States, including a member of any reserve
12 component thereof or National Guard unit called to active
13 duty; ~~or~~

14 (23) the defendant committed the offense against a
15 person who was elderly, disabled, or infirm by taking
16 advantage of a family or fiduciary relationship with the
17 elderly, disabled, or infirm person; ~~or~~

18 (24) ~~(22)~~ the defendant committed any offense under
19 Section 11-20.1 of the Criminal Code of 1961 and possessed
20 100 or more images; or ~~or~~

21 (25) the defendant committed the offense of first
22 degree murder during the commission of a violation of
23 Section 18-6 of the Criminal Code of 1961.

24 For the purposes of this Section:

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

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

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

8 (1) When a defendant is convicted of any felony, after
9 having been previously convicted in Illinois or any other
10 jurisdiction of the same or similar class felony or greater
11 class felony, when such conviction has occurred within 10
12 years after the previous conviction, excluding time spent
13 in custody, and such charges are separately brought and
14 tried and arise out of different series of acts; or

15 (2) When a defendant is convicted of any felony and the
16 court finds that the offense was accompanied by
17 exceptionally brutal or heinous behavior indicative of
18 wanton cruelty; or

19 (3) When a defendant is convicted of voluntary
20 manslaughter, second degree murder, involuntary
21 manslaughter or reckless homicide in which the defendant
22 has been convicted of causing the death of more than one
23 individual; or

24 (4) When a defendant is convicted of any felony
25 committed against:

26 (i) a person under 12 years of age at the time of

1 the offense or such person's property;

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

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

6 (5) In the case of a defendant convicted of aggravated
7 criminal sexual assault or criminal sexual assault, when
8 the court finds that aggravated criminal sexual assault or
9 criminal sexual assault was also committed on the same
10 victim by one or more other individuals, and the defendant
11 voluntarily participated in the crime with the knowledge of
12 the participation of the others in the crime, and the
13 commission of the crime was part of a single course of
14 conduct during which there was no substantial change in the
15 nature of the criminal objective; or

16 (6) When a defendant is convicted of any felony and the
17 offense involved any of the following types of specific
18 misconduct committed as part of a ceremony, rite,
19 initiation, observance, performance, practice or activity
20 of any actual or ostensible religious, fraternal, or social
21 group:

22 (i) the brutalizing or torturing of humans or
23 animals;

24 (ii) the theft of human corpses;

25 (iii) the kidnapping of humans;

26 (iv) the desecration of any cemetery, religious,

1 fraternal, business, governmental, educational, or
2 other building or property; or

3 (v) ritualized abuse of a child; or

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

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

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

25 (10) When a defendant committed the offense using a
26 firearm with a laser sight attached to it. For purposes of

1 this paragraph (10), "laser sight" has the meaning ascribed
2 to it in Section 24.6-5 of the Criminal Code of 1961; or

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

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

1 assistance or first aid personnel, or hospital emergency
2 room personnel; or

3 (13) When a defendant commits any felony and the
4 defendant used, possessed, exercised control over, or
5 otherwise directed an animal to assault a law enforcement
6 officer engaged in the execution of his or her official
7 duties or in furtherance of the criminal activities of an
8 organized gang in which the defendant is engaged.

9 (b-1) For the purposes of this Section, "organized gang"
10 has the meaning ascribed to it in Section 10 of the Illinois
11 Streetgang Terrorism Omnibus Prevention Act.

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

18 (d) The court may impose an extended term sentence under
19 Section 5-8-2 upon any offender who was convicted of unlawful
20 use of weapons under Section 24-1 of the Criminal Code of 1961
21 for possessing a weapon that is not readily distinguishable as
22 one of the weapons enumerated in Section 24-1 of the Criminal
23 Code of 1961.

24 (e) The court may impose an extended term sentence under
25 Section 5-8-2 upon an offender who has been convicted of first
26 degree murder when the offender has previously been convicted

1 of domestic battery or aggravated domestic battery committed
2 against the murdered individual or has previously been
3 convicted of violation of an order of protection in which the
4 murdered individual was the protected person.

5 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
6 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,
7 eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942,
8 eff. 1-1-09; revised 9-23-08.)".