



Sen. John J. Cullerton

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09600HB3962sam002

LRB096 10339 RLC 44022 a

1 AMENDMENT TO HOUSE BILL 3962

2 AMENDMENT NO. _____. Amend House Bill 3962, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Criminal Code of 1961 is amended by
6 changing Section 32-8 as follows:

7 (720 ILCS 5/32-8) (from Ch. 38, par. 32-8)

8 Sec. 32-8. Tampering with public records.

9 (a) A person who knowingly, ~~and~~ without lawful authority,
10 and with the intent to defraud any party, public officer or
11 entity, alters, destroys, defaces, removes or conceals any
12 public record commits a Class 4 felony.

13 (b) "Public record" expressly includes, but is not limited
14 to, court records, or documents, evidence, or exhibits filed
15 with the clerk of the court and which have become a part of the
16 official court record, pertaining to any civil or criminal

1 proceeding in any court.

2 (c) Any judge, circuit clerk or clerk of court, public
3 official or employee, court reporter, or other person who
4 knowingly, ~~and~~ without lawful authority, and with the intent to
5 defraud any party, public officer or entity, alters, destroys,
6 defaces, removes, or conceals any public record received or
7 held by any judge or by a clerk of any court commits a Class 3
8 felony.

9 (d) Any person convicted under subsection (c) who at the
10 time of the violation was responsible for making, keeping,
11 storing, or reporting the record for which the tampering
12 occurred:

13 (1) shall forfeit his or her public office or public
14 employment, if any, and shall thereafter be ineligible for
15 both State and local public office and public employment in
16 this State for a period of 5 years after completion of any
17 term of probation, conditional discharge, or incarceration
18 in a penitentiary including the period of mandatory
19 supervised release;

20 (2) shall forfeit all retirement, pension, and other
21 benefits arising out of public office or public employment
22 as may be determined by the court in accordance with the
23 applicable provisions of the Illinois Pension Code;

24 (3) shall be subject to termination of any professional
25 licensure or registration in this State as may be
26 determined by the court in accordance with the provisions

1 of the applicable professional licensing or registration
2 laws;

3 (4) may be ordered by the court, after a hearing in
4 accordance with applicable law and in addition to any other
5 penalty or fine imposed by the court, to forfeit to the
6 State an amount equal to any financial gain or the value of
7 any advantage realized by the person as a result of the
8 offense; and

9 (5) may be ordered by the court, after a hearing in
10 accordance with applicable law and in addition to any other
11 penalty or fine imposed by the court, to pay restitution to
12 the victim in an amount equal to any financial loss or the
13 value of any advantage lost by the victim as a result of
14 the offense.

15 For the purposes of this subsection (d), an offense under
16 subsection (c) committed by a person holding public office or
17 public employment shall be rebuttably presumed to relate to or
18 arise out of or in connection with that public office or public
19 employment.

20 (e) Any party litigant who believes a violation of this
21 Section has occurred may seek the restoration of the court
22 record as provided in the Court Records Restoration Act. Any
23 order of the court denying the restoration of the court record
24 may be appealed as any other civil judgment ~~having an interest~~
25 ~~in the protection and integrity of any court record, whether~~
26 ~~such party be a public official or a private individual, shall~~

1 ~~have the right to request and, if necessary, to demand that an~~
2 ~~investigation be opened into the alteration, destruction,~~
3 ~~defacement, removal, or concealment of any public record. Such~~
4 ~~request may be made to any law enforcement agency, including,~~
5 ~~but not limited to, local law enforcement and the State Police.~~

6 (f) When the sheriff or local law enforcement agency having
7 jurisdiction declines to investigate, or inadequately
8 investigates, the court or any interested party, shall notify
9 the State Police of a suspected a violation of subsection (a)
10 or (c), who the State Police shall have the authority to
11 investigate, and may shall investigate, the same, without
12 regard to whether such local law enforcement agency has
13 requested the State Police to do so.

14 (g) If ~~When~~ the State's Attorney having jurisdiction
15 declines to prosecute a violation of subsection (a) or (c), the
16 court or interested party shall notify the Attorney General of
17 such refusal. The the Attorney General shall, thereafter, have
18 the authority to prosecute, and may prosecute, the same,
19 without a referral from ~~regard to whether~~ such State's Attorney
20 ~~has requested the Attorney General to do so.~~

21 (h) Prosecution of a violation of subsection (c) shall be
22 commenced within 3 years after the act constituting the
23 violation is discovered or reasonably should have been
24 discovered.

25 (Source: P.A. 96-1217, eff. 1-1-11.)"