



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5790

Introduced 2/10/2010, by Rep. Karen A. Yarbrough

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/26-5

Amends the Criminal Code of 1961. Increases the penalty for a parent, legal guardian, or other person who is 18 years of age or older who brings a person under 13 years of age to a dog fighting show, exhibition, program, or other activity from a Class 4 to a Class 3 felony for a first violation and from a Class 3 to a Class 2 felony for a second or subsequent violation. Provides that a person is guilty of a Class 3 (rather than a Class 4) felony for a first violation and a Class 2 felony for a second or subsequent violation if the person conducts the dog fighting show within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Provides that a person who ties or attaches or fastens any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$50,000.

LRB096 16744 RLC 33899 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 Section 26-5 as follows:

6 (720 ILCS 5/26-5)

7 Sec. 26-5. Dog fighting. (For other provisions that may  
8 apply to dog fighting, see the Humane Care for Animals Act. For  
9 provisions similar to this Section that apply to animals other  
10 than dogs, see in particular Section 4.01 of the Humane Care  
11 for Animals Act.)

12 (a) No person may own, capture, breed, train, or lease any  
13 dog which he or she knows is intended for use in any show,  
14 exhibition, program, or other activity featuring or otherwise  
15 involving a fight between the dog and any other animal or  
16 human, or the intentional killing of any dog for the purpose of  
17 sport, wagering, or entertainment.

18 (b) No person may promote, conduct, carry on, advertise,  
19 collect money for or in any other manner assist or aid in the  
20 presentation for purposes of sport, wagering, or entertainment  
21 of any show, exhibition, program, or other activity involving a  
22 fight between 2 or more dogs or any dog and human, or the  
23 intentional killing of any dog.

1 (c) No person may sell or offer for sale, ship, transport,  
2 or otherwise move, or deliver or receive any dog which he or  
3 she knows has been captured, bred, or trained, or will be used,  
4 to fight another dog or human or be intentionally killed for  
5 purposes of sport, wagering, or entertainment.

6 (c-5) No person may solicit a minor to violate this  
7 Section.

8 (d) No person may manufacture for sale, shipment,  
9 transportation, or delivery any device or equipment which he or  
10 she knows or should know is intended for use in any show,  
11 exhibition, program, or other activity featuring or otherwise  
12 involving a fight between 2 or more dogs, or any human and dog,  
13 or the intentional killing of any dog for purposes of sport,  
14 wagering, or entertainment.

15 (e) No person may own, possess, sell or offer for sale,  
16 ship, transport, or otherwise move any equipment or device  
17 which he or she knows or should know is intended for use in  
18 connection with any show, exhibition, program, or activity  
19 featuring or otherwise involving a fight between 2 or more  
20 dogs, or any dog and human, or the intentional killing of any  
21 dog for purposes of sport, wagering or entertainment.

22 (f) No person may knowingly make available any site,  
23 structure, or facility, whether enclosed or not, that he or she  
24 knows is intended to be used for the purpose of conducting any  
25 show, exhibition, program, or other activity involving a fight  
26 between 2 or more dogs, or any dog and human, or the

1 intentional killing of any dog or knowingly manufacture,  
2 distribute, or deliver fittings to be used in a fight between 2  
3 or more dogs or a dog and human.

4 (g) No person may knowingly attend or otherwise patronize  
5 any show, exhibition, program, or other activity featuring or  
6 otherwise involving a fight between 2 or more dogs, or any dog  
7 and human, or the intentional killing of any dog for purposes  
8 of sport, wagering, or entertainment.

9 (h) No person may tie or attach or fasten any live animal  
10 to any machine or device propelled by any power for the purpose  
11 of causing the animal to be pursued by a dog or dogs. This  
12 subsection (h) applies only when the dog is intended to be used  
13 in a dog fight.

14 (i) Penalties for violations of this Section shall be as  
15 follows:

16 (1) Any person convicted of violating subsection (a),  
17 (b), ~~or (c)~~, or (h) of this Section is guilty of a Class 4  
18 felony for a first violation and a Class 3 felony for a  
19 second or subsequent violation, and may be fined an amount  
20 not to exceed \$50,000.

21 (1.5) A person who knowingly owns a dog for fighting  
22 purposes or for producing a fight between 2 or more dogs or  
23 a dog and human or who knowingly offers for sale or sells a  
24 dog bred for fighting is guilty of a Class 3 felony and may  
25 be fined an amount not to exceed \$50,000, if the dog  
26 participates in a dogfight and any of the following factors

1 is present:

2 (i) the dogfight is performed in the presence of a  
3 person under 18 years of age;

4 (ii) the dogfight is performed for the purpose of  
5 or in the presence of illegal wagering activity; or

6 (iii) the dogfight is performed in furtherance of  
7 streetgang related activity as defined in Section 10 of  
8 the Illinois Streetgang Terrorism Omnibus Prevention  
9 Act.

10 (1.7) A person convicted of violating subsection (c-5)  
11 of this Section is guilty of a Class 4 felony.

12 (2) Any person convicted of violating subsection (d) or  
13 (e) of this Section is guilty of a Class 4 felony for a  
14 first violation. A second or subsequent violation of  
15 subsection (d) or (e) of this Section is a Class 3 felony.

16 (2.5) Any person convicted of violating subsection (f)  
17 of this Section is guilty of a Class 4 felony. Any person  
18 convicted of violating subsection (f) of this Section in  
19 which the site, structure, or facility made available to  
20 violate subsection (f) is located within 1,000 feet of a  
21 school, public park, playground, child care institution,  
22 day care center, part day child care facility, day care  
23 home, group day care home, or a facility providing programs  
24 or services exclusively directed toward persons under 18  
25 years of age is guilty of a Class 3 felony for a first  
26 violation and a Class 2 felony for a second or subsequent

1 violation.

2 (3) Any person convicted of violating subsection (g) of  
3 this Section is guilty of a Class 4 felony for a first  
4 violation. A second or subsequent violation of subsection  
5 (g) of this Section is a Class 3 felony. If a person under  
6 13 years of age is present at any show, exhibition,  
7 program, or other activity prohibited in subsection (g),  
8 the parent, legal guardian, or other person who is 18 years  
9 of age or older who brings that person under 13 years of  
10 age to that show, exhibition, program, or other activity is  
11 guilty of a Class 3 ~~4~~ felony for a first violation and a  
12 Class 2 ~~3~~ felony for a second or subsequent violation.

13 (i-5) A person who commits a felony violation of this  
14 Section is subject to the property forfeiture provisions set  
15 forth in Article 124B of the Code of Criminal Procedure of  
16 1963.

17 (j) Any dog or equipment involved in a violation of this  
18 Section shall be immediately seized and impounded under Section  
19 12 of the Humane Care for Animals Act when located at any show,  
20 exhibition, program, or other activity featuring or otherwise  
21 involving a dog fight for the purposes of sport, wagering, or  
22 entertainment.

23 (k) Any vehicle or conveyance other than a common carrier  
24 that is used in violation of this Section shall be seized,  
25 held, and offered for sale at public auction by the sheriff's  
26 department of the proper jurisdiction, and the proceeds from

1 the sale shall be remitted to the general fund of the county  
2 where the violation took place.

3 (l) Any veterinarian in this State who is presented with a  
4 dog for treatment of injuries or wounds resulting from fighting  
5 where there is a reasonable possibility that the dog was  
6 engaged in or utilized for a fighting event for the purposes of  
7 sport, wagering, or entertainment shall file a report with the  
8 Department of Agriculture and cooperate by furnishing the  
9 owners' names, dates, and descriptions of the dog or dogs  
10 involved. Any veterinarian who in good faith complies with the  
11 requirements of this subsection has immunity from any  
12 liability, civil, criminal, or otherwise, that may result from  
13 his or her actions. For the purposes of any proceedings, civil  
14 or criminal, the good faith of the veterinarian shall be  
15 rebuttably presumed.

16 (m) In addition to any other penalty provided by law, upon  
17 conviction for violating this Section, the court may order that  
18 the convicted person and persons dwelling in the same household  
19 as the convicted person who conspired, aided, or abetted in the  
20 unlawful act that was the basis of the conviction, or who knew  
21 or should have known of the unlawful act, may not own, harbor,  
22 or have custody or control of any dog or other animal for a  
23 period of time that the court deems reasonable.

24 (n) A violation of subsection (a) of this Section may be  
25 inferred from evidence that the accused possessed any device or  
26 equipment described in subsection (d), (e), or (h) of this

1 Section, and also possessed any dog.

2 (o) When no longer required for investigations or court  
3 proceedings relating to the events described or depicted  
4 therein, evidence relating to convictions for violations of  
5 this Section shall be retained and made available for use in  
6 training peace officers in detecting and identifying  
7 violations of this Section. Such evidence shall be made  
8 available upon request to other law enforcement agencies and to  
9 schools certified under the Illinois Police Training Act.

10 (p) For the purposes of this Section, "school" has the  
11 meaning ascribed to it in Section 11-9.3 of this Code; and  
12 "public park", "playground", "child care institution", "day  
13 care center", "part day child care facility", "day care home",  
14 "group day care home", and "facility providing programs or  
15 services exclusively directed toward persons under 18 years of  
16 age" have the meanings ascribed to them in Section 11-9.4 of  
17 this Code.

18 (Source: P.A. 96-226, eff. 8-11-09; 96-712, eff. 1-1-10;  
19 revised 10-1-09.)