

SB0211



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0211

Introduced 2/3/2009, by

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/12-4	from Ch. 38, par. 12-4
720 ILCS 535/7	from Ch. 38, par. 82-7

Amends the Criminal Code of 1961. Provides that an assault using an air rifle constitutes aggravated assault. Provides that the penalty for aggravated battery involving the use of a firearm does not include an air rifle as defined by the Air Rifle Act. Amends the Air Rifle Act. Eliminates the maximum \$50 fine that may be imposed for violation of the Act by a person who is not a dealer of air rifles. Effective immediately.

LRB096 06580 RLC 16664 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 12-2 and 12-4 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) A person commits an aggravated assault, when, in
9 committing an assault, he:

10 (1) Uses a deadly weapon, an air rifle as defined in
11 the Air Rifle Act, or any device manufactured and designed
12 to be substantially similar in appearance to a firearm,
13 other than by discharging a firearm in the direction of
14 another person, a peace officer, a person summoned or
15 directed by a peace officer, a correctional officer, a
16 private security officer, or a fireman or in the direction
17 of a vehicle occupied by another person, a peace officer, a
18 person summoned or directed by a peace officer, a
19 correctional officer, a private security officer, or a
20 fireman while the officer or fireman is engaged in the
21 execution of any of his official duties, or to prevent the
22 officer or fireman from performing his official duties, or
23 in retaliation for the officer or fireman performing his

1 official duties;

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

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

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

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

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

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

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

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

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

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

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

1 place in this venue;

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

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

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

10 (13) Discharges a firearm, other than from a motor
11 vehicle;

12 (13.5) Discharges a firearm from a motor vehicle;

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

19 (15) Knows the individual assaulted to be a
20 correctional employee or an employee of the Department of
21 Human Services supervising or controlling sexually
22 dangerous persons or sexually violent persons, while the
23 employee is engaged in the execution of any of his or her
24 official duties, or to prevent the employee from performing
25 his or her official duties, or in retaliation for the
26 employee performing his or her official duties, and the

1 assault is committed other than by the discharge of a
2 firearm in the direction of the employee or in the
3 direction of a vehicle occupied by the employee;

4 (16) Knows the individual assaulted to be an employee
5 of a police or sheriff's department, or a person who is
6 employed by a municipality and whose duties include traffic
7 control, engaged in the performance of his or her official
8 duties as such employee;

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

23 (18) Knows the individual assaulted to be an emergency
24 management worker, while the emergency management worker
25 is engaged in the execution of any of his or her official
26 duties, or to prevent the emergency management worker from

1 performing his or her official duties, or in retaliation
2 for the emergency management worker performing his or her
3 official duties, and the assault is committed other than by
4 the discharge of a firearm in the direction of the
5 emergency management worker or in the direction of a
6 vehicle occupied by the emergency management worker; or

7 (19) Knows the individual assaulted to be a utility
8 worker, while the utility worker is engaged in the
9 execution of his or her duties, or to prevent the utility
10 worker from performing his or her duties, or in retaliation
11 for the utility worker performing his or her duties. In
12 this paragraph (19), "utility worker" means a person
13 employed by a public utility as defined in Section 3-105 of
14 the Public Utilities Act and also includes an employee of a
15 municipally owned utility, an employee of a cable
16 television company, an employee of an electric cooperative
17 as defined in Section 3-119 of the Public Utilities Act, an
18 independent contractor or an employee of an independent
19 contractor working on behalf of a cable television company,
20 public utility, municipally owned utility, or an electric
21 cooperative, or an employee of a telecommunications
22 carrier as defined in Section 13-202 of the Public
23 Utilities Act, an independent contractor or an employee of
24 an independent contractor working on behalf of a
25 telecommunications carrier, or an employee of a telephone
26 or telecommunications cooperative as defined in Section

1 13-212 of the Public Utilities Act, or an independent
2 contractor or an employee of an independent contractor
3 working on behalf of a telephone or telecommunications
4 cooperative.

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

11 (b) Sentence.

12 Aggravated assault as defined in paragraphs (1) through (5)
13 and (8) through (12) and (17) and (19) of subsection (a) of
14 this Section is a Class A misdemeanor. Aggravated assault as
15 defined in paragraphs (13), (14), and (15) of subsection (a) of
16 this Section and as defined in subsection (a-5) of this Section
17 is a Class 4 felony. Aggravated assault as defined in
18 paragraphs (6), (7), (16), and (18) of subsection (a) of this
19 Section is a Class A misdemeanor if a firearm is not used in
20 the commission of the assault. Aggravated assault as defined in
21 paragraphs (6), (7), (16), and (18) of subsection (a) of this
22 Section is a Class 4 felony if a firearm is used in the
23 commission of the assault. Aggravated assault as defined in
24 paragraph (13.5) of subsection (a) is a Class 3 felony.

25 (c) For the purposes of paragraphs (1) and (6) of
26 subsection (a), "private security officer" means a registered

1 employee of a private security contractor agency under the
2 Private Detective, Private Alarm, Private Security,
3 Fingerprint Vendor, and Locksmith Act of 2004.

4 (Source: P.A. 94-243, eff. 1-1-06; 94-482, eff. 1-1-06; 95-236,
5 eff. 1-1-08; 95-292, eff. 8-20-07; 95-331, eff. 8-21-07;
6 95-429, eff. 1-1-08; 95-591, eff. 9-10-07; 95-876, eff.
7 8-21-08.)

8 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

9 Sec. 12-4. Aggravated Battery.

10 (a) A person who, in committing a battery, intentionally or
11 knowingly causes great bodily harm, or permanent disability or
12 disfigurement commits aggravated battery.

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

15 (1) Uses a deadly weapon other than by the discharge of
16 a firearm;

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

19 (3) Knows the individual harmed to be a teacher or
20 other person employed in any school and such teacher or
21 other employee is upon the grounds of a school or grounds
22 adjacent thereto, or is in any part of a building used for
23 school purposes;

24 (4) (Blank);

25 (5) (Blank);

1 (6) Knows the individual harmed to be a community
2 policing volunteer while such volunteer is engaged in the
3 execution of any official duties, or to prevent the
4 volunteer from performing official duties, or in
5 retaliation for the volunteer performing official duties,
6 and the battery is committed other than by the discharge of
7 a firearm;

8 (7) Knows the individual harmed to be an emergency
9 medical technician - ambulance, emergency medical
10 technician - intermediate, emergency medical technician -
11 paramedic, ambulance driver, other medical assistance,
12 first aid personnel, or hospital personnel engaged in the
13 performance of any of his or her official duties, or to
14 prevent the emergency medical technician - ambulance,
15 emergency medical technician - intermediate, emergency
16 medical technician - paramedic, ambulance driver, other
17 medical assistance, first aid personnel, or hospital
18 personnel from performing official duties, or in
19 retaliation for performing official duties;

20 (8) Is, or the person battered is, on or about a public
21 way, public property or public place of accommodation or
22 amusement;

23 (8.5) Is, or the person battered is, on a publicly or
24 privately owned sports or entertainment arena, stadium,
25 community or convention hall, special event center,
26 amusement facility, or a special event center in a public

1 park during any 24-hour period when a professional sporting
2 event, National Collegiate Athletic Association
3 (NCAA)-sanctioned sporting event, United States Olympic
4 Committee-sanctioned sporting event, or International
5 Olympic Committee-sanctioned sporting event is taking
6 place in this venue;

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

16 (10) Knows the individual harmed to be an individual of
17 60 years of age or older;

18 (11) Knows the individual harmed is pregnant;

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

22 (13) (Blank);

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

25 (15) Knowingly and without legal justification and by
26 any means causes bodily harm to a merchant who detains the

1 person for an alleged commission of retail theft under
2 Section 16A-5 of this Code. In this item (15), "merchant"
3 has the meaning ascribed to it in Section 16A-2.4 of this
4 Code;

5 (16) Is, or the person battered is, in any building or
6 other structure used to provide shelter or other services
7 to victims or to the dependent children of victims of
8 domestic violence pursuant to the Illinois Domestic
9 Violence Act of 1986 or the Domestic Violence Shelters Act,
10 or the person battered is within 500 feet of such a
11 building or other structure while going to or from such a
12 building or other structure. "Domestic violence" has the
13 meaning ascribed to it in Section 103 of the Illinois
14 Domestic Violence Act of 1986. "Building or other structure
15 used to provide shelter" has the meaning ascribed to
16 "shelter" in Section 1 of the Domestic Violence Shelters
17 Act;

18 (17) (Blank);

19 (18) Knows the individual harmed to be an officer or
20 employee of the State of Illinois, a unit of local
21 government, or school district engaged in the performance
22 of his or her authorized duties as such officer or
23 employee;

24 (19) Knows the individual harmed to be an emergency
25 management worker engaged in the performance of any of his
26 or her official duties, or to prevent the emergency

1 management worker from performing official duties, or in
2 retaliation for the emergency management worker performing
3 official duties;

4 (20) Knows the individual harmed to be a private
5 security officer engaged in the performance of any of his
6 or her official duties, or to prevent the private security
7 officer from performing official duties, or in retaliation
8 for the private security officer performing official
9 duties; or

10 (21) Knows the individual harmed to be a taxi driver
11 and the battery is committed while the taxi driver is on
12 duty; or

13 (22) Knows the individual harmed to be a utility
14 worker, while the utility worker is engaged in the
15 execution of his or her duties, or to prevent the utility
16 worker from performing his or her duties, or in retaliation
17 for the utility worker performing his or her duties. In
18 this paragraph (22), "utility worker" means a person
19 employed by a public utility as defined in Section 3-105 of
20 the Public Utilities Act and also includes an employee of a
21 municipally owned utility, an employee of a cable
22 television company, an employee of an electric cooperative
23 as defined in Section 3-119 of the Public Utilities Act, an
24 independent contractor or an employee of an independent
25 contractor working on behalf of a cable television company,
26 public utility, municipally owned utility, or an electric

1 cooperative, or an employee of a telecommunications
2 carrier as defined in Section 13-202 of the Public
3 Utilities Act, an independent contractor or an employee of
4 an independent contractor working on behalf of a
5 telecommunications carrier, or an employee of a telephone
6 or telecommunications cooperative as defined in Section
7 13-212 of the Public Utilities Act, or an independent
8 contractor or an employee of an independent contractor
9 working on behalf of a telephone or telecommunications
10 cooperative.

11 For the purpose of paragraph (14) of subsection (b) of this
12 Section, a physically handicapped person is a person who
13 suffers from a permanent and disabling physical
14 characteristic, resulting from disease, injury, functional
15 disorder or congenital condition.

16 For the purpose of paragraph (20) of subsection (b) and
17 subsection (e) of this Section, "private security officer"
18 means a registered employee of a private security contractor
19 agency under the Private Detective, Private Alarm, Private
20 Security, Fingerprint Vendor, and Locksmith Act of 2004.

21 (c) A person who administers to an individual or causes him
22 to take, without his consent or by threat or deception, and for
23 other than medical purposes, any intoxicating, poisonous,
24 stupefying, narcotic, anesthetic, or controlled substance
25 commits aggravated battery.

26 (d) A person who knowingly gives to another person any food

1 that contains any substance or object that is intended to cause
2 physical injury if eaten, commits aggravated battery.

3 (d-3) A person commits aggravated battery 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 upon or against the person of
8 another.

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

19 (e) Sentence.

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

22 (2) Aggravated battery that does not cause great bodily
23 harm or permanent disability or disfigurement is a Class 2
24 felony when the person knows the individual harmed to be a
25 peace officer, a community policing volunteer, a private
26 security officer, a correctional institution employee, an

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

11 (3) Aggravated battery that causes great bodily harm or
12 permanent disability or disfigurement in violation of
13 subsection (a) is a Class 1 felony when the person knows
14 the individual harmed to be a peace officer, a community
15 policing volunteer, a private security officer, a
16 correctional institution employee, an employee of the
17 Department of Human Services supervising or controlling
18 sexually dangerous persons or sexually violent persons, or
19 a fireman while such officer, volunteer, employee, or
20 fireman is engaged in the execution of any official duties
21 including arrest or attempted arrest, or to prevent the
22 officer, volunteer, employee, or fireman from performing
23 official duties, or in retaliation for the officer,
24 volunteer, employee, or fireman performing official
25 duties, and the battery is committed other than by the
26 discharge of a firearm.

1 (4) Aggravated battery under subsection (d-5) is a
2 Class 2 felony.

3 (5) For purposes of this subsection (e), the term
4 "firearm" shall have the meaning provided under Section 1.1
5 of the Firearms Owners Identification Card Act, and shall
6 not include an air rifle as defined by Section 1 of the Air
7 Rifle Act.

8 (Source: P.A. 94-243, eff. 1-1-06; 94-327, eff. 1-1-06; 94-333,
9 eff. 7-26-05; 94-363, eff. 7-29-05; 94-482, eff. 1-1-06;
10 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331, eff. 8-21-07;
11 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876, eff.
12 8-21-08.)

13 Section 10. The Air Rifle Act is amended by changing
14 Section 7 as follows:

15 (720 ILCS 535/7) (from Ch. 38, par. 82-7)

16 Sec. 7. Sentence.

17 Any dealer violating any provision of Section 2 of this Act
18 commits a petty offense.

19 Any person violating any other provision of this Act
20 commits a petty offense ~~and shall pay a fine not to exceed \$50.~~

21 (Source: P.A. 77-2815.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.