

SB3961



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3961

Introduced 11/4/2010, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-4

Amends the Criminal Code of 1961. Provides that aggravated battery that causes great bodily harm or permanent disability or disfigurement is a Class X felony when the aggravated battery was intentional and involved the infliction of torture as the infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the victim. Effective immediately.

LRB096 24136 RLC 43570 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 12-4 as follows:

6 (720 ILCS 5/12-4)

7 Sec. 12-4. Aggravated Battery.

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

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

13 (1) Uses a deadly weapon other than by the discharge of
14 a firearm, or uses an air rifle as defined in the Air Rifle
15 Act;

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

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

23 (4) (Blank);

1 (5) (Blank);

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

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

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

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

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

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

17 (10) Knows the individual harmed to be an individual of
18 60 years of age or older;

19 (11) Knows the individual harmed is pregnant;

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

23 (13) (Blank);

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

26 (15) Knowingly and without legal justification and by

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

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

19 (17) (Blank);

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

25 (19) Knows the individual harmed to be an emergency
26 management worker engaged in the performance of any of his

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

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

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

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

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

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

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

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

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

4 (d-3) A person commits aggravated battery when he or she
5 knowingly and without lawful justification shines or flashes a
6 laser gunsight or other laser device that is attached or
7 affixed to a firearm, or used in concert with a firearm, so
8 that the laser beam strikes upon or against the person of
9 another.

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

20 (d-6) A person commits aggravated battery when he or she,
21 in committing a battery, strangles another individual. For the
22 purposes of this subsection (d-6), "strangle" means
23 intentionally impeding the normal breathing or circulation of
24 the blood of an individual by applying pressure on the throat
25 or neck of that individual or by blocking the nose or mouth of
26 that individual.

1 (e) Sentence.

2 (1) Except as otherwise provided in paragraphs (2),
3 (3), (4), ~~and (5)~~, and (5.5), aggravated battery is a Class
4 3 felony.

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

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

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

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

12 (5) Aggravated battery under subsection (d-6) is a
13 Class 1 felony if:

14 (A) the person used or attempted to use a dangerous
15 instrument while committing the offense; or

16 (B) the person caused great bodily harm or
17 permanent disability or disfigurement to the other
18 person while committing the offense; or

19 (C) the person has been previously convicted of a
20 violation of subsection (d-6) under the laws of this
21 State or laws similar to subsection (d-6) of any other
22 state.

23 (5.5) Aggravated battery that causes great bodily harm
24 or permanent disability or disfigurement in violation of
25 subsection (a) is a Class X felony when the aggravated
26 battery was intentional and involved the infliction of

1 torture, as defined in paragraph (14) of subsection (b) of
2 Section 9-1 of this Code, as the infliction of or
3 subjection to extreme physical pain, motivated by an intent
4 to increase or prolong the pain, suffering, or agony of the
5 victim.

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

11 (Source: P.A. 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331,
12 eff. 8-21-07; 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876,
13 eff. 8-21-08; 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;
14 96-1000, eff. 7-2-10.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.