



Rep. Michael J. Zalewski

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LRB097 08651 RLC 51975 a

1 AMENDMENT TO HOUSE BILL 1907

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1907 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by adding  
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G.

8 ILLINOIS STREET GANG AND RACKETEER INFLUENCED AND CORRUPT

9 ORGANIZATIONS LAW

10 (720 ILCS 5/33G-1 new)

11 Sec. 33G-1. Short title. This Article may be cited as the  
12 Illinois Street Gang and Racketeer Influenced and Corrupt  
13 Organizations Law (or "RICO").

14 (720 ILCS 5/33G-2 new)

1       Sec. 33G-2. Legislative declaration. The substantial harm  
2 inflicted on the people and economy of this State by pervasive  
3 violent street gangs and other forms of enterprise criminality,  
4 is legitimately a matter of grave concern to the people of this  
5 State who have a basic right to be protected from such criminal  
6 activity and to be given adequate remedies to redress its  
7 harms. Whereas the current laws of this State provide  
8 inadequate remedies, procedures and punishments, the Illinois  
9 General Assembly hereby gives the supplemental remedies of the  
10 Illinois Street Gang and Racketeer Influenced and Corrupt  
11 Organizations Law full force and effect under law for the  
12 common good of this State and its people.

13           (720 ILCS 5/33G-3 new)

14       Sec. 33G-3. Definitions. As used in this Article:

15       (a) "Another state" means any State of the United States  
16 (other than the State of Illinois), or the District of  
17 Columbia, or the Commonwealth of Puerto Rico, or any territory  
18 or possession of the United States, or any political  
19 subdivision, or any department, agency, or instrumentality  
20 thereof.

21       (b) "Enterprise" includes (1) any individual, sole  
22 proprietorship, partnership, corporation, association,  
23 business or charitable trust or other legal entity, and (2) any  
24 group of individuals or other legal entities, or any  
25 combination thereof, associated in fact although not itself a

1 legal entity. An association in fact must be held together by a  
2 common purpose, apart from an individual purpose or purposes,  
3 but it need not be hierarchically structured or otherwise  
4 specially configured. As used in this Article, "enterprise"  
5 includes licit and illicit enterprises.

6 (c) "Predicate activity" means:

7 (1) any act, attempt, endeavor, solicitation, or  
8 conspiracy that is punishable by imprisonment for more than  
9 one year, and constitutes a violation or violations of any  
10 of the following provisions of the laws of the State of  
11 Illinois (as amended or revised as of the date the activity  
12 occurred or, in the instance of a continuing offense, the  
13 date that charges under this Article are filed in a  
14 particular matter in the State of Illinois):

15 (i) under the Criminal Code of 1961: Sections 8-1  
16 (solicitation), 8-1.1 (solicitation of murder), 8-1.2  
17 (solicitation of murder for hire), 9-1 (first degree  
18 murder), 9-3.1 (concealment of homicidal death), 9-3.3  
19 (drug-induced homicide), 10-1 (kidnapping), 10-2  
20 (aggravated kidnapping), 10-3 (unlawful restraint),  
21 10-3.1 (aggravated unlawful restraint), 10-4 (forcible  
22 detention), 10-5 (child abduction), 10-7 (aiding and  
23 abetting child abduction), 10-9 (trafficking of  
24 persons, involuntary servitude, and related offenses),  
25 11-6 (indecent solicitation of a child), 11-6.5  
26 (indecent solicitation of an adult), 11-9.1 (sexual

1 exploitation of a child), 11-9.2 (custodial sexual  
2 misconduct), 11-15.1 (soliciting for a juvenile  
3 prostitute), 11-16 (pandering), 11-17.1 (keeping a  
4 place of juvenile prostitution), 11-18.1 (patronizing  
5 a juvenile prostitute), 11-19.1 (juvenile pimping and  
6 aggravated juvenile pimping), 11-19.2 (exploitation of  
7 a child), 12-2 (aggravated assault), 12-4 (aggravated  
8 battery), 12-4.1 (heinous battery), 12-4.2 (aggravated  
9 battery with a firearm), 12-4.2-5 (aggravated battery  
10 with a machine gun or silencer-equipped firearm),  
11 12-4.7 (drug-induced infliction of great bodily harm),  
12 12-6 (intimidation), 12-6.1 (compelling organization  
13 membership of persons), 12-6.2 (aggravated  
14 intimation), 12-6.4 (criminal street gang  
15 recruitment), 12-7.3 (stalking), 12-7.4 (aggravated  
16 stalking), 12-7.5 (cyber-stalking), 12-9 (threatening  
17 public officials), 12-11 (home invasion), 12-11.1  
18 (vehicular invasion), 12-13 (criminal sexual assault),  
19 12-14 (aggravated criminal sexual assault), 12-14.1  
20 (predatory criminal sexual assault of a child), 12-16  
21 (aggravated criminal sexual abuse), 16-16.1  
22 (aggravated possession of a stolen firearm), 18-1  
23 (robbery), 18-2 (armed robbery), 18-3 (vehicular  
24 hijacking), 18-4 (aggravated vehicular hijacking),  
25 18-5 (aggravated robbery), 19-1 (burglary), 19-2  
26 (possession of burglary tools), 19-3 (residential

1 burglary), 20-1 (arson), 20-1.1 (aggravated arson),  
2 20-1.2 (residential arson), 20-1.3 (place of worship  
3 arson), 20-2 (possession of explosives), 20.5-5  
4 (causing a catastrophe), 20.5-6 (possession of a  
5 deadly substance), 24-1.2 (aggravated discharge of a  
6 firearm), 24-1.2-5 (aggravated discharge of a machine  
7 gun or silencer equipped firearm), 24-1.6 (aggravated  
8 unlawful use of a weapon), 24-1.8 (unlawful possession  
9 of a firearm by a street gang member), 24-2.2 (unlawful  
10 ammunition), 24-3 (unlawful sale of firearms), 24-3.2  
11 (unlawful discharge of firearm projectiles), 24-3A  
12 (gunrunning), 24-5 (defacing a firearm), 26-5  
13 (dog-fighting), 29D-15 (soliciting support for  
14 terrorism), 29D-20 (making a terrorist threat), 29D-25  
15 (falsely making a terrorist threat), 29D-30  
16 (terrorism), 29D-35 (hindering prosecution of  
17 terrorism), 31A-1.2 (unauthorized contraband in a  
18 penal institution), or 33A-3 (armed violence).

19 (ii) under the Cannabis Control Act: Sections 5  
20 (manufacture or delivery of cannabis), 5.1 (cannabis  
21 trafficking), or 8 (production or possession of  
22 cannabis plants).

23 (iii) under the Illinois Controlled Substances  
24 Act: Sections 401 (manufacture or delivery of a  
25 controlled substance), 401.1 (controlled substance  
26 trafficking), 405 (calculated criminal drug

1           conspiracy), 405.1 (criminal drug conspiracy), 405.2  
2           (street gang criminal drug conspiracy), or 406.1  
3           (unlawful use of buildings to produce controlled  
4           substances).

5           (iv) under the Methamphetamine Control and  
6           Community Protection Act: Sections 15 (methamphetamine  
7           manufacturing), or 55 (methamphetamine delivery); or  
8           (2) any act, attempt, endeavor, solicitation, or  
9           conspiracy involving murder, kidnapping, illegal gambling,  
10           arson, robbery, or dealing in a controlled substance or  
11           listed chemical (as defined under the laws of the United  
12           States in Title 21, United States Code, Section 802), that  
13           is chargeable under the laws of another state and  
14           punishable by imprisonment for more than one year. Under  
15           this Article, the term "chargeable" means the act, attempt  
16           or endeavor, solicitation, or conspiracy constitutes an  
17           offense under the substantive criminal law of another  
18           state, as such laws exist as of the date the activity  
19           occurred or, in the instance of a continuing offense, the  
20           date that charges under this Article are filed in a  
21           particular matter in the State of Illinois, but it does not  
22           include any procedural defenses under the laws of another  
23           state.

24           (d) "Pattern of predicate activity" means:

25           (1) at least 2 occurrences of predicate activity  
26           related to the affairs of an enterprise in the form of an

1 act, attempt, endeavor, solicitation, or conspiracy, or  
2 any combination thereof; and

3 (2) at least one of which occurs after the effective  
4 date of this Article, and the last of which falls within 10  
5 years (excluding any period of imprisonment) after the  
6 prior occurrence of predicate activity;

7 (e) "Unlawful debt" means a debt:

8 (1) incurred or contracted in the business of gambling  
9 activity that was in violation of the law of the United  
10 States, or the State of Illinois or another state, or any  
11 political subdivision thereof, and that is unenforceable  
12 under federal law, or the laws of the State of Illinois or  
13 another state, in whole or in part as to principal or  
14 interest, or

15 (2) that was incurred in connection with the business  
16 of lending money or other things of value in violation of  
17 the law of the United States, or the laws of the State of  
18 Illinois or another state, or political subdivision  
19 thereof at a rate usurious under federal law, or the laws  
20 of the State of Illinois or another state, where the  
21 usurious rate is at least twice the enforceable rate;

22 (f) "Unlawful death" includes the following offenses:  
23 under the Criminal Code of 1961: Sections 9-1 (first degree  
24 murder), 9-2 (second degree murder), 9-3 (voluntary  
25 manslaughter and reckless homicide), or 9-3.2 (involuntary  
26 manslaughter).

1 (720 ILCS 5/33G-4 new)

2 Sec. 33G-4. Prohibited activities. Under this Article:

3 (a) It is unlawful for any person:

4 (1) who is employed by or associated with any  
5 enterprise, knowingly to conduct or participate, directly  
6 or indirectly, in such enterprise's affairs through either  
7 a pattern of predicate activity or the collection of  
8 unlawful debt; or

9 (2) knowingly to acquire or maintain, directly or  
10 indirectly, through either a pattern of predicate activity  
11 or the collection of unlawful debt, any interest in, or  
12 control of, to any degree, of any enterprise, real  
13 property, or personal property of any character, including  
14 money.

15 (b) It is unlawful for any person knowingly to attempt to  
16 violate, or knowingly conspire to violate, this Article.  
17 Notwithstanding any other provision of law, in any prosecution  
18 for a conspiracy to violate this Article, no person may be  
19 convicted of such conspiracy unless an overt act in furtherance  
20 of such agreement is alleged and proved to have been committed  
21 by him or by a coconspirator, but the commission of such overt  
22 act need not itself constitute predicate activity underlying  
23 the specific violation of this Article.

24 (c) The application of a remedy under this Article does not  
25 preclude the application of other criminal, civil, or



1 administrative remedies under this Article or any other  
2 provision of law. Any person prosecuted under this Article may  
3 be convicted and sentenced either:

4 (1) for the offense of conspiring to violate this  
5 Article, and for any other particular offense or offenses  
6 that may be one of the objects of a conspiracy to violate  
7 this Article; or

8 (2) for the offense of violating this Article, and for  
9 any other particular offense or offenses that may  
10 constitute predicate activity underlying a violation of  
11 this Article.

12 (d) It is not a defense to any violation of this Article  
13 that a defendant has been formerly prosecuted for an offense  
14 based upon the same facts, within the meaning of Section 3-4 of  
15 this Code, that thereafter serves as any portion of the  
16 underlying predicate activity in a subsequent prosecution  
17 under this Article, unless the former prosecution was  
18 terminated by a final order or judgment, even if entered before  
19 trial, which required a determination inconsistent with any  
20 fact necessary to a conviction in the subsequent prosecution  
21 under this Article.

22 (e) In any criminal prosecution under this Article, the  
23 court may permit the introduction into evidence, as an  
24 admission or self-incriminating verbal act by a defendant, any  
25 certified court document relating to that defendant, including  
26 charging instruments, judgments of conviction, or transcripts

1 of previous court proceedings underlying any prior conviction  
2 of that defendant, that may otherwise constitute evidence of a  
3 violation of this Article. The finder of fact may consider such  
4 court documents against that defendant, but the admission of  
5 the court documents shall not estop the defendant from  
6 challenging, in the criminal prosecution under this Article,  
7 any factual matters asserted in the court documents or any  
8 inferences to be drawn therefrom.

9 (720 ILCS 5/33G-5 new)

10 Sec. 33G-5. Penalties. Under this Article, notwithstanding  
11 any other provision of law:

12 (a) Any violation of subsection (a) of Section 33G-4 of  
13 this Article shall be sentenced as a Class X felony with a  
14 special term of imprisonment of not less than 10 years and not  
15 more than 30 years, or the sentence applicable to the  
16 underlying predicate activity, whichever is higher, and the  
17 sentence imposed shall also include restitution, and or a  
18 criminal fine, jointly and severally, up to \$250,000 or twice  
19 the gross amount of any intended proceeds of the violation, if  
20 any, whichever is higher.

21 (b) Any violation of subsection (b) of Section 33G-4 of  
22 this Article shall be sentenced as a Class X felony with a  
23 special term of imprisonment of not less than 7 years and not  
24 more than 30 years, and the sentence imposed shall also include  
25 restitution, and or a criminal fine, jointly and severally, up

1 to \$250,000 or twice the gross amount of any intended proceeds  
2 of the violation, if any, whichever is higher.

3 (c) Wherever the unlawful death of any person or persons  
4 results as a necessary or natural consequence of any violation  
5 of this Article, the sentence imposed on the defendant shall  
6 include an enhanced term of imprisonment of at least 25 years  
7 up to natural life, in addition to any other penalty imposed by  
8 the court, provided:

9 (1) the death or deaths were reasonably foreseeable to  
10 the defendant to be sentenced; and

11 (2) the death or deaths occurred when such defendant  
12 was otherwise engaged in the violation of this Article as a  
13 whole.

14 (d) A sentence of probation, periodic imprisonment,  
15 conditional discharge, impact incarceration or county impact  
16 incarceration, court supervision, withheld adjudication, or  
17 any pretrial diversionary sentence or suspended sentence, is  
18 not authorized for a violation of this Article.

19 (720 ILCS 5/33G-6 new)

20 Sec. 33G-6. Remedial proceedings, procedures, and  
21 forfeiture. Under this Article:

22 (a) The circuit court shall have jurisdiction to prevent  
23 and restrain violations of this Article by issuing appropriate  
24 orders, including:

25 (1) ordering any person to disgorge illicit proceeds

1       obtained by a violation of this Article or divest himself  
2       or herself of any interest, direct or indirect, in any  
3       enterprise or real or personal property of any character,  
4       including money, obtained, directly or indirectly, by a  
5       violation of this Article;

6       (2) imposing reasonable restrictions on the future  
7       activities or investments of any person or enterprise,  
8       including prohibiting any person or enterprise from  
9       engaging in the same type of endeavor as the person or  
10      enterprise engaged in, that the violated this Article; or

11      (3) ordering dissolution or reorganization of any  
12      enterprise, making due provision for the rights of innocent  
13      persons.

14      (b) Any violation of this Article is subject to the  
15      remedies, procedures, and forfeiture as set forth in  
16      subsections (f) through (s) of Section 29B-1 of this Code.

17           (720 ILCS 5/33G-7 new)

18      Sec. 33G-7. Severability. If any clause, sentence, Section  
19      or provision, or part of this Article or the application  
20      thereof to any person or circumstance shall be adjudged to be  
21      unconstitutional, the remainder of this Article or its  
22      application to any person or circumstances other than those to  
23      which it is held invalid shall not be affected thereby.

24           (720 ILCS 5/33G-8 new)

1       Sec. 33G-8. Construction. In interpreting the provisions  
2 of this Article, the court, because of their remedial purposes,  
3 shall construe them liberally. Nothing in this Article shall  
4 preclude the imposition of additional criminal penalties under  
5 any provision of Federal law, or the laws of the State of  
6 Illinois or another state, or any other law, or the affording  
7 of any remedies in addition to those provided for in this  
8 Article. In addition, the court shall construe this Article in  
9 light of the provisions contained in Title IX of Public Law  
10 91-452, 84 Stat. 922 (as amended in Title 18, United States  
11 Code, Section 1961-1968), wherever substantially similar  
12 language is used in such Title and this Article, but where such  
13 language indicates an intent to depart from such Title, the  
14 court shall interpret the language as herein provided.

15       (720 ILCS 5/33G-9 new)

16       Sec. 33G-9. Limitations. Under this Article,  
17 notwithstanding any other provision of law, but otherwise  
18 subject to the periods of exclusion from limitation as provided  
19 in Section 3-7 of this Code, the following limitations apply:

20       (a) Any action, proceeding, or prosecution brought under  
21 this Article must commence within 5 years of one of the  
22 following dates, whichever is latest:

23           (1) the date of the commission of the last occurrence  
24 of predicate activity in a pattern of such activity, in the  
25 form of an act, attempt, endeavor, or solicitation,

1 underlying the alleged violation of this Article; or

2 (2) in the case of an action, proceeding, or  
3 prosecution, based upon a conspiracy to violate this  
4 Article, the date that the last objective of the alleged  
5 conspiracy was accomplished, defeated or abandoned  
6 (whichever is later); or

7 (3) the date any minor victim of the violation attains  
8 the age of 18 years or the date any victim of the violation  
9 subject to a legal disability thereafter gains legal  
10 capacity; or

11 (4) the date that any alleged violation of this  
12 Article, including injury, cause, pattern, or identity of  
13 the violator or violators, was otherwise discovered in the  
14 exercise of good faith.

15 (b) Any action, proceeding, or prosecution brought under  
16 this Article may be commenced at any time against all  
17 defendants if the conduct of any defendant, or any part of the  
18 overall violation, resulted in the unlawful death of any person  
19 or persons.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law."