



Rep. Michael J. Zalewski

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LRB097 08651 RLC 52164 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: 8-1.2
16 (solicitation of murder for hire), 9-1 (first degree
17 murder), 9-3.1 (concealment of homicidal death), 9-3.3
18 (drug-induced homicide), 10-1 (kidnapping), 10-2
19 (aggravated kidnapping), 10-3 (unlawful restraint),
20 10-3.1 (aggravated unlawful restraint), 10-4 (forcible
21 detention), 10-5 (child abduction), 10-7 (aiding and
22 abetting child abduction), 10-9 (trafficking of
23 persons, involuntary servitude, and related offenses),
24 11-6 (indecent solicitation of a child), 11-6.5
25 (indecent solicitation of an adult), 11-9.1 (sexual
26 exploitation of a child), 11-9.2 (custodial sexual

1 misconduct), 11-15.1 (soliciting for a juvenile
2 prostitute), 11-16 (pandering), 11-17.1 (keeping a
3 place of juvenile prostitution), 11-18.1 (patronizing
4 a juvenile prostitute), 11-19.1 (juvenile pimping and
5 aggravated juvenile pimping), 11-19.2 (exploitation of
6 a child), 12-2 (aggravated assault), 12-4 (aggravated
7 battery), 12-4.1 (heinous battery), 12-4.2 (aggravated
8 battery with a firearm), 12-4.2-5 (aggravated battery
9 with a machine gun or silencer-equipped firearm),
10 12-4.7 (drug-induced infliction of great bodily harm),
11 12-6.1 (compelling organization membership of
12 persons), 12-6.4 (criminal street gang recruitment),
13 12-7.3 (stalking), 12-7.4 (aggravated stalking),
14 12-7.5 (cyber-stalking), 12-11 (home invasion),
15 12-11.1 (vehicular invasion), 12-13 (criminal sexual
16 assault), 12-14 (aggravated criminal sexual assault),
17 12-14.1 (predatory criminal sexual assault of a
18 child), 12-16 (aggravated criminal sexual abuse),
19 16-16.1 (aggravated possession of a stolen firearm),
20 18-1 (robbery), 18-2 (armed robbery), 18-3 (vehicular
21 hijacking), 18-4 (aggravated vehicular hijacking),
22 18-5 (aggravated robbery), 19-1 (burglary), 19-2
23 (possession of burglary tools), 19-3 (residential
24 burglary), 20-1 (arson), 20-1.1 (aggravated arson),
25 20-1.2 (residential arson), 20-1.3 (place of worship
26 arson), 20-2 (possession of explosives), 20.5-5

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

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

20 (iii) under the Illinois Controlled Substances
21 Act: Sections 401 (manufacture or delivery of a
22 controlled substance), 401.1 (controlled substance
23 trafficking), 405 (calculated criminal drug
24 conspiracy), 405.1 (criminal drug conspiracy), 405.2
25 (street gang criminal drug conspiracy), or 406.1
26 (unlawful use of buildings to produce controlled

1 substances).

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

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

22 (1) at least 2 occurrences of predicate activity
23 related to the affairs of an enterprise in the form of an
24 act, attempt, endeavor, solicitation, or conspiracy, or
25 any combination thereof; and

26 (2) at least one of which occurs after the effective

1 date of this Article, and the last of which falls within 10
2 years (excluding any period of imprisonment) after the
3 prior occurrence of predicate activity;

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

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

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

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

24 (720 ILCS 5/33G-4 new)

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

1 (a) It is unlawful for any person:

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

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

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

22 (c) The application of a remedy under this Article does not
23 preclude the application of other criminal, civil, or
24 administrative remedies under this Article or any other
25 provision of law. Any person prosecuted under this Article may
26 be convicted and sentenced either:

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

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

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

19 (e) In any criminal prosecution under this Article, the
20 court may permit the introduction into evidence, as an
21 admission or self-incriminating verbal act by a defendant, any
22 certified court document relating to that defendant, including
23 charging instruments, judgments of conviction, or transcripts
24 of previous court proceedings underlying any prior conviction
25 of that defendant, that may otherwise constitute evidence of a
26 violation of this Article. The finder of fact may consider such

1 court documents against that defendant, but the admission of
2 the court documents shall not estop the defendant from
3 challenging, in the criminal prosecution under this Article,
4 any factual matters asserted in the court documents or any
5 inferences to be drawn therefrom.

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

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

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

18 (b) Any violation of subsection (b) of Section 33G-4 of
19 this Article shall be sentenced as a Class X felony with a
20 special term of imprisonment of not less than 7 years and not
21 more than 30 years, and the sentence imposed shall also include
22 restitution, and or a criminal fine, jointly and severally, up
23 to \$250,000 or twice the gross amount of any intended proceeds
24 of the violation, if any, whichever is higher.

25 (c) Wherever the unlawful death of any person or persons

1 results as a necessary or natural consequence of any violation
2 of this Article, the sentence imposed on the defendant shall
3 include an enhanced term of imprisonment of at least 25 years
4 up to natural life, in addition to any other penalty imposed by
5 the court, provided:

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

8 (2) the death or deaths occurred when such defendant
9 was otherwise engaged in the violation of this Article as a
10 whole.

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

16 (720 ILCS 5/33G-6 new)

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

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

22 (1) ordering any person to disgorge illicit proceeds
23 obtained by a violation of this Article or divest himself
24 or herself of any interest, direct or indirect, in any
25 enterprise or real or personal property of any character,

1 including money, obtained, directly or indirectly, by a
2 violation of this Article;

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

8 (3) ordering dissolution or reorganization of any
9 enterprise, making due provision for the rights of innocent
10 persons.

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

14 (720 ILCS 5/33G-7 new)

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

21 (720 ILCS 5/33G-8 new)

22 Sec. 33G-8. Construction. In interpreting the provisions
23 of this Article, the court, because of their remedial purposes,
24 shall construe them liberally. Nothing in this Article shall

1 preclude the imposition of additional criminal penalties under
2 any provision of Federal law, or the laws of the State of
3 Illinois or another state, or any other law, or the affording
4 of any remedies in addition to those provided for in this
5 Article. In addition, the court shall construe this Article in
6 light of the provisions contained in Title IX of Public Law
7 91-452, 84 Stat. 922 (as amended in Title 18, United States
8 Code, Section 1961-1968), wherever substantially similar
9 language is used in such Title and this Article, but where such
10 language indicates an intent to depart from such Title, the
11 court shall interpret the language as herein provided.

12 (720 ILCS 5/33G-9 new)

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

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

20 (1) the date of the commission of the last occurrence
21 of predicate activity in a pattern of such activity, in the
22 form of an act, attempt, endeavor, or solicitation,
23 underlying the alleged violation of this Article; or

24 (2) in the case of an action, proceeding, or
25 prosecution, based upon a conspiracy to violate this

1 Article, the date that the last objective of the alleged
2 conspiracy was accomplished, defeated or abandoned
3 (whichever is later); or

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

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

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."