



Sen. Michael Noland

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09700SB1808sam001

LRB097 00224 RLC 53288 a

1 AMENDMENT TO SENATE BILL 1808

2 AMENDMENT NO. _____. Amend Senate Bill 1808 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Section 32-8 as follows:

6 (720 ILCS 5/32-8) (from Ch. 38, par. 32-8)

7 (Text of Section before amendment by P.A. 96-1508)

8 Sec. 32-8. Tampering with public records.

9 (a) A person who knowingly and without lawful authority
10 alters, destroys, defaces, removes or conceals any public
11 record commits a Class 4 felony.

12 (b) "Public record" expressly includes, but is not limited
13 to, court records pertaining to any civil or criminal
14 proceeding in any court.

15 (c) Any judge, circuit clerk or clerk of court, public
16 official or employee, court reporter, or other person who

1 knowingly and without lawful authority alters, destroys,
2 defaces, removes, ~~or~~ conceals, or falsifies any public record
3 received or held by any judge or by a clerk of any court
4 commits a Class 3 felony.

5 (d) Any person convicted under subsection (c):

6 (1) shall forfeit his or her public office or public
7 employment, if any, and shall thereafter be ineligible for
8 both State and local public office and public employment in
9 this State for a period of 5 years after completion of any
10 term of probation, conditional discharge, or mandatory
11 supervised release;

12 (2) shall forfeit all retirement, pension, and other
13 benefits arising out of public office or public employment
14 in accordance with the applicable provisions of the
15 Illinois Pension Code;

16 (3) shall be subject to termination of any professional
17 licensure or registration in this State in accordance with
18 the provisions of the applicable professional licensing or
19 registration laws;

20 (4) may be ordered by the court, after a hearing in
21 accordance with applicable law and in addition to any other
22 penalty or fine imposed by the court, to forfeit to the
23 State an amount equal to any financial gain or the value of
24 any advantage realized by the person as a result of the
25 offense; and

26 (5) may be ordered by the court, after a hearing in

1 accordance with applicable law and in addition to any other
2 penalty or fine imposed by the court, to pay restitution to
3 the victim in an amount equal to any financial loss or the
4 value of any advantage lost by the victim as a result of
5 the offense.

6 For the purposes of this subsection (d), an offense under
7 subsection (c) committed by a person holding public office or
8 public employment shall be rebuttably presumed to relate to or
9 arise out of or in connection with that public office or public
10 employment.

11 (e) Any party having an interest in the protection and
12 integrity of any court record, whether such party be a public
13 official or a private individual, shall have the right to
14 request and, if necessary, to demand that an investigation be
15 opened into the alteration, destruction, defacement, removal,
16 ~~or~~ concealment, or falsification of any public record. Such
17 request may be made to any law enforcement agency, including,
18 but not limited to, local law enforcement and the State Police.

19 (f) When the local law enforcement agency having
20 jurisdiction declines to investigate, or inadequately
21 investigates, a violation of subsection (c), the State Police
22 shall have the authority to investigate, and shall investigate,
23 the same, without regard to whether such local law enforcement
24 agency has requested the State Police to do so.

25 (g) When the State's Attorney having jurisdiction declines
26 to prosecute a violation of subsection (c), the Attorney

1 General shall have the authority to prosecute the same, without
2 regard to whether such State's Attorney has requested the
3 Attorney General to do so.

4 (h) Prosecution of a violation of subsection (c) shall be
5 commenced within 3 years after the act constituting the
6 violation is discovered or reasonably should have been
7 discovered.

8 (Source: P.A. 96-1217, eff. 1-1-11.)

9 (Text of Section after amendment by P.A. 96-1508)

10 Sec. 32-8. Tampering with public records.

11 (a) A person who knowingly, without lawful authority, and
12 with the intent to defraud any party, public officer or entity,
13 alters, destroys, defaces, removes or conceals any public
14 record commits a Class 4 felony.

15 (b) "Public record" expressly includes, but is not limited
16 to, court records, or documents, evidence, or exhibits filed
17 with the clerk of the court and which have become a part of the
18 official court record, pertaining to any civil or criminal
19 proceeding in any court.

20 (c) Any judge, circuit clerk or clerk of court, public
21 official or employee, court reporter, or other person who
22 knowingly, without lawful authority, and with the intent to
23 defraud any party, public officer or entity, alters, destroys,
24 defaces, removes, ~~or~~ conceals, or falsifies any public record
25 received or held by any judge or by a clerk of any court

1 commits a Class 3 felony.

2 (d) Any person convicted under subsection (c) who at the
3 time of the violation was responsible for making, keeping,
4 storing, or reporting the record for which the tampering
5 occurred:

6 (1) shall forfeit his or her public office or public
7 employment, if any, and shall thereafter be ineligible for
8 both State and local public office and public employment in
9 this State for a period of 5 years after completion of any
10 term of probation, conditional discharge, or incarceration
11 in a penitentiary including the period of mandatory
12 supervised release;

13 (2) shall forfeit all retirement, pension, and other
14 benefits arising out of public office or public employment
15 as may be determined by the court in accordance with the
16 applicable provisions of the Illinois Pension Code;

17 (3) shall be subject to termination of any professional
18 licensure or registration in this State as may be
19 determined by the court in accordance with the provisions
20 of the applicable professional licensing or registration
21 laws;

22 (4) may be ordered by the court, after a hearing in
23 accordance with applicable law and in addition to any other
24 penalty or fine imposed by the court, to forfeit to the
25 State an amount equal to any financial gain or the value of
26 any advantage realized by the person as a result of the

1 offense; and

2 (5) may be ordered by the court, after a hearing in
3 accordance with applicable law and in addition to any other
4 penalty or fine imposed by the court, to pay restitution to
5 the victim in an amount equal to any financial loss or the
6 value of any advantage lost by the victim as a result of
7 the offense.

8 For the purposes of this subsection (d), an offense under
9 subsection (c) committed by a person holding public office or
10 public employment shall be rebuttably presumed to relate to or
11 arise out of or in connection with that public office or public
12 employment.

13 (e) Any party litigant who believes a violation of this
14 Section has occurred may seek the restoration of the court
15 record as provided in the Court Records Restoration Act. Any
16 order of the court denying the restoration of the court record
17 may be appealed as any other civil judgment.

18 (f) When the sheriff or local law enforcement agency having
19 jurisdiction declines to investigate, or inadequately
20 investigates, the court or any interested party, shall notify
21 the State Police of a suspected violation of subsection (a) or
22 (c), who shall have the authority to investigate, and may
23 investigate, the same, without regard to whether such local law
24 enforcement agency has requested the State Police to do so.

25 (g) If the State's Attorney having jurisdiction declines to
26 prosecute a violation of subsection (a) or (c), the court or

1 interested party shall notify the Attorney General of such
2 refusal. The Attorney General shall, thereafter, have the
3 authority to prosecute, and may prosecute, the same, without a
4 referral from such State's Attorney.

5 (h) Prosecution of a violation of subsection (c) shall be
6 commenced within 3 years after the act constituting the
7 violation is discovered or reasonably should have been
8 discovered.

9 (Source: P.A. 96-1217, eff. 1-1-11; 96-1508, eff. 6-1-11.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

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