



Sen. Ira I. Silverstein

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1 AMENDMENT TO SENATE BILL 2651

2 AMENDMENT NO. _____. Amend Senate Bill 2651 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-805 as follows:

6 (705 ILCS 405/5-805)

7 Sec. 5-805. Transfer of jurisdiction.

8 (1) Mandatory transfers.

9 (a) If a petition alleges commission by a minor 15
10 years of age or older of an act that constitutes a forcible
11 felony under the laws of this State, and if a motion by the
12 State's Attorney to prosecute the minor under the criminal
13 laws of Illinois for the alleged forcible felony alleges
14 that (i) the minor has previously been adjudicated
15 delinquent or found guilty for commission of an act that
16 constitutes a felony under the laws of this State or any

1 other state and (ii) the act that constitutes the offense
2 was committed in furtherance of criminal activity by an
3 organized gang, the Juvenile Judge assigned to hear and
4 determine those motions shall, upon determining that there
5 is probable cause that both allegations are true, enter an
6 order permitting prosecution under the criminal laws of
7 Illinois.

8 (b) If a petition alleges commission by a minor 15
9 years of age or older of an act that constitutes a felony
10 under the laws of this State, and if a motion by a State's
11 Attorney to prosecute the minor under the criminal laws of
12 Illinois for the alleged felony alleges that (i) the minor
13 has previously been adjudicated delinquent or found guilty
14 for commission of an act that constitutes a forcible felony
15 under the laws of this State or any other state and (ii)
16 the act that constitutes the offense was committed in
17 furtherance of criminal activities by an organized gang,
18 the Juvenile Judge assigned to hear and determine those
19 motions shall, upon determining that there is probable
20 cause that both allegations are true, enter an order
21 permitting prosecution under the criminal laws of
22 Illinois.

23 (c) If a petition alleges commission by a minor 15
24 years of age or older of: (i) an act that constitutes an
25 offense enumerated in the presumptive transfer provisions
26 of subsection (2); and (ii) the minor has previously been

1 adjudicated delinquent or found guilty of a forcible
2 felony, the Juvenile Judge designated to hear and determine
3 those motions shall, upon determining that there is
4 probable cause that both allegations are true, enter an
5 order permitting prosecution under the criminal laws of
6 Illinois.

7 (d) If a petition alleges commission by a minor 15
8 years of age or older of an act that constitutes the
9 offense of aggravated discharge of a firearm committed in a
10 school, on the real property comprising a school, within
11 1,000 feet of the real property comprising a school, at a
12 school related activity, or on, boarding, or departing from
13 any conveyance owned, leased, or contracted by a school or
14 school district to transport students to or from school or
15 a school related activity, regardless of the time of day or
16 the time of year, the juvenile judge designated to hear and
17 determine those motions shall, upon determining that there
18 is probable cause that the allegations are true, enter an
19 order permitting prosecution under the criminal laws of
20 Illinois.

21 For purposes of this paragraph (d) of subsection (1):

22 "School" means a public or private elementary or
23 secondary school, community college, college, or
24 university.

25 "School related activity" means any sporting, social,
26 academic, or other activity for which students' attendance

1 or participation is sponsored, organized, or funded in
2 whole or in part by a school or school district.

3 (2) Presumptive transfer.

4 (a) If the State's Attorney files a petition, at any
5 time prior to commencement of the minor's trial, to permit
6 prosecution under the criminal laws and the petition
7 alleges the commission by a minor 15 years of age or older
8 of: (i) a Class X felony other than armed violence; (ii)
9 aggravated discharge of a firearm; (iii) armed violence
10 with a firearm when the predicate offense is a Class 1 or
11 Class 2 felony and the State's Attorney's motion to
12 transfer the case alleges that the offense committed is in
13 furtherance of the criminal activities of an organized
14 gang; (iv) armed violence with a firearm when the predicate
15 offense is a violation of the Illinois Controlled
16 Substances Act, a violation of the Cannabis Control Act, or
17 a violation of the Methamphetamine Control and Community
18 Protection Act; (v) armed violence when the weapon involved
19 was a machine gun or other weapon described in subsection
20 (a)(7) of Section 24-1 of the Criminal Code of 1961 or the
21 Criminal Code of 2012; (vi) an act in violation of Section
22 401 of the Illinois Controlled Substances Act which is a
23 Class X felony, while in a school, regardless of the time
24 of day or the time of year, or on any conveyance owned,
25 leased, or contracted by a school to transport students to
26 or from school or a school related activity, or on

1 residential property owned, operated, or managed by a
2 public housing agency or leased by a public housing agency
3 as part of a scattered site or mixed-income development; ~~or~~
4 (vii) an act in violation of Section 401 of the Illinois
5 Controlled Substances Act and the offense is alleged to
6 have occurred while in a school or on a public way within
7 1,000 feet of the real property comprising any school,
8 regardless of the time of day or the time of year when the
9 delivery or intended delivery of any amount of the
10 controlled substance is to a person under 17 years of age,
11 (to qualify for a presumptive transfer under paragraph (vi)
12 or (vii) of this clause (2)(a), the violation cannot be
13 based upon subsection (b) of Section 407 of the Illinois
14 Controlled Substances Act); or (viii) aggravated battery
15 under subdivision (g) (4) of Section 12-3.05 of the Criminal
16 Code of 2012 and, if the juvenile judge assigned to hear
17 and determine motions to transfer a case for prosecution in
18 the criminal court determines that there is probable cause
19 to believe that the allegations in the petition and motion
20 are true, there is a rebuttable presumption that the minor
21 is not a fit and proper subject to be dealt with under the
22 Juvenile Justice Reform Provisions of 1998 (Public Act
23 90-590), and that, except as provided in paragraph (b), the
24 case should be transferred to the criminal court.

25 (b) The judge shall enter an order permitting
26 prosecution under the criminal laws of Illinois unless the

1 judge makes a finding based on clear and convincing
2 evidence that the minor would be amenable to the care,
3 treatment, and training programs available through the
4 facilities of the juvenile court based on an evaluation of
5 the following:

6 (i) the age of the minor;

7 (ii) the history of the minor, including:

8 (A) any previous delinquent or criminal
9 history of the minor,

10 (B) any previous abuse or neglect history of
11 the minor, and

12 (C) any mental health, physical or educational
13 history of the minor or combination of these
14 factors;

15 (iii) the circumstances of the offense, including:

16 (A) the seriousness of the offense,

17 (B) whether the minor is charged through
18 accountability,

19 (C) whether there is evidence the offense was
20 committed in an aggressive and premeditated
21 manner,

22 (D) whether there is evidence the offense
23 caused serious bodily harm,

24 (E) whether there is evidence the minor
25 possessed a deadly weapon;

26 (iv) the advantages of treatment within the

1 juvenile justice system including whether there are
2 facilities or programs, or both, particularly
3 available in the juvenile system;

4 (v) whether the security of the public requires
5 sentencing under Chapter V of the Unified Code of
6 Corrections:

7 (A) the minor's history of services, including
8 the minor's willingness to participate
9 meaningfully in available services;

10 (B) whether there is a reasonable likelihood
11 that the minor can be rehabilitated before the
12 expiration of the juvenile court's jurisdiction;

13 (C) the adequacy of the punishment or
14 services.

15 In considering these factors, the court shall give
16 greater weight to the seriousness of the alleged offense
17 and the minor's prior record of delinquency than to the
18 other factors listed in this subsection.

19 For purposes of clauses (2) (a) (vi) and (vii):

20 "School" means a public or private elementary or secondary
21 school, community college, college, or university.

22 "School related activity" means any sporting, social,
23 academic, or other activity for which students' attendance or
24 participation is sponsored, organized, or funded in whole or in
25 part by a school or school district.

26 (3) Discretionary transfer.

1 (a) If a petition alleges commission by a minor 13
2 years of age or over of an act that constitutes a crime
3 under the laws of this State and, on motion of the State's
4 Attorney to permit prosecution of the minor under the
5 criminal laws, a Juvenile Judge assigned by the Chief Judge
6 of the Circuit to hear and determine those motions, after
7 hearing but before commencement of the trial, finds that
8 there is probable cause to believe that the allegations in
9 the motion are true and that it is not in the best
10 interests of the public to proceed under this Act, the
11 court may enter an order permitting prosecution under the
12 criminal laws.

13 (b) In making its determination on the motion to permit
14 prosecution under the criminal laws, the court shall
15 consider among other matters:

16 (i) the age of the minor;

17 (ii) the history of the minor, including:

18 (A) any previous delinquent or criminal
19 history of the minor,

20 (B) any previous abuse or neglect history of
21 the minor, and

22 (C) any mental health, physical, or
23 educational history of the minor or combination of
24 these factors;

25 (iii) the circumstances of the offense, including:

26 (A) the seriousness of the offense,

1 (B) whether the minor is charged through
2 accountability,

3 (C) whether there is evidence the offense was
4 committed in an aggressive and premeditated
5 manner,

6 (D) whether there is evidence the offense
7 caused serious bodily harm,

8 (E) whether there is evidence the minor
9 possessed a deadly weapon;

10 (iv) the advantages of treatment within the
11 juvenile justice system including whether there are
12 facilities or programs, or both, particularly
13 available in the juvenile system;

14 (v) whether the security of the public requires
15 sentencing under Chapter V of the Unified Code of
16 Corrections:

17 (A) the minor's history of services, including
18 the minor's willingness to participate
19 meaningfully in available services;

20 (B) whether there is a reasonable likelihood
21 that the minor can be rehabilitated before the
22 expiration of the juvenile court's jurisdiction;

23 (C) the adequacy of the punishment or
24 services.

25 In considering these factors, the court shall give
26 greater weight to the seriousness of the alleged offense

1 and the minor's prior record of delinquency than to the
2 other factors listed in this subsection.

3 (4) The rules of evidence for this hearing shall be the
4 same as under Section 5-705 of this Act. A minor must be
5 represented in court by counsel before the hearing may be
6 commenced.

7 (5) If criminal proceedings are instituted, the petition
8 for adjudication of wardship shall be dismissed insofar as the
9 act or acts involved in the criminal proceedings. Taking of
10 evidence in a trial on petition for adjudication of wardship is
11 a bar to criminal proceedings based upon the conduct alleged in
12 the petition.

13 (Source: P.A. 97-1150, eff. 1-25-13.)

14 Section 10. The Criminal Code of 2012 is amended by
15 changing Section 12-3.05 as follows:

16 (720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

17 Sec. 12-3.05. Aggravated battery.

18 (a) Offense based on injury. A person commits aggravated
19 battery when, in committing a battery, other than by the
20 discharge of a firearm, he or she knowingly does any of the
21 following:

22 (1) Causes great bodily harm or permanent disability or
23 disfigurement.

24 (2) Causes severe and permanent disability, great

1 bodily harm, or disfigurement by means of a caustic or
2 flammable substance, a poisonous gas, a deadly biological
3 or chemical contaminant or agent, a radioactive substance,
4 or a bomb or explosive compound.

5 (3) Causes great bodily harm or permanent disability or
6 disfigurement to an individual whom the person knows to be
7 a peace officer, community policing volunteer, fireman,
8 private security officer, correctional institution
9 employee, or Department of Human Services employee
10 supervising or controlling sexually dangerous persons or
11 sexually violent persons:

12 (i) performing his or her official duties;

13 (ii) battered to prevent performance of his or her
14 official duties; or

15 (iii) battered in retaliation for performing his
16 or her official duties.

17 (4) Causes great bodily harm or permanent disability or
18 disfigurement to an individual 60 years of age or older.

19 (5) Strangles another individual.

20 (b) Offense based on injury to a child or intellectually
21 disabled person. A person who is at least 18 years of age
22 commits aggravated battery when, in committing a battery, he or
23 she knowingly and without legal justification by any means:

24 (1) causes great bodily harm or permanent disability or
25 disfigurement to any child under the age of 13 years, or to
26 any severely or profoundly intellectually disabled person;

1 or

2 (2) causes bodily harm or disability or disfigurement
3 to any child under the age of 13 years or to any severely
4 or profoundly intellectually disabled person.

5 (c) Offense based on location of conduct. A person commits
6 aggravated battery when, in committing a battery, other than by
7 the discharge of a firearm, he or she is or the person battered
8 is on or about a public way, public property, a public place of
9 accommodation or amusement, a sports venue, or a domestic
10 violence shelter.

11 (d) Offense based on status of victim. A person commits
12 aggravated battery when, in committing a battery, other than by
13 discharge of a firearm, he or she knows the individual battered
14 to be any of the following:

15 (1) A person 60 years of age or older.

16 (2) A person who is pregnant or physically handicapped.

17 (3) A teacher or school employee upon school grounds or
18 grounds adjacent to a school or in any part of a building
19 used for school purposes.

20 (4) A peace officer, community policing volunteer,
21 fireman, private security officer, correctional
22 institution employee, or Department of Human Services
23 employee supervising or controlling sexually dangerous
24 persons or sexually violent persons:

25 (i) performing his or her official duties;

26 (ii) battered to prevent performance of his or her

1 official duties; or

2 (iii) battered in retaliation for performing his
3 or her official duties.

4 (5) A judge, emergency management worker, emergency
5 medical technician, or utility worker:

6 (i) performing his or her official duties;

7 (ii) battered to prevent performance of his or her
8 official duties; or

9 (iii) battered in retaliation for performing his
10 or her official duties.

11 (6) An officer or employee of the State of Illinois, a
12 unit of local government, or a school district, while
13 performing his or her official duties.

14 (7) A transit employee performing his or her official
15 duties, or a transit passenger.

16 (8) A taxi driver on duty.

17 (9) A merchant who detains the person for an alleged
18 commission of retail theft under Section 16-26 of this Code
19 and the person without legal justification by any means
20 causes bodily harm to the merchant.

21 (10) A person authorized to serve process under Section
22 2-202 of the Code of Civil Procedure or a special process
23 server appointed by the circuit court while that individual
24 is in the performance of his or her duties as a process
25 server.

26 (11) A nurse while in the performance of his or her

1 duties as a nurse.

2 (e) Offense based on use of a firearm. A person commits
3 aggravated battery when, in committing a battery, he or she
4 knowingly does any of the following:

5 (1) Discharges a firearm, other than a machine gun or a
6 firearm equipped with a silencer, and causes any injury to
7 another person.

8 (2) Discharges a firearm, other than a machine gun or a
9 firearm equipped with a silencer, and causes any injury to
10 a person he or she knows to be a peace officer, community
11 policing volunteer, person summoned by a police officer,
12 fireman, private security officer, correctional
13 institution employee, or emergency management worker:

14 (i) performing his or her official duties;

15 (ii) battered to prevent performance of his or her
16 official duties; or

17 (iii) battered in retaliation for performing his
18 or her official duties.

19 (3) Discharges a firearm, other than a machine gun or a
20 firearm equipped with a silencer, and causes any injury to
21 a person he or she knows to be an emergency medical
22 technician employed by a municipality or other
23 governmental unit:

24 (i) performing his or her official duties;

25 (ii) battered to prevent performance of his or her
26 official duties; or

1 (iii) battered in retaliation for performing his
2 or her official duties.

3 (4) Discharges a firearm and causes any injury to a
4 person he or she knows to be a teacher, a student in a
5 school, or a school employee, and the teacher, student, or
6 employee is upon school grounds or grounds adjacent to a
7 school or in any part of a building used for school
8 purposes.

9 (5) Discharges a machine gun or a firearm equipped with
10 a silencer, and causes any injury to another person.

11 (6) Discharges a machine gun or a firearm equipped with
12 a silencer, and causes any injury to a person he or she
13 knows to be a peace officer, community policing volunteer,
14 person summoned by a police officer, fireman, private
15 security officer, correctional institution employee or
16 emergency management worker:

17 (i) performing his or her official duties;

18 (ii) battered to prevent performance of his or her
19 official duties; or

20 (iii) battered in retaliation for performing his
21 or her official duties.

22 (7) Discharges a machine gun or a firearm equipped with
23 a silencer, and causes any injury to a person he or she
24 knows to be an emergency medical technician employed by a
25 municipality or other governmental unit:

26 (i) performing his or her official duties;

1 (ii) battered to prevent performance of his or her
2 official duties; or

3 (iii) battered in retaliation for performing his
4 or her official duties.

5 (8) Discharges a machine gun or a firearm equipped with
6 a silencer, and causes any injury to a person he or she
7 knows to be a teacher, or a student in a school, or a
8 school employee, and the teacher, student, or employee is
9 upon school grounds or grounds adjacent to a school or in
10 any part of a building used for school purposes.

11 (f) Offense based on use of a weapon or device. A person
12 commits aggravated battery when, in committing a battery, he or
13 she does any of the following:

14 (1) Uses a deadly weapon other than by discharge of a
15 firearm, or uses an air rifle as defined in Section
16 24.8-0.1 of this Code ~~the Air Rifle Act.~~

17 (2) Wears a hood, robe, or mask to conceal his or her
18 identity.

19 (3) Knowingly and without lawful justification shines
20 or flashes a laser gunsight or other laser device attached
21 to a firearm, or used in concert with a firearm, so that
22 the laser beam strikes upon or against the person of
23 another.

24 (4) Knowingly video or audio records the offense with
25 the intent to disseminate the recording.

26 (g) Offense based on certain conduct. A person commits

1 aggravated battery when, other than by discharge of a firearm,
2 he or she does any of the following:

3 (1) Violates Section 401 of the Illinois Controlled
4 Substances Act by unlawfully delivering a controlled
5 substance to another and any user experiences great bodily
6 harm or permanent disability as a result of the injection,
7 inhalation, or ingestion of any amount of the controlled
8 substance.

9 (2) Knowingly administers to an individual or causes
10 him or her to take, without his or her consent or by threat
11 or deception, and for other than medical purposes, any
12 intoxicating, poisonous, stupefying, narcotic, anesthetic,
13 or controlled substance, or gives to another person any
14 food containing any substance or object intended to cause
15 physical injury if eaten.

16 (3) Knowingly causes or attempts to cause a
17 correctional institution employee or Department of Human
18 Services employee to come into contact with blood, seminal
19 fluid, urine, or feces by throwing, tossing, or expelling
20 the fluid or material, and the person is an inmate of a
21 penal institution or is a sexually dangerous person or
22 sexually violent person in the custody of the Department of
23 Human Services.

24 (4) Commits a battery upon a person with the specific
25 intent to cause that person to lose consciousness.

26 (h) Sentence. Unless otherwise provided, aggravated

1 battery is a Class 3 felony.

2 Aggravated battery as defined in subdivision (g)(4) is a
3 Class 4 felony.

4 Aggravated battery as defined in subdivision (a)(4),
5 (d)(4), or (g)(3) is a Class 2 felony.

6 Aggravated battery as defined in subdivision (a)(3) or
7 (g)(1) is a Class 1 felony.

8 Aggravated battery as defined in subdivision (a)(1) is a
9 Class 1 felony when the aggravated battery was intentional and
10 involved the infliction of torture, as defined in paragraph
11 (14) of subsection (b) of Section 9-1 of this Code, as the
12 infliction of or subjection to extreme physical pain, motivated
13 by an intent to increase or prolong the pain, suffering, or
14 agony of the victim.

15 Aggravated battery under subdivision (a)(5) is a Class 1
16 felony if:

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

19 (B) the person caused great bodily harm or permanent
20 disability or disfigurement to the other person while
21 committing the offense; or

22 (C) the person has been previously convicted of a
23 violation of subdivision (a)(5) under the laws of this
24 State or laws similar to subdivision (a)(5) of any other
25 state.

26 Aggravated battery as defined in subdivision (e)(1) is a

1 Class X felony.

2 Aggravated battery as defined in subdivision (a)(2) is a
3 Class X felony for which a person shall be sentenced to a term
4 of imprisonment of a minimum of 6 years and a maximum of 45
5 years.

6 Aggravated battery as defined in subdivision (e)(5) is a
7 Class X felony for which a person shall be sentenced to a term
8 of imprisonment of a minimum of 12 years and a maximum of 45
9 years.

10 Aggravated battery as defined in subdivision (e)(2),
11 (e)(3), or (e)(4) is a Class X felony for which a person shall
12 be sentenced to a term of imprisonment of a minimum of 15 years
13 and a maximum of 60 years.

14 Aggravated battery as defined in subdivision (e)(6),
15 (e)(7), or (e)(8) is a Class X felony for which a person shall
16 be sentenced to a term of imprisonment of a minimum of 20 years
17 and a maximum of 60 years.

18 Aggravated battery as defined in subdivision (b)(1) is a
19 Class X felony, except that:

20 (1) if the person committed the offense while armed
21 with a firearm, 15 years shall be added to the term of
22 imprisonment imposed by the court;

23 (2) if, during the commission of the offense, the
24 person personally discharged a firearm, 20 years shall be
25 added to the term of imprisonment imposed by the court;

26 (3) if, during the commission of the offense, the

1 person personally discharged a firearm that proximately
2 caused great bodily harm, permanent disability, permanent
3 disfigurement, or death to another person, 25 years or up
4 to a term of natural life shall be added to the term of
5 imprisonment imposed by the court.

6 (i) Definitions. For the purposes of this Section:

7 "Building or other structure used to provide shelter" has
8 the meaning ascribed to "shelter" in Section 1 of the Domestic
9 Violence Shelters Act.

10 "Domestic violence" has the meaning ascribed to it in
11 Section 103 of the Illinois Domestic Violence Act of 1986.

12 "Domestic violence shelter" means any building or other
13 structure used to provide shelter or other services to victims
14 or to the dependent children of victims of domestic violence
15 pursuant to the Illinois Domestic Violence Act of 1986 or the
16 Domestic Violence Shelters Act, or any place within 500 feet of
17 such a building or other structure in the case of a person who
18 is going to or from such a building or other structure.

19 "Firearm" has the meaning provided under Section 1.1 of the
20 Firearm Owners Identification Card Act, and does not include an
21 air rifle as defined by Section 24.8-0.1 of this Code.

22 "Machine gun" has the meaning ascribed to it in Section
23 24-1 of this Code.

24 "Merchant" has the meaning ascribed to it in Section 16-0.1
25 of this Code.

26 "Strangle" means intentionally impeding the normal

1 breathing or circulation of the blood of an individual by
2 applying pressure on the throat or neck of that individual or
3 by blocking the nose or mouth of that individual.

4 (Source: P.A. 97-597, eff. 1-1-12; incorporates 97-227, eff.
5 1-1-12, 97-313, eff. 1-1-12, and 97-467, eff. 1-1-12; 97-1109,
6 eff. 1-1-13; 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; revised
7 9-24-13.)".