



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5748

by Rep. Thomas Bennett

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3
720 ILCS 5/12-3.05

from Ch. 38, par. 12-3
was 720 ILCS 5/12-4

Amends the Criminal Code of 2012. Requires the State's Attorney to file an information, complaint, or seek an indictment in the circuit court if an allegation is made by any correctional institution employee that the employee is the victim of a battery or aggravated battery committed by a person committed to the correctional institution where the employee is employed. Once filed the information, complaint, or indictment may not be dismissed on motion of the State without the consent of the victim of the alleged offense. Effective immediately.

LRB099 19041 MRW 43430 b

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 2012 is amended by changing
5 Sections 12-3 and 12-3.05 as follows:

6 (720 ILCS 5/12-3) (from Ch. 38, par. 12-3)
7 Sec. 12-3. Battery.

8 (a) A person commits battery if he or she knowingly without
9 legal justification by any means (1) causes bodily harm to an
10 individual or (2) makes physical contact of an insulting or
11 provoking nature with an individual.

12 (a-5) If an allegation is made by a correctional
13 institution employee that a battery was committed upon his or
14 her person by a committed person in the correctional
15 institution where the employee is employed, while the employee
16 was performing his or her official duties, the State's Attorney
17 of the county where the correctional institution is located
18 must file a criminal information or complaint in the circuit
19 court or obtain an indictment against the committed person
20 alleged to have committed a battery upon the correctional
21 institution employee. The information, complaint, or
22 indictment may not be dismissed on the motion of the State
23 without the consent of the victim of the alleged offense.

1 (b) Sentence.

2 Battery is a Class A misdemeanor.

3 (Source: P.A. 96-1551, eff. 7-1-11.)

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

5 Sec. 12-3.05. Aggravated battery.

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

10 (1) Causes great bodily harm or permanent disability or
11 disfigurement.

12 (2) Causes severe and permanent disability, great
13 bodily harm, or disfigurement by means of a caustic or
14 flammable substance, a poisonous gas, a deadly biological
15 or chemical contaminant or agent, a radioactive substance,
16 or a bomb or explosive compound.

17 (3) Causes great bodily harm or permanent disability or
18 disfigurement to an individual whom the person knows to be
19 a peace officer, community policing volunteer, fireman,
20 private security officer, correctional institution
21 employee, or Department of Human Services employee
22 supervising or controlling sexually dangerous persons or
23 sexually violent persons:

24 (i) performing his or her official duties;

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

6 (5) Strangles another individual.

7 (b) Offense based on injury to a child or person with an
8 intellectual disability. A person who is at least 18 years of
9 age commits aggravated battery when, in committing a battery,
10 he or she knowingly and without legal justification by any
11 means:

12 (1) causes great bodily harm or permanent disability or
13 disfigurement to any child under the age of 13 years, or to
14 any person with a severe or profound intellectual
15 disability; or

16 (2) causes bodily harm or disability or disfigurement
17 to any child under the age of 13 years or to any person
18 with a severe or profound intellectual disability.

19 (c) Offense based on location of conduct. A person commits
20 aggravated battery when, in committing a battery, other than by
21 the discharge of a firearm, he or she is or the person battered
22 is on or about a public way, public property, a public place of
23 accommodation or amusement, a sports venue, or a domestic
24 violence shelter.

25 (d) Offense based on status of victim. A person commits
26 aggravated battery when, in committing a battery, other than by

1 discharge of a firearm, he or she knows the individual battered
2 to be any of the following:

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

4 (2) A person who is pregnant or has a physical
5 disability.

6 (3) A teacher or school employee upon school grounds or
7 grounds adjacent to a school or in any part of a building
8 used for school purposes.

9 (4) A peace officer, community policing volunteer,
10 fireman, private security officer, correctional
11 institution employee, or Department of Human Services
12 employee supervising or controlling sexually dangerous
13 persons or sexually violent persons:

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

21 (i) performing his or her official duties;

22 (ii) battered to prevent performance of his or her
23 official duties; or

24 (iii) battered in retaliation for performing his
25 or her official duties.

26 (6) An officer or employee of the State of Illinois, a

1 unit of local government, or a school district, while
2 performing his or her official duties.

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

5 (8) A taxi driver on duty.

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

10 (10) A person authorized to serve process under Section
11 2-202 of the Code of Civil Procedure or a special process
12 server appointed by the circuit court while that individual
13 is in the performance of his or her duties as a process
14 server.

15 (11) A nurse while in the performance of his or her
16 duties as a nurse.

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

20 (1) Discharges a firearm, other than a machine gun or a
21 firearm equipped with a silencer, and causes any injury to
22 another person.

23 (2) Discharges a firearm, other than a machine gun or a
24 firearm equipped with a silencer, and causes any injury to
25 a person he or she knows to be a peace officer, community
26 policing volunteer, person summoned by a police officer,

1 fireman, private security officer, correctional
2 institution employee, or emergency management worker:

3 (i) performing his or her official duties;

4 (ii) battered to prevent performance of his or her
5 official duties; or

6 (iii) battered in retaliation for performing his
7 or her official duties.

8 (3) 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 an emergency medical
11 technician employed by a municipality or other
12 governmental unit:

13 (i) performing his or her official duties;

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

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

18 (4) Discharges a firearm and causes any injury to a
19 person he or she knows to be a teacher, a student in a
20 school, or a school employee, and the teacher, student, or
21 employee is upon school grounds or grounds adjacent to a
22 school or in any part of a building used for school
23 purposes.

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

26 (6) Discharges a machine gun or a firearm equipped with

1 a silencer, and causes any injury to a person he or she
2 knows to be a peace officer, community policing volunteer,
3 person summoned by a police officer, fireman, private
4 security officer, correctional institution employee or
5 emergency management 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 (7) 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 an emergency medical technician employed by a
14 municipality or other governmental unit:

15 (i) performing his or her official duties;

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

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

20 (8) Discharges a machine gun or a firearm equipped with
21 a silencer, and causes any injury to a person he or she
22 knows to be a teacher, or a student in a school, or a
23 school employee, and the teacher, student, or employee is
24 upon school grounds or grounds adjacent to a school or in
25 any part of a building used for school purposes.

26 (f) Offense based on use of a weapon or device. A person

1 commits aggravated battery when, in committing a battery, he or
2 she does any of the following:

3 (1) Uses a deadly weapon other than by discharge of a
4 firearm, or uses an air rifle as defined in Section
5 24.8-0.1 of this Code.

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

8 (3) Knowingly and without lawful justification shines
9 or flashes a laser gunsight or other laser device attached
10 to a firearm, or used in concert with a firearm, so that
11 the laser beam strikes upon or against the person of
12 another.

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

15 (g) Offense based on certain conduct. A person commits
16 aggravated battery when, other than by discharge of a firearm,
17 he or she does any of the following:

18 (1) Violates Section 401 of the Illinois Controlled
19 Substances Act by unlawfully delivering a controlled
20 substance to another and any user experiences great bodily
21 harm or permanent disability as a result of the injection,
22 inhalation, or ingestion of any amount of the controlled
23 substance.

24 (2) Knowingly administers to an individual or causes
25 him or her to take, without his or her consent or by threat
26 or deception, and for other than medical purposes, any

1 intoxicating, poisonous, stupefying, narcotic, anesthetic,
2 or controlled substance, or gives to another person any
3 food containing any substance or object intended to cause
4 physical injury if eaten.

5 (3) Knowingly causes or attempts to cause a
6 correctional institution employee or Department of Human
7 Services employee to come into contact with blood, seminal
8 fluid, urine, or feces by throwing, tossing, or expelling
9 the fluid or material, and the person is an inmate of a
10 penal institution or is a sexually dangerous person or
11 sexually violent person in the custody of the Department of
12 Human Services.

13 (g-5) If an allegation is made by a correctional
14 institution employee that an aggravated battery was committed
15 upon his or her person by a committed person in the
16 correctional institution where the employee is employed, while
17 the employee was performing his or her official duties, the
18 State's Attorney of the county where the correctional
19 institution is located must file a criminal information in the
20 circuit court or obtain an indictment against the committed
21 person alleged to have committed an aggravated battery upon the
22 correctional institution employee. The information or
23 indictment may not be dismissed on the motion of the State
24 without the consent of the victim of the alleged offense.

25 (h) Sentence. Unless otherwise provided, aggravated
26 battery is a Class 3 felony.

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

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

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

12 Aggravated battery under subdivision (a)(5) is a Class 1
13 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 permanent
17 disability or disfigurement to the other person while
18 committing the offense; or

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

23 Aggravated battery as defined in subdivision (e)(1) is a
24 Class X felony.

25 Aggravated battery as defined in subdivision (a)(2) is a
26 Class X felony for which a person shall be sentenced to a term

1 of imprisonment of a minimum of 6 years and a maximum of 45
2 years.

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

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

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

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

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

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

23 (3) if, during the commission of the offense, the
24 person personally discharged a firearm that proximately
25 caused great bodily harm, permanent disability, permanent
26 disfigurement, or death to another person, 25 years or up

1 to a term of natural life shall be added to the term of
2 imprisonment imposed by the court.

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

4 "Building or other structure used to provide shelter" has
5 the meaning ascribed to "shelter" in Section 1 of the Domestic
6 Violence Shelters Act.

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

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

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

19 "Machine gun" has the meaning ascribed to it in Section
20 24-1 of this Code.

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

23 "Strangle" means intentionally impeding the normal
24 breathing or circulation of the blood of an individual by
25 applying pressure on the throat or neck of that individual or
26 by blocking the nose or mouth of that individual.

1 (Source: P.A. 98-369, eff. 1-1-14; 98-385, eff. 1-1-14; 98-756,
2 eff. 7-16-14; 99-143, eff. 7-27-15.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.