



Rep. David Harris

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1 AMENDMENT TO SENATE BILL 2861

2 AMENDMENT NO. _____. Amend Senate Bill 2861 on page 8,
3 line 12, by replacing "offense when" with "offense. When"; and

4 on page 8, line 14, by replacing "domestic. In such a case"
5 with "domestic,"; and

6 by replacing line 18 on page 15 through line 5 on page 16 with
7 the following:

8 "Section 15. Article 15. Non-judicial punishment
9 proceedings. The Adjutant General may adopt rules to effectuate
10 non-judicial punishment proceedings in accordance with the
11 Illinois Administrative Procedure Act which may impose
12 disciplinary punishments for minor offenses without the
13 intervention of a court-martial pursuant to this Article."; and

14 on page 32, by replacing lines 7 through 14 with the following:

1 "Section 36. Article 36. Trial procedure. The Adjutant
2 General may adopt rules in accordance with the Illinois
3 Administrative Procedure Act which establish pretrial, trial,
4 and post-trial procedures, including modes of proof, for
5 courts-martial cases arising under this Code and for courts of
6 inquiry, and which shall apply the principles of law and the";
7 and

8 on page 105, immediately below line 24, by inserting the
9 following:

10 "Section 150. The Illinois Administrative Procedure Act is
11 amended by changing Section 5-45 as follows:

12 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

13 Sec. 5-45. Emergency rulemaking.

14 (a) "Emergency" means the existence of any situation that
15 any agency finds reasonably constitutes a threat to the public
16 interest, safety, or welfare.

17 (b) If any agency finds that an emergency exists that
18 requires adoption of a rule upon fewer days than is required by
19 Section 5-40 and states in writing its reasons for that
20 finding, the agency may adopt an emergency rule without prior
21 notice or hearing upon filing a notice of emergency rulemaking
22 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be
2 published in the Illinois Register. Consent orders or other
3 court orders adopting settlements negotiated by an agency may
4 be adopted under this Section. Subject to applicable
5 constitutional or statutory provisions, an emergency rule
6 becomes effective immediately upon filing under Section 5-65 or
7 at a stated date less than 10 days thereafter. The agency's
8 finding and a statement of the specific reasons for the finding
9 shall be filed with the rule. The agency shall take reasonable
10 and appropriate measures to make emergency rules known to the
11 persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not
13 longer than 150 days, but the agency's authority to adopt an
14 identical rule under Section 5-40 is not precluded. No
15 emergency rule may be adopted more than once in any 24 month
16 period, except that this limitation on the number of emergency
17 rules that may be adopted in a 24 month period does not apply
18 to (i) emergency rules that make additions to and deletions
19 from the Drug Manual under Section 5-5.16 of the Illinois
20 Public Aid Code or the generic drug formulary under Section
21 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
22 emergency rules adopted by the Pollution Control Board before
23 July 1, 1997 to implement portions of the Livestock Management
24 Facilities Act, (iii) emergency rules adopted by the Illinois
25 Department of Public Health under subsections (a) through (i)
26 of Section 2 of the Department of Public Health Act when

1 necessary to protect the public's health, (iv) emergency rules
2 adopted pursuant to subsection (n) of this Section, (v)
3 emergency rules adopted pursuant to subsection (o) of this
4 Section, or (vi) emergency rules adopted pursuant to subsection
5 (c-5) of this Section. Two or more emergency rules having
6 substantially the same purpose and effect shall be deemed to be
7 a single rule for purposes of this Section.

8 (c-5) To facilitate the maintenance of the program of group
9 health benefits provided to annuitants, survivors, and retired
10 employees under the State Employees Group Insurance Act of
11 1971, rules to alter the contributions to be paid by the State,
12 annuitants, survivors, retired employees, or any combination
13 of those entities, for that program of group health benefits,
14 shall be adopted as emergency rules. The adoption of those
15 rules shall be considered an emergency and necessary for the
16 public interest, safety, and welfare.

17 (d) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 1999 budget,
19 emergency rules to implement any provision of Public Act 90-587
20 or 90-588 or any other budget initiative for fiscal year 1999
21 may be adopted in accordance with this Section by the agency
22 charged with administering that provision or initiative,
23 except that the 24-month limitation on the adoption of
24 emergency rules and the provisions of Sections 5-115 and 5-125
25 do not apply to rules adopted under this subsection (d). The
26 adoption of emergency rules authorized by this subsection (d)

1 shall be deemed to be necessary for the public interest,
2 safety, and welfare.

3 (e) In order to provide for the expeditious and timely
4 implementation of the State's fiscal year 2000 budget,
5 emergency rules to implement any provision of Public Act 91-24
6 ~~this amendatory Act of the 91st General Assembly~~ or any other
7 budget initiative for fiscal year 2000 may be adopted in
8 accordance with this Section by the agency charged with
9 administering that provision or initiative, except that the
10 24-month limitation on the adoption of emergency rules and the
11 provisions of Sections 5-115 and 5-125 do not apply to rules
12 adopted under this subsection (e). The adoption of emergency
13 rules authorized by this subsection (e) shall be deemed to be
14 necessary for the public interest, safety, and welfare.

15 (f) In order to provide for the expeditious and timely
16 implementation of the State's fiscal year 2001 budget,
17 emergency rules to implement any provision of Public Act 91-712
18 ~~this amendatory Act of the 91st General Assembly~~ or any other
19 budget initiative for fiscal year 2001 may be adopted in
20 accordance with this Section by the agency charged with
21 administering that provision or initiative, except that the
22 24-month limitation on the adoption of emergency rules and the
23 provisions of Sections 5-115 and 5-125 do not apply to rules
24 adopted under this subsection (f). The adoption of emergency
25 rules authorized by this subsection (f) shall be deemed to be
26 necessary for the public interest, safety, and welfare.

1 (g) In order to provide for the expeditious and timely
2 implementation of the State's fiscal year 2002 budget,
3 emergency rules to implement any provision of Public Act 92-10
4 ~~this amendatory Act of the 92nd General Assembly~~ or any other
5 budget initiative for fiscal year 2002 may be adopted in
6 accordance with this Section by the agency charged with
7 administering that provision or initiative, except that the
8 24-month limitation on the adoption of emergency rules and the
9 provisions of Sections 5-115 and 5-125 do not apply to rules
10 adopted under this subsection (g). The adoption of emergency
11 rules authorized by this subsection (g) shall be deemed to be
12 necessary for the public interest, safety, and welfare.

13 (h) In order to provide for the expeditious and timely
14 implementation of the State's fiscal year 2003 budget,
15 emergency rules to implement any provision of Public Act 92-597
16 ~~this amendatory Act of the 92nd General Assembly~~ or any other
17 budget initiative for fiscal year 2003 may be adopted in
18 accordance with this Section by the agency charged with
19 administering that provision or initiative, except that the
20 24-month limitation on the adoption of emergency rules and the
21 provisions of Sections 5-115 and 5-125 do not apply to rules
22 adopted under this subsection (h). The adoption of emergency
23 rules authorized by this subsection (h) shall be deemed to be
24 necessary for the public interest, safety, and welfare.

25 (i) In order to provide for the expeditious and timely
26 implementation of the State's fiscal year 2004 budget,

1 emergency rules to implement any provision of Public Act 93-20
2 ~~this amendatory Act of the 93rd General Assembly~~ or any other
3 budget initiative for fiscal year 2004 may be adopted in
4 accordance with this Section by the agency charged with
5 administering that provision or initiative, except that the
6 24-month limitation on the adoption of emergency rules and the
7 provisions of Sections 5-115 and 5-125 do not apply to rules
8 adopted under this subsection (i). The adoption of emergency
9 rules authorized by this subsection (i) shall be deemed to be
10 necessary for the public interest, safety, and welfare.

11 (j) In order to provide for the expeditious and timely
12 implementation of the provisions of the State's fiscal year
13 2005 budget as provided under the Fiscal Year 2005 Budget
14 Implementation (Human Services) Act, emergency rules to
15 implement any provision of the Fiscal Year 2005 Budget
16 Implementation (Human Services) Act may be adopted in
17 accordance with this Section by the agency charged with
18 administering that provision, except that the 24-month
19 limitation on the adoption of emergency rules and the
20 provisions of Sections 5-115 and 5-125 do not apply to rules
21 adopted under this subsection (j). The Department of Public Aid
22 may also adopt rules under this subsection (j) necessary to
23 administer the Illinois Public Aid Code and the Children's
24 Health Insurance Program Act. The adoption of emergency rules
25 authorized by this subsection (j) shall be deemed to be
26 necessary for the public interest, safety, and welfare.

1 (k) In order to provide for the expeditious and timely
2 implementation of the provisions of the State's fiscal year
3 2006 budget, emergency rules to implement any provision of
4 Public Act 94-48 ~~this amendatory Act of the 94th General~~
5 ~~Assembly~~ or any other budget initiative for fiscal year 2006
6 may be adopted in accordance with this Section by the agency
7 charged with administering that provision or initiative,
8 except that the 24-month limitation on the adoption of
9 emergency rules and the provisions of Sections 5-115 and 5-125
10 do not apply to rules adopted under this subsection (k). The
11 Department of Healthcare and Family Services may also adopt
12 rules under this subsection (k) necessary to administer the
13 Illinois Public Aid Code, the Senior Citizens and Persons with
14 Disabilities Property Tax Relief Act, the Senior Citizens and
15 Disabled Persons Prescription Drug Discount Program Act (now
16 the Illinois Prescription Drug Discount Program Act), and the
17 Children's Health Insurance Program Act. The adoption of
18 emergency rules authorized by this subsection (k) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare.

21 (l) In order to provide for the expeditious and timely
22 implementation of the provisions of the State's fiscal year
23 2007 budget, the Department of Healthcare and Family Services
24 may adopt emergency rules during fiscal year 2007, including
25 rules effective July 1, 2007, in accordance with this
26 subsection to the extent necessary to administer the

1 Department's responsibilities with respect to amendments to
2 the State plans and Illinois waivers approved by the federal
3 Centers for Medicare and Medicaid Services necessitated by the
4 requirements of Title XIX and Title XXI of the federal Social
5 Security Act. The adoption of emergency rules authorized by
6 this subsection (l) shall be deemed to be necessary for the
7 public interest, safety, and welfare.

8 (m) In order to provide for the expeditious and timely
9 implementation of the provisions of the State's fiscal year
10 2008 budget, the Department of Healthcare and Family Services
11 may adopt emergency rules during fiscal year 2008, including
12 rules effective July 1, 2008, in accordance with this
13 subsection to the extent necessary to administer the
14 Department's responsibilities with respect to amendments to
15 the State plans and Illinois waivers approved by the federal
16 Centers for Medicare and Medicaid Services necessitated by the
17 requirements of Title XIX and Title XXI of the federal Social
18 Security Act. The adoption of emergency rules authorized by
19 this subsection (m) shall be deemed to be necessary for the
20 public interest, safety, and welfare.

21 (n) In order to provide for the expeditious and timely
22 implementation of the provisions of the State's fiscal year
23 2010 budget, emergency rules to implement any provision of
24 Public Act 96-45 ~~this amendatory Act of the 96th General~~
25 ~~Assembly~~ or any other budget initiative authorized by the 96th
26 General Assembly for fiscal year 2010 may be adopted in

1 accordance with this Section by the agency charged with
2 administering that provision or initiative. The adoption of
3 emergency rules authorized by this subsection (n) shall be
4 deemed to be necessary for the public interest, safety, and
5 welfare. The rulemaking authority granted in this subsection
6 (n) shall apply only to rules promulgated during Fiscal Year
7 2010.

8 (o) In order to provide for the expeditious and timely
9 implementation of the provisions of the State's fiscal year
10 2011 budget, emergency rules to implement any provision of
11 Public Act 96-958 ~~this amendatory Act of the 96th General~~
12 ~~Assembly~~ or any other budget initiative authorized by the 96th
13 General Assembly for fiscal year 2011 may be adopted in
14 accordance with this Section by the agency charged with
15 administering that provision or initiative. The adoption of
16 emergency rules authorized by this subsection (o) is deemed to
17 be necessary for the public interest, safety, and welfare. The
18 rulemaking authority granted in this subsection (o) applies
19 only to rules promulgated on or after the effective date of
20 Public Act 96-958 ~~this amendatory Act of the 96th General~~
21 ~~Assembly~~ through June 30, 2011.

22 (p) In order to provide for the expeditious and timely
23 implementation of the provisions of Public Act 97-689,
24 emergency rules to implement any provision of Public Act 97-689
25 may be adopted in accordance with this subsection (p) by the
26 agency charged with administering that provision or

1 initiative. The 150-day limitation of the effective period of
2 emergency rules does not apply to rules adopted under this
3 subsection (p), and the effective period may continue through
4 June 30, 2013. The 24-month limitation on the adoption of
5 emergency rules does not apply to rules adopted under this
6 subsection (p). The adoption of emergency rules authorized by
7 this subsection (p) is deemed to be necessary for the public
8 interest, safety, and welfare.

9 (q) In order to provide for the expeditious and timely
10 implementation of the provisions of Articles 7, 8, 9, 11, and
11 12 of Public Act 98-104 ~~this amendatory Act of the 98th General~~
12 ~~Assembly~~, emergency rules to implement any provision of
13 Articles 7, 8, 9, 11, and 12 of Public Act 98-104 ~~this~~
14 ~~amendatory Act of the 98th General Assembly~~ may be adopted in
15 accordance with this subsection (q) by the agency charged with
16 administering that provision or initiative. The 24-month
17 limitation on the adoption of emergency rules does not apply to
18 rules adopted under this subsection (q). The adoption of
19 emergency rules authorized by this subsection (q) is deemed to
20 be necessary for the public interest, safety, and welfare.

21 (r) In order to provide for the expeditious and timely
22 implementation of the provisions of Public Act 98-651 ~~this~~
23 ~~amendatory Act of the 98th General Assembly~~, emergency rules to
24 implement Public Act 98-651 ~~this amendatory Act of the 98th~~
25 ~~General Assembly~~ may be adopted in accordance with this
26 subsection (r) by the Department of Healthcare and Family

1 Services. The 24-month limitation on the adoption of emergency
2 rules does not apply to rules adopted under this subsection
3 (r). The adoption of emergency rules authorized by this
4 subsection (r) is deemed to be necessary for the public
5 interest, safety, and welfare.

6 (s) In order to provide for the expeditious and timely
7 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
8 the Illinois Public Aid Code, emergency rules to implement any
9 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
10 Public Aid Code may be adopted in accordance with this
11 subsection (s) by the Department of Healthcare and Family
12 Services. The rulemaking authority granted in this subsection
13 (s) shall apply only to those rules adopted prior to July 1,
14 2015. Notwithstanding any other provision of this Section, any
15 emergency rule adopted under this subsection (s) shall only
16 apply to payments made for State fiscal year 2015. The adoption
17 of emergency rules authorized by this subsection (s) is deemed
18 to be necessary for the public interest, safety, and welfare.

19 (t) In order to provide for the expeditious and timely
20 implementation of the provisions of Article II of Public Act
21 99-6 ~~this amendatory Act of the 99th General Assembly,~~
22 emergency rules to implement the changes made by Article II of
23 Public Act 99-6 ~~this amendatory Act of the 99th General~~
24 ~~Assembly~~ to the Emergency Telephone System Act may be adopted
25 in accordance with this subsection (t) by the Department of
26 State Police. The rulemaking authority granted in this

1 subsection (t) shall apply only to those rules adopted prior to
2 July 1, 2016. The 24-month limitation on the adoption of
3 emergency rules does not apply to rules adopted under this
4 subsection (t). The adoption of emergency rules authorized by
5 this subsection (t) is deemed to be necessary for the public
6 interest, safety, and welfare.

7 (u) ~~(t)~~ In order to provide for the expeditious and timely
8 implementation of the provisions of the Burn Victims Relief
9 Act, emergency rules to implement any provision of the Act may
10 be adopted in accordance with this subsection (u) ~~(t)~~ by the
11 Department of Insurance. The rulemaking authority granted in
12 this subsection (u) ~~(t)~~ shall apply only to those rules adopted
13 prior to December 31, 2015. The adoption of emergency rules
14 authorized by this subsection (u) ~~(t)~~ is deemed to be necessary
15 for the public interest, safety, and welfare.

16 (v) In order to provide for the expeditious and timely
17 implementation of the provisions of this amendatory Act of the
18 99th General Assembly, emergency rules to implement the changes
19 made by this amendatory Act of the 99th General Assembly may be
20 adopted in accordance with this subsection (v) by the Adjutant
21 General. The adoption of emergency rules authorized by this
22 subsection (v) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
25 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
26 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; revised

1 10-15-15.)"; and

2 on page 106, by replacing lines 1 and 2 with the following:

3 "Section 153. The Military Code of Illinois is amended by
4 changing Section 90 and by adding Section 34.1 as follows:";
5 and

6 on page 106, immediately below line 17, by inserting the
7 following:

8 "(20 ILCS 1805/90) (from Ch. 129, par. 220.90)

9 Sec. 90. (a) If any member of the Illinois National Guard
10 is criminally prosecuted by civil authorities of the United
11 States or any state, commonwealth, or territory of the United
12 States, ~~or criminal action~~ for any act or omission determined
13 by the Attorney General to have been within the scope of the
14 member's military duties, ~~performed or committed by such~~
15 member, or for any an act or omission caused, ordered, or
16 directed by such member to be done or performed within the
17 scope of military duty, the member shall be entitled to defense
18 representation by the Attorney General or, if the Attorney
19 General determines it appropriate, by a qualified private
20 defense attorney of the member's choice subject to the approval
21 of the Attorney General at State expense. In that case all
22 costs ~~in furtherance of and while in the performance of~~
23 military duty, ~~all the expense of the defense, of such action~~

1 ~~or actions civil or criminal,~~ including attorney's fees,
2 witnesses' fees for the defense, defendant's court costs and
3 all costs for transcripts of records and abstracts thereof on
4 appeal by the defense, shall be paid by the State; ~~provided,~~
5 ~~that the Attorney General of the State shall be first consulted~~
6 ~~in regard to, and approve of, the selection of the attorney for~~
7 ~~the defense: And, provided, further, that the Attorney General~~
8 ~~of the State may, if he see fit, assume the responsibility for~~
9 ~~the defense of such member and conduct the same personally or~~
10 ~~by any one or more of his assistants.~~

11 (b) Representation and indemnification of Illinois
12 National Guard members in civil cases arising out of their
13 military training or duty shall be in accordance with the State
14 Employee Indemnification Act.

15 (Source: P.A. 85-1241.)"; and

16 by deleting line 23 on page 106 through line 1 on page 107; and

17 on page 107, line 3, by replacing "89, 90, and 91" with "and
18 89".