

SPRINGFIELD (May 14, 2018) – Governor Bruce Rauner took action today on the following bill:

Bill No.: HB 1468

An Act Concerning Criminal Law

Action: Amendatory Vetoed

Note: *Amendatory Veto Message Below*

Amendatory Veto Message for HB 1468

May 14, 2018

To the Honorable Members of
The Illinois House of Representatives,
100th General Assembly:

Today I return House Bill 1468 with specific recommendations for change.

This legislation extends the existing 72-hour waiting period for sale or delivery of handguns that is currently in law to a particular class of firearms. I am further expanding the 72-hour waiting period to all firearms, no matter the type. This achieves the bill's intent in slowing down those who would do harm to others, regardless of the type of weapon they may seek, and allowing more time for detection and intervention of potentially dangerous individuals.

Further, House Bill 1468 fails to address other key issues related to public safety and the need to prevent mass shootings in our schools and public places, as well as gun violence

that happens every day on the streets of our cities and towns. Nearly 25% of Illinois adults possess a Firearm Owners Identification Card and, to many in our state, shooting sports and hunting are a core element of a cherished culture. To others, guns represent death and violence. While the cultural gap between these life experiences may seem vast, people from both sides are coming together to address a common enemy: guns in the hands of criminals or those who are dangerous to themselves or others. Illinois already has some of the toughest gun laws in the country, but more needs to be done to keep our schools and communities safe.

In addition to expanding the 72-hour waiting period to all firearms, the ultimate public safety objectives of this bill would be better served with comprehensive solutions, including a clean ban on bump stocks and trigger cranks, enhancing systemic transparency in our prosecutorial and sentencing requirements, equipping schools with funding options for not only the facility upgrades they need to increase security but also the law enforcement and mental health staff they need to promote safe environments for our students, and reintroducing the death penalty for the most egregious cases where no doubt is present for those individuals who murder law enforcement officers and commit mass murders. These issues need to be acted upon with the utmost urgency, and are therefore included in this comprehensive amendment.

Bump stocks and trigger cranks are accessories that in the wrong hands can be used for mass destruction. Many public safety and legal experts agree that because they are not firearms, banning them involves no infringement on the 2nd Amendment. Therefore, instead of waiting for it to reach my desk, I have included the current text of Senate Bill 2343 as part of this amendatory veto.

There is nothing more precious than our children, and they deserve to be safe and cared for at school. Last month, a School Safety Working Group formed by my administration's Illinois Terrorism Task Force submitted to me a list of 13 recommendations for action to protect students and school personnel from the attacks that have plagued our nation. While many recommendations can be implemented administratively, some require legislation and have been presented to the bipartisan Legislative Public Safety Working Group we formed in March. The meetings of that group have been productive and demonstrate the bipartisan collaboration needed to get things done in this state. One recommendation of the School Safety Working Group that was well-received by the Legislative Public Safety Working Group and that requires legislation is amending the County School Facilities Sales Tax statute to expand the authorized uses of sales tax revenue approved by local referendum. The tax is currently restricted to improvements in physical facilities, such as locks and security doors. I ask that it be amended to include the hiring of school resource officers or mental health workers based on local determination of local need. Today I exercise my amendatory

veto authority to submit to the General Assembly this important legislation to improve and implement this school safety recommendation. I look forward to receiving the final recommendations of the Legislative Public Safety Working Group.

If an individual is deemed dangerous to themselves or others, we must identify and disarm them as soon as possible. This is why I am exercising my amendatory veto authority to send to the General Assembly for its concurrence the Gun Violence Restraining Order Act, which will allow for family members and law enforcement to identify individuals who pose a danger to themselves or others and petition a court to disarm those individuals. This bill strikes a reasonable balance between the 2nd Amendment and other constitutional rights of gun owners and the public interest in preventing gun violence. This proposal includes a high level of due process protections before a weapon may be seized, particularly regarding issuance of search warrants by requiring that application be made by the State's Attorney's office or law enforcement rather than a private citizen. It also applies only to those cases in which less restrictive alternatives either have been tried and found to be ineffective or would be inadequate or inappropriate under the circumstances. It allows shifting of attorney and court fees in cases where a petition for an order was frivolous and for vexatious reasons. These elements ensure that the use of these measures is directed toward situations where needed for to enhance public safety.

Once guns are out of the hands of those who would do us harm, it is imperative that prosecutors in the state of Illinois hold these individuals accountable for their actions. Illinois has strong gun laws that carry stiff penalties for crimes involving the illegal use or possession of firearms, especially for repeat offenders. For example, last June I signed legislation that raised the mandatory minimum for penalties and established sentencing guidelines for repeat gun offenders. That legislation also requires judges who depart from those guidelines to justify their reasoning for the record. However, no matter how good the laws are or how stiff the penalties, they are no better than the prosecutors and judges who apply them. Therefore, I am today exercising my amendatory veto authority to send the General Assembly for its concurrence the Gun Crime Charging and Sentencing Accountability and Transparency Act. When an offense involves the illegal use or possession of a firearm, State's Attorneys should charge the most serious readily-provable offense unless there is a written justification provided for why an exception is appropriate. Similarly, guilty pleas should include a plea to the most serious charged offense unless there is a written justification submitted to the court explaining why an exception is appropriate. When gun charges are reduced as part of a plea agreement, the public interest demands transparency regarding the reasons.

Finally, anyone who deliberately kills a law enforcement officer or is a mass murderer deserves the death penalty. There are legitimate reasons for concern about the death

penalty, reasons that I take seriously. Chief among those concerns is the alarming number of people who have been convicted by juries “beyond a reasonable doubt” and sentenced to death, but were later exonerated based on DNA or other evidence demonstrating that the jury convicted the wrong person. Consequently, the only morally justifiable standard of proof in a death penalty case is “beyond all doubt.” This standard would apply not only at trial but also on appeal. There is ample evidence that juries and judges are more likely to sentence black men to death than others, resulting in obvious bias based on race and gender. If a person is justly convicted beyond all doubt of a crime for which death is deserved by a carefully crafted definition, then the only sentence objectively consistent with the demands of justice is death. For these reasons and in the interest of justice in cases of mass murder or murder of a police officer, I am exercising my amendatory veto authority to submit to the General Assembly a statute creating the offense of “death penalty murder,” which would: 1) apply only to persons whose crime is so heinous as to clearly deserve to be executed; 2) require that any doubt regarding identification and guilt be resolved in favor of the accused both at trial and on appeal; and 3) provide that the only authorized sentence for death penalty murder is death, with a safety valve for those for whom the death penalty would be manifestly unjust, such as those with intellectual disability.

The tragedies experienced by our State and Nation due to gun violence in recent months and years compel those elected to represent, legislate, and execute the law to come together for serious conversations and impactful solutions. Allowing these incidents to continue unanswered is unacceptable—our families, friends, children and communities cannot wait any longer.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return House Bill 1468, entitled “AN ACT concerning criminal law,” with the following specific recommendations for change:

On page 1, immediately below line 3, by inserting the following:

“Article 1. Gun Violence Restraining Order Act.

Section 1-1. Short title. This Article may be cited as the Gun Violence Restraining Order Act, and references in this Article to “this Act” mean this Article.

Section 1-5. Legislative findings.

The General Assembly finds as a matter of legislative determination that to protect the safety and welfare of the public it is necessary to provide a system of identifying and disarming persons who pose a danger of imminent personal injury to themselves or others.

Section 1-10. Definitions.

In this Act:

“Danger” means reasonably likely to cause death or serious bodily injury.

“Firearm” has the same meaning ascribed to the term in Section 1.1 of the Firearm Owners Identification Card Act.

“Firearm ammunition” has the same meaning ascribed to the term in Section 1.1 of the Firearm Owners Identification Card Act.

“Immediate family member” means a spouse, child, sibling, parent, grandparent, or grandchild, and includes a step-parent, step-child, step-sibling, or adoptive or foster relationship, or any other person who regularly resides in the same household.

Section 1-15. Emergency gun violence restraining order.

(a) Upon written complaint for an emergency gun violence restraining order filed by a State’s Attorney, assistant State’s Attorney, law enforcement officer, or immediate family member supported by evidence submitted under oath or affirmation, subject to the penalties for perjury, and stating facts sufficient to show probable cause to believe that:

(1) the identified person poses an imminent danger of causing death or serious bodily injury to himself, herself, or any other person;

(2) the person possesses or has ready access to one or more firearms; and

(3) less restrictive alternatives either have been tried and found to be ineffective or would be inadequate or inappropriate under the circumstances,

any judge in the jurisdiction in which the person who is the subject of the complaint resides or is currently located may issue an emergency gun violence restraining order prohibiting the subject of the complaint from possessing,

controlling, purchasing, receiving, or attempting to possess, control, purchase, or receive a firearm or firearm ammunition.

(a-5) Upon a finding by the court supported by a preponderance of the evidence that a complaint for an emergency gun violence restraining order is frivolous and filed for a vexatious reason, the court shall order the complaining party to pay any attorney's fees and court costs incurred by the person who is the subject of the complaint and to pay a civil penalty of at least \$500 and up to \$1000, to be paid in that order of priority.

(b) In all cases in which a complaint seeking an emergency gun violence restraining order pursuant to subsection (a) of this Section is filed by a person other than a State's Attorney or assistant State's Attorney, the judge receiving the complaint shall promptly notify the appropriate State's Attorney's office of the filing of the complaint and provide the State's Attorney or his or her representative an opportunity to be heard on the matter before issuing the requested order, provided such opportunity to be heard causes no material delay.

(c) The court issuing an emergency gun violence restraining order under subsection (a) of this Section may order redaction of the name and any other personal identifying information of any affiant or witness other than a law enforcement officer or prosecutor in any copies of the complaint, order, or any related documents, provided that the unredacted original shall be maintained in an official court file that may be ordered sealed until further order of the court.

Section 1-20. Consideration of factors.

(a) In determining whether grounds exist to issue an emergency gun violence restraining order, the judge may consider, but is not limited to, evidence of:

(1) recent threats, acts, or attempted acts of violence the person against himself, herself, or another person or persons;

(2) a history of threats, acts, or attempted acts of violence by the person against himself, herself, or another person or persons;

(3) recent acts of cruelty to animals as described in Section 3.01 of the Humane Care for Animals Act;

(4) social media posts or any other statements or actions by such person evidencing an intent or propensity to commit an act of violence resulting in personal injury to himself, herself, or any other person;

(5) any previous determination that the person poses a clear and present danger under subsection (d) of Section 8.1 of the Firearm Owners Identification Card Act and related administrative rules;

(6) failure to take medications prescribed to control a mental illness otherwise likely to result or has previously resulted in violent behavior;

(7) any disqualifying factor for eligibility for a Firearm Owner's Identification Card under the Firearm Owners Identification Card Act;

(8) the illegal use of controlled substances or excessive use of alcohol by the person; and

(9) any available evidence the person does not pose an imminent danger of causing death or serious bodily injury to himself, herself, or any other person.

(b) In considering the weight to be given to these and any other relevant factors, the judge shall consider the evidence as a whole.

(c) Any emergency gun violence restraining order issued shall expire no later than 14 days from the date the order is issued. The order shall state the date and time the order was entered and shall expire. The order shall also contain the following statement:

"Based on credible evidence presented to the Court, the Court finds: (1) there is probable cause to believe that the person identified above poses an imminent danger of causing death or serious bodily injury to himself, herself, or another person or persons; (2) the person identified above possesses or has ready access to one or more firearms; and (3) less restrictive alternatives to entering this order either have been tried and found to be ineffective or would be inadequate or inappropriate under the circumstances. Based on those findings, the Court orders that the person identified above shall immediately surrender to the law enforcement officer or officers serving upon him or her a copy of this order all firearms and firearm ammunition he or she possesses, controls, or to which he or she has ready access. Further, the person identified above is prohibited from possessing, controlling, purchasing, receiving, or attempting to possess, control, purchase, or receive a firearm or firearm ammunition while this order is in effect. An evidentiary hearing shall be held within 14 days on the date and at the time and place stated below to determine whether this temporary emergency order should be made permanent for a period up to six months. At the hearing, the person identified above shall have the right to appear, present evidence, testify on his or her own behalf if he or she chooses to do so, make arguments to the court, and be represented by an attorney retained at his or her own expense."

The order shall also state the date, time, and place of the hearing.

(d) A copy of any emergency gun violence restraining order entered shall be served on the subject of the complaint by one or more law enforcement officers as soon as reasonably possible after being entered. The officer or officers shall immediately take custody of all firearms and firearm ammunition surrendered by the subject of the complaint or in a location to which the officer or officers have or gain lawful access, which shall be maintained in the custody of the sheriff or law enforcement agency where the person resides or is found or the items are surrendered until further order of the court.

(e) If no further action is taken by the court by the date and time the order expires and if the person who is the subject of the order is lawfully entitled to possess a firearm, then any firearm or other items surrendered, seized, or transferred under the emergency gun violence restraining order shall be promptly returned to the person or transferred to an authorized representative lawfully entitled to possess them.

Section 1-25. Gun violence prevention search warrant.

(a) In any case in which a judge issues an emergency gun violence restraining order or gun violence restraining order, upon written application filed by a State's Attorney, assistant State's Attorney, or law enforcement officer supported by evidence submitted under oath or affirmation stating facts sufficient to show probable cause to believe that:

(1) certifying that the applicant has conducted an independent investigation and determined that no reasonably available alternative will prevent such person from causing death or serious bodily injury to himself, herself, or another person with a firearm or firearms, any judge with jurisdiction where the items are located may issue a search warrant for seizure of the firearm or firearms.

(b) An application for a gun violence prevention search warrant may incorporate by reference any previous complaint or other evidence submitted in the matter and the judge may take judicial notice of any evidence presented to the court and any judicial findings entered in any prior proceedings relating to the matter.

(c) Unless otherwise provided in this Act, the procedures for issuance and execution of a gun violence prevention search warrant shall conform to applicable provisions of Article 108 of the Code of Criminal Procedure of 1963.

(d) In determining whether grounds exist to issue a gun violence prevention search warrant, the judge may consider, but is not limited to, the factors described in Section 20 of this Act.

Section 1-30. Hearing; gun violence restraining order; and disposition of firearms.

(a) No later than 14 days after issuance of an emergency gun violence restraining order issued under Section 15 of this Act, a court with jurisdiction where the subject of the order resides or is found shall hold an evidentiary hearing to determine whether a gun violence restraining order should be entered. At the hearing, the petitioner, or the State's Attorney if the petitioner was a law enforcement officer, shall have the burden of proving all material facts by clear and convincing evidence. At the hearing, the person who is the subject of the emergency gun violence restraining order shall have the right to appear, present evidence, testify on his or her own behalf if he or she chooses to do so or remain silent, make arguments to the court, and be represented by an attorney retained at his or her own expense.

(a-5) The hearing may be continued for up to 30 days at the request of the person who is the subject of the emergency gun violence restraining order. If the person who is the subject of the emergency gun violence restraining order fails to appear after being served with a copy of the emergency gun violence restraining order or after reasonable efforts to serve such order have failed, the evidentiary hearing may proceed in his or her absence.

(b) In determining whether grounds exist to issue a gun violence restraining order, the judge may consider, but is not limited to, the factors described in Section 20 of this Act.

(c) If, after a hearing held pursuant to subsection (a) of this Section, the judge finds by clear and convincing evidence that:

(1) the subject of the emergency gun violence restraining order poses an imminent danger of causing death or serious bodily injury to himself, herself, or any other person;

(2) the person possesses or has ready access to one or more firearms; and

(3) less restrictive alternatives either have been tried and found to be ineffective or would be inadequate or inappropriate under the circumstances,

the judge shall enter a gun violence restraining order containing the same prohibitions described in Section 15 of this Act and ordering that any firearm and firearm ammunition surrendered or seized under the emergency gun violence restraining order or gun violence prevention search warrant issued under this Act shall continue to be held for safekeeping by a designated law enforcement agency for a period not to exceed six months. Otherwise, the judge shall order that the

surrendered or seized firearm and firearm ammunition be returned to the subject of the emergency order.

(c-5) All firearms and firearm ammunition surrendered or seized under this Act shall be maintained by the law enforcement agency having custody of the items in a location and such manner that when returned or transferred to their owner they shall be in the same physical and operating condition as when surrendered or seized.

(d) Any person whose firearm or firearm ammunition have been surrendered or ordered seized pursuant to this Act, or the person's legal representative, may transfer ownership or possession of the items in accordance with the provisions of subsection (a) of Section 9.5 of the Firearm Owners Identification Card Act, or other applicable state or federal law, to any person eligible to possess a firearm under the Firearm Owners Identification Card Act, subject to an order by the court and agreement of the person receiving the items that they shall be maintained in a secure manner inaccessible to the subject of an emergency gun violence restraining order or gun violence restraining order while any such order is in effect.

(e) If the judge at any time determines that a firearm or other item surrendered or seized under an emergency gun violence restraining order, gun violence restraining order, or search warrant is owned by another person who is lawfully eligible to possess a firearm, the judge may order the law enforcement agency having custody of the firearm or item to deliver the firearm or item to the owner, subject to an order by the court and agreement of the person receiving the items that they shall be maintained in a secure manner inaccessible to the subject of an emergency gun violence restraining order or gun violence restraining order while any such order is in effect.

(f) At any time after a court orders a law enforcement agency to retain a person's firearm or firearm ammunition under this Act, the person may petition the court for return of the item. Upon receipt of the petition the court shall enter an order setting a date for a hearing on the petition and inform the person and State's Attorney of the date, time, and location of the hearing. In a hearing on a petition under this subsection (f), the person whose firearm or firearm ammunition has been surrendered or seized may be represented by an attorney retained at his or her own expense; and shall have the burden of proving by a preponderance of the evidence that the person does not pose an imminent danger of causing serious bodily injury to himself, herself, or any other person.

(g) If, after a hearing held under subsection (f) of this Section, the judge finds that the person who is the subject of the complaint does not pose an imminent danger of serious bodily injury to himself, herself, or any other person and that the person is otherwise eligible to lawfully possess a firearm under the Firearm Owners Identification Card Act, the judge shall order the law enforcement agency having custody of the firearm or firearm ammunition to

promptly return the item to the person or authorized representative. The court shall direct the Department of State Police to return and reinstate the person's Firearm Owner's Identification Card if not otherwise expired, suspended, or revoked. If the judge denies the person's petition, the judge shall order that the firearm or firearm ammunition surrendered or seized under this Act continue to be held by the sheriff or law enforcement agency having custody of them for a period not to exceed six months from the date of denial of the petition, and the person may not file a subsequent petition until at least 90 days after the date on which the petition was denied.

(h) Upon expiration of the last order directing a law enforcement agency to retain a person's firearm or firearm ammunition under this Act, and upon request by the person who surrendered the items or from whom the items were seized, the law enforcement agency with custody of the items shall release the items to the person if the person is otherwise eligible to lawfully possess a firearm to lawfully possess a firearm under the Firearm Owners Identification Card Act. If the person fails to request return of the firearm or firearm ammunition is ineligible to lawfully possess a firearm and fails to transfer the firearm or other item to another person pursuant to subsection (d) of this Section, the law enforcement agency shall continue to retain the firearm or other item until entry of a court order under subsection (i) of this Section.

(i) If after 5 years from the expiration of the last order directing a law enforcement agency to retain a person's firearm or firearm ammunition under this Act, a firearm or firearm ammunition continues to be held by a law enforcement agency under the order and the person who is the subject of the order fails to request return of the item or is ineligible to lawfully possess a firearm and fails to transfer the firearm or other item to another person pursuant to subsection (d) of this section, the court, after giving notice to the parties and conducting a hearing, may order the law enforcement agency having custody of the firearm or other item to dispose of the firearm or other item in whatever manner the court deems appropriate.

Section 1-35. Suspension of Firearm Owner's Identification Card and concealed carry license

(a) Upon issuance of an emergency gun violence restraining order under subsection (a) of Section 15 of this Act, the court shall immediately notify the Department of State Police. The local law enforcement agency, upon direction of the court, shall immediately mail the person's Firearm Owner's Identification Card and any concealed carry license to the Department of State Police Firearm Owners Identification Card Office for safekeeping. Upon receipt of the notice, the Department of State Police shall immediately suspend any Firearm Owner's Identification Card and Concealed Carry License of the person who is the subject of the order, pending the outcome of a hearing held pursuant to Section 30 of this

Act. If, after the hearing, the court fails to issue a gun violence restraining order the court shall immediately notify the Department of State Police. Upon receipt of the notice, the Department of State Police shall immediately reinstate and return the person's Firearm Owner's Identification Card and any concealed carry license at no cost to the person.

(b) Upon entry of a gun violence restraining order pursuant to Section 30 of this Act, the court shall immediately notify the Department of State Police. Upon receipt of such notice, the Illinois State Police shall immediately suspend any Firearm Owner's Identification Card and concealed carry license of the person who is the subject of the order for the duration of the order.

Section 1-40. Military and police firearms and personnel.

(a) Notwithstanding any other provision of this Act, this Act shall not be construed or applied to restrict the Illinois National Guard or Armed Forces of the United States from issuing firearms to its personnel. Any firearm or firearm ammunition surrendered or seized under this Act issued by or otherwise constituting property of the Illinois National Guard or Armed Forces of the United States shall be promptly delivered to the Illinois National Guard or appropriate branch of the Armed Forces of the United States to be retained and used in whatever manner that entity deems appropriate. Notice of any order entered under this Act relating to a member of the Illinois National Guard or Armed Forces of the United States shall be promptly provided to the Illinois National Guard or appropriate branch of the Armed Forces of the United States.

(b) Any firearms or firearm ammunition surrendered or seized under this act issued by or otherwise constituting property of a law enforcement agency shall be promptly delivered to the law enforcement agency to be retained and used in whatever manner the agency deems appropriate, except that no such firearm or firearm ammunition may be possessed by a person subject to an order entered under this Act. Notice of any order entered under this Act relating to a law enforcement officer shall be promptly provided to the person's law enforcement agency.

Section 1-45. Penalty.

A person who knowingly violates an emergency gun violence restraining order or gun violence restraining order entered under this Act shall be guilty of a Class 4 felony.

Article 5. Gun Crime Charging and Sentencing Accountability and Transparency Act.

Sec 5-1. Short title.

This Article may be cited as the Gun Crime Charging and Sentencing Accountability and Transparency Act, and references in this Article to "this Act" mean this Article.

Section 5-5. Plea agreement; State's Attorney.

In a criminal case, if a defendant is charged with an offense involving the illegal use or possession of a firearm and subsequently enters into a plea agreement in which in the charge will be reduced to a lesser offense or a non-weapons offense in exchange for a plea of guilty, at or before the time of sentencing, the State's Attorney shall file with the court a written statement of his or her reasons in support of the plea agreement, which reasons shall specifically explain why the offense(s) of conviction that result from the plea agreement do not include the originally charged weapons offense. The written statement shall be part of the court record in the case and a copy shall be provided to any person upon request.

Section 5-10. Sentencing; judge.

In a criminal case in which the original charge is or was for an offense involving the illegal use or possession of a firearm, if a defendant pleads guilty or is found guilty of the original charge or a lesser offense or a non-weapons offense, in imposing sentence the judge shall set forth in a written sentencing order his or her reasons for imposing the sentence or accepting the plea agreement. A copy of the written sentencing order shall be provided to any person upon request.

Article 10. Amendatory Provisions.

Sec 10-5. The Counties Code is amended by changing Section 5-1006.7 as follows:

(55 ILCS 5/5-1006.7)

Sec. 5-1006.7. School facility and resources occupation taxes.

(a) In any county, a tax shall be imposed upon all persons engaged in the business of selling tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the county on the gross receipts from the sales made in the course of business to provide revenue to be used exclusively for (i) school facility purposes or (ii) school resource officers and mental health professionals, or (iii) school facility purposes, school resource officers, and mental health professionals, if a proposition for the tax has been submitted to the electors of that county and approved by a majority of those voting on the question as provided in subsection (c). The tax under this Section shall be imposed only in one-quarter percent increments and may not exceed 1%.

This additional tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The Department of Revenue has full power to administer and enforce this subsection, to collect all taxes and penalties due under this subsection, to dispose of taxes and penalties so collected in the manner provided in this subsection, and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this subsection. The Department shall deposit all taxes and penalties collected under this subsection into a special fund created for that purpose.

In the administration of and compliance with this subsection, the Department and persons who are subject to this subsection (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) are subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and (iii) shall employ the same modes of procedure as are set forth in Sections 1 through 10, 2 through 2-70 (in respect to all provisions contained in those Sections other than the State rate of tax), 2a through 2h, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and all provisions of the Uniform Penalty and Interest Act as if those provisions were set forth in this subsection.

The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act permits the retailer to engage in a business that is taxable without registering separately with the Department under an ordinance or resolution under this subsection.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their seller's tax liability by separately stating that tax as an additional charge, which may be stated in combination, in a single amount, with State tax that sellers are required to collect under the Use Tax Act, pursuant to any bracketed schedules set forth by the Department.

(b) If a tax has been imposed under subsection (a), then a service occupation tax must also be imposed at the same rate upon all persons engaged, in the county, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the county as an incident to a sale of service.

This tax may not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics.

The tax imposed under this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Department and deposited into a special fund created for that purpose. The Department has full power to administer and enforce this subsection, to collect all taxes and penalties due under this subsection, to dispose of taxes and penalties so collected in the manner provided in this subsection, and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this subsection.

In the administration of and compliance with this subsection, the Department and persons who are subject to this subsection shall (i) have the same rights, remedies, privileges, immunities, powers and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties and definition of terms, and (iii) employ the same modes of procedure as are set forth in Sections 2 (except that that reference to State in the definition of supplier maintaining a place of business in this State means the county), 2a through 2d, 3 through 3-50 (in respect to all provisions contained in those Sections other than the State rate of tax), 4 (except that the reference to the State shall be to the county), 5, 7, 8 (except that the jurisdiction to which the tax is a debt to the extent indicated in that Section 8 is the county), 9 (except as to the disposition of taxes and penalties collected), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State means the county), Section 15, 16, 17, 18, 19, and 20 of the Service Occupation Tax Act and all provisions of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their serviceman's tax liability by separately stating the tax as an additional charge, which may be stated in combination, in a

single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, pursuant to any bracketed schedules set forth by the Department.

(c) The tax under this Section may not be imposed until the question of imposing the tax has been submitted to the electors of the county at a regular election and approved by a majority of the electors voting on the question. For all regular elections held prior to August 23, 2011 (the effective date of Public Act 97-542), upon a resolution by the county board or a resolution by school district boards that represent at least 51% of the student enrollment within the county, the county board must certify the question to the proper election authority in accordance with the Election Code.

For all regular elections held prior to August 23, 2011 (the effective date of Public Act 97-542), the election authority must submit the question in substantially the following form:

Shall (name of county) be authorized to impose a retailers' occupation tax and a service occupation tax (commonly referred to as a "sales tax") at a rate of (insert rate) to be used exclusively for school facility purposes?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the county may, thereafter, impose the tax.

For all regular elections held on or after August 23, 2011 (the effective date of Public Act 97-542), the regional superintendent of schools for the county must, upon receipt of a resolution or resolutions of school district boards that represent more than 50% of the student enrollment within the county, certify the question to the proper election authority for submission to the electors of the county at the next regular election at which the question lawfully may be submitted to the electors, all in accordance with the Election Code.

For all regular elections held on or after August 23, 2011 (the effective date of Public Act 97-542) and before the effective date of this amendatory Act of the 100th General Assembly, the election authority must submit the question in substantially the following form:

Shall a retailers' occupation tax and a service occupation tax (commonly referred to as a "sales tax") be imposed in (name of county) at a rate of (insert rate) to be used exclusively for school facility purposes?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the tax shall be imposed at the rate set forth in the question.

For all regular elections held on or after the effective date of this amendatory Act of the 100th General Assembly, the election authority must submit the question as provided in this paragraph.

If the referendum is to expand the use of revenues from a currently imposed tax to include school resource officers and mental health professionals, the question shall be in substantially the following form:

In addition to school facility purposes, shall (name of county) school districts be authorized to use revenues from the tax commonly referred to as the school facility sales tax that is currently imposed in (name of county) at a rate of (insert rate) for school resource officers and mental health professionals?

If the referendum is to increase the rate of a tax currently imposed at less than 1% and dedicate the additional revenues for school resource officers and mental health professionals, the question shall be in substantially the following form:

Shall the tax commonly referred to as the school facility sales tax that is currently imposed in (name of county) at the rate of (insert rate) be increased to a rate of (insert rate) with the additional revenues used exclusively for school resource officers and mental health professionals?

If the referendum is to impose a tax, in a county that has not previously imposed a tax under this Section, exclusively for school facility purposes, the question shall be in substantially the following form:

Shall a retailers' occupation tax and a service occupation tax (commonly referred to as a "sales tax") be imposed in (name of county) at a rate of (insert rate) to be used exclusively for school facility purposes?

If the referendum is to impose a tax, in a county that has not previously imposed a tax under this Section, exclusively for school resource officers and mental health professionals, the question shall be in substantially the following form:

Shall a retailers' occupation tax and a service occupation tax (commonly referred to as a "sales tax") be imposed in (name of county) at a rate of (insert rate) to be used exclusively for school resource officers and mental health professionals?

If the referendum is to impose a tax, in a county that has not previously imposed a tax under this Section, exclusively for school facility purposes, school resource officers, and mental health professionals, the question shall be in substantially the following form:

Shall a retailers' occupation tax and a service occupation tax (commonly referred to as a "sales tax") be imposed in (name of county) at a rate of (insert rate) to be used exclusively for school facility purposes, school resource officers, and mental health professionals?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the tax shall be imposed at the rate set forth in the question.

For the purposes of this subsection (c), "enrollment" means the head count of the students residing in the county on the last school day of September of each year, which must be reported on the Illinois State Board of Education Public School Fall Enrollment/Housing Report.

(d) The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected under this Section to be deposited into the School Facility Occupation Tax Fund, which shall be an unappropriated trust fund held outside the State treasury.

On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the regional superintendents of schools in counties from which retailers or servicemen have paid taxes or penalties to the Department during the second preceding calendar month. The amount to be paid to each regional superintendent of schools and disbursed to him or her in accordance with Section 3-14.31 of the School Code, is equal to the amount (not including credit memoranda) collected from the county under this Section during the second preceding calendar month by the Department, (i) less 2% of that amount, which shall be deposited into the Tax Compliance and Administration Fund and shall be used by the Department, subject to appropriation, to cover the costs of the Department in administering and enforcing the provisions of this Section, on behalf of the county, (ii) plus an amount that the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body; (iii) less an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; and (iv) less any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county. When certifying the amount of a monthly disbursement to a regional superintendent of schools under this Section, the Department shall increase or decrease the amounts by an amount necessary to offset any

miscalculation of previous disbursements within the previous 6 months from the time a miscalculation is discovered.

Within 10 days after receipt by the Comptroller from the Department of the disbursement certification to the regional superintendents of the schools provided for in this Section, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with directions contained in the certification.

If the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, then the Department shall notify the Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the Treasurer out of the School Facility Occupation Tax Fund.

(e) For the purposes of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or another mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This subsection does not apply to coal or another mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

(f) Nothing in this Section may be construed to authorize a tax to be imposed upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(g) If a county board imposes a tax under this Section pursuant to a referendum held before August 23, 2011 (the effective date of Public Act 97-542) at a rate below the rate set forth in the question approved by a majority of electors of that county voting on the question as provided in subsection (c), then the county board may, by ordinance, increase the rate of the tax up to the rate set forth in the question approved by a majority of electors of that county voting on the question as provided in subsection (c). If a county board imposes a tax under this Section pursuant to a referendum held before August 23, 2011 (the effective date of Public Act 97-542), then the board may, by ordinance, discontinue or reduce the rate of the tax. If a tax is imposed under this Section pursuant to a referendum held on or after August 23, 2011 (the effective date of Public Act 97-542) and before the effective date of this amendatory Act of the 100th General Assembly, then the county board may reduce or discontinue the tax, but only in accordance with subsection (h-5) of this Section. If a tax is imposed under this Section pursuant to a referendum held on or after the effective date of this amendatory Act of the 100th General Assembly, then the county board may reduce or discontinue the tax, but only in accordance with subsection (h-10) of this Section. If, however, a school board issues bonds that are secured by the

proceeds of the tax under this Section, then the county board may not reduce the tax rate or discontinue the tax if that rate reduction or discontinuance would adversely affect the school board's ability to pay the principal and interest on those bonds as they become due or necessitate the extension of additional property taxes to pay the principal and interest on those bonds. If the county board reduces the tax rate or discontinues the tax, then a referendum must be held in accordance with subsection (c) of this Section in order to increase the rate of the tax or to reimpose the discontinued tax.

Until January 1, 2014, the results of any election that imposes, reduces, or discontinues a tax under this Section must be certified by the election authority, and any ordinance that increases or lowers the rate or discontinues the tax must be certified by the county clerk and, in each case, filed with the Illinois Department of Revenue either (i) on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of January next following the filing.

Beginning January 1, 2014, the results of any election that imposes, reduces, or discontinues a tax under this Section must be certified by the election authority, and any ordinance that increases or lowers the rate or discontinues the tax must be certified by the county clerk and, in each case, filed with the Illinois Department of Revenue either (i) on or before the first day of May, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of January next following the filing.

(h) For purposes of this Section, "school facility purposes" means (i) the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the capital facilities and (ii) the payment of bonds or other obligations heretofore or hereafter issued, including bonds or other obligations heretofore or hereafter issued to refund or to continue to refund bonds or other obligations issued, for school facility purposes, provided that the taxes levied to pay those bonds are abated by the amount of the taxes imposed under this Section that are used to pay those bonds. "School-facility purposes" also includes fire prevention, safety, energy conservation, accessibility, school security, and specified repair purposes set forth under Section 17-2.11 of the School Code.

(h-5) A county board in a county where a tax has been imposed under this Section pursuant to a referendum held on or after August 23, 2011 (the effective date of Public Act 97-542) and before the effective date of this amendatory Act of the 100th General Assembly may, by ordinance or resolution, submit to the voters of the county the question of reducing or discontinuing the tax. In the ordinance or resolution, the county board shall certify the question to the proper election authority in accordance with the Election Code. The election authority must submit the question in substantially the following form:

Shall the school facility retailers' occupation tax and service occupation tax (commonly referred to as the "school facility sales tax") currently imposed in (name of county) at a rate of (insert rate) be (reduced to (insert rate))(discontinued)?

If a majority of the electors voting on the question vote in the affirmative, then, subject to the provisions of subsection (g) of this Section, the tax shall be reduced or discontinued as set forth in the question.

(h-10) A county board in a county where a tax has been imposed under this Section pursuant to a referendum held on or after the effective date of this amendatory Act of the 100th General Assembly may, by ordinance or resolution, submit to the voters of the county the question of reducing or discontinuing the tax. In the ordinance or resolution, the county board shall certify the question to the proper election authority in accordance with the Election Code. The election authority must submit the question in substantially the following form:

Shall the school facility and resources retailers' occupation tax and service occupation tax (commonly referred to as the "school facility and resources sales tax") currently imposed in (name of county) at a rate of (insert rate) be (reduced to (insert rate))(discontinued)?

If a majority of the electors voting on the question vote in the affirmative, then, subject to the provisions of subsection (g) of this Section, the tax shall be reduced or discontinued as set forth in the question.

(i) This Section does not apply to Cook County.

(j) This Section may be cited as the County School Facility and Resources Occupation Tax Law.

(Source: P.A. 98-584, eff. 8-27-13; 99-143, eff. 7-27-15; 99-217, eff. 7-31-15; 99-642, eff. 7-28-16.)

Section 10-10. The Firearm Owners Identification Card Act is amended by adding Sections 8.5 and 42 as follows:

(430 ILCS 65/8.5 new)

Sec. 8.5. Suspension of a Firearm Owner's Identification Card under the Gun Violence Restraining Order Act. The Department of State Police shall suspend a person's Firearm Owner's Identification Card for the duration of an emergency gun violence restraining order or a gun violence restraining order as provided in Section 35 of the Gun Violence Restraining Order Act.

(430 ILCS 66/42 new)

Sec. 42. Suspension of a concealed carry license under the Gun Violence Restraining Order Act. The Department of State Police shall suspend a person's concealed carry license for the duration of an emergency gun violence restraining order or a gun violence restraining order as provided under Section 35 of the Gun Violence Restraining Order Act.”; and

On page 1, by replacing lines 4 through 5 with: “Section 10-15. The Criminal Code of 2012 is amended by changing Sections 5-1, 24-1, and 24-3 and by adding Sections 4-4.5, 5-2.5, and 9-1.5 as follows:”; and

On page 1, immediately after line 5, by inserting the following:

“(720 ILCS 5/4-4.5 new)

Sec. 4-4.5. Purposely or purpose. In Section 5-2.5 and 9-1.5 of this Code, a person acts purposely or with the purpose when his or her conscious objective is to cause the death of another human being.

(720 ILCS 5/5-1) (from Ch. 38, par. 5-1)

Sec. 5-1. Accountability for conduct of another. Except as provided in Section 5-2.5 of the Code, a ~~A~~ person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself, or that of another and he is legally accountable for such conduct as provided in Section 5-2 of this Code, or both.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/5-2.5 new)

Sec. 5-2.5. Death penalty murder; accountability for acts of others. A person is legally accountable for the conduct of another in the commission of death penalty murder only when:

(1) having the purpose to cause the death of another human being without lawful justification, the person commands, induces, procures, or causes another to perform the conduct; or

(2) the person agrees with one or more other persons to engage in conduct for the common purpose of causing the death of another human being without lawful justification, in which case all parties to the agreement shall be criminally liable for acts of other parties to the agreement committed during and in furtherance of the agreement.

(720 ILCS 5/9-1.5 new)

Sec. 9-1.5. Death penalty murder.

(a) In this Section, "human being" means a person who has been born and is alive.

(b) A person commits death penalty murder when at the time of the commission of the offense he or she has attained the age of 18 or more and he or she purposely causes the death of another human being without lawful justification if:

(1) at the time of the offense, the person caused the death of 2 or more other human beings without lawful justification; or

(2) the victim was a peace officer, as defined by Section 2-13 of this Code, killed in the course of performing his or her official duties, either to prevent the performance of the officer's duties or in retaliation for the performance of the officer's duties, and the person knew that the victim was a peace officer.

(c) The trier of fact regarding the charge of death penalty murder shall resolve any doubt regarding identification or any element of the offense in favor of the defendant. A defendant shall not be found guilty of the offense of death penalty murder unless each and every element of the offense is established beyond any doubt. If the trial is by jury, before the trial commences and again before jury deliberations commence, the jury shall be instructed that the penalty for death penalty murder is death.

(d) A defendant, who has been found guilty of death penalty murder, may, at a separate sentencing hearing, present evidence of mitigating circumstances not rising to the level of legal justification, including but not limited to evidence of intellectual disability as provided in Section 114-15 of the Code of Criminal Procedure of 1963. The prosecution may present rebuttal evidence. The hearing shall be before the trial judge. The judge shall sentence the defendant to death, unless he or she finds that the defendant has, by a preponderance of the evidence, presented sufficiently substantial evidence to prove intellectual disability or that imposition of the death penalty would result in a manifest miscarriage of justice, in which case the judge shall sentence the defendant to life imprisonment without the possibility of parole.

(e) On appeal from a conviction of death penalty murder, review of the facts shall be de novo. In conducting its de novo review of the trial evidence, the appellate court shall resolve all doubt regarding identification and guilt in favor of the defendant. The appellate court shall conduct an independent review of the evidence without giving deference to the judgment of the trier of fact at trial.

(f) Sentence. The sentence for death penalty murder is death.

(720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

Sec. 24-1. Unlawful use of weapons.

(a) A person commits the offense of unlawful use of weapons when he knowingly:

(1) Sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, slung-shot, sand-club, sand-bag, metal knuckles or other knuckle weapon regardless of its composition, throwing star, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas; or

(2) Carries or possesses with intent to use the same unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, stun gun or taser or any other dangerous or deadly weapon or instrument of like character; or

(3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older; or

(4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (4) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card; or

(iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act; or

(5) Sets a spring gun; or

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries:

(i) a machine gun, which shall be defined for the purposes of this subsection as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon, or sells, manufactures, purchases, possesses, or carries any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination or parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person;

(i-5) beginning 90 days after the effective date of this amendatory Act of the 100th General Assembly, a bump stock or trigger crank. As used in this clause (i-5):

"Bump stock" means any device for a weapon that increases the rate of fire achievable with the weapon by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger of the weapon.

"Trigger crank" means any device to be attached to a weapon that repeatedly activates the trigger of the weapon through the use of a lever or other part that is turned in a circular motion;

(ii) any rifle having one or more barrels less than 16 inches in length or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such a weapon as modified has an overall length of less than 26 inches; or

(iii) any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to, black powder bombs and Molotov cocktails or artillery projectiles; or

(8) Carries or possesses any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted. This subsection (a)(8) does not apply to any auction or raffle of a firearm held pursuant to a license or permit issued by a governmental body, nor does it apply to persons engaged in firearm safety training courses; or

(9) Carries or possesses in a vehicle or on or about his person any pistol, revolver, stun gun or taser or firearm or ballistic knife, when he is hooded, robed or masked in such manner as to conceal his identity; or

(10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (10) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card; or

(iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act.

A "stun gun or taser", as used in this paragraph (a) means (i) any device which is powered by electrical charging units, such as, batteries, and which fires one or

several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning or (ii) any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning; or

(11) Sells, manufactures or purchases any explosive bullet. For purposes of this paragraph (a) "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap; or

(12) (Blank); or

(13) Carries or possesses on or about his or her person while in a building occupied by a unit of government, a billy club, other weapon of like character, or other instrument of like character intended for use as a weapon. For the purposes of this Section, "billy club" means a short stick or club commonly carried by police officers which is either telescopic or constructed of a solid piece of wood or other man-made material.

(b) Sentence. A person convicted of a violation of subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a Class A misdemeanor. A person convicted of a violation of subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a person convicted of a violation of subsection 24-1(a)(6) or 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person convicted of a violation of subsection 24-1(a)(7)(i) or 24-1(a)(7)(i-5) commits a Class 2 felony and shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years, unless the weapon or device is possessed in the passenger compartment of a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code, or on the person, while the weapon is loaded or the device is attached to the loaded weapon, in which case it shall be a Class X felony. A person convicted of a second or subsequent violation of subsection 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3 felony. The possession of each weapon or device in violation of this Section constitutes a single and separate violation.

(c) Violations in specific places.

(1) A person who violates subsection 24-1(a)(6) or 24-1(a)(7) in any school, regardless of the time of day or the time of year, in residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park,

in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, in any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public way within 1,000 feet of the real property comprising any school, public park, courthouse, public transportation facility, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 2 felony and shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years.

(1.5) A person who violates subsection 24-1(a)(4), 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the time of day or the time of year, in residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public way within 1,000 feet of the real property comprising any school, public park, courthouse, public transportation facility, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 3 felony.

(2) A person who violates subsection 24-1(a)(1), 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the time of day or the time of year, in residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on the real property comprising any school, regardless of the time of day or the time of year, on residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, in any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, in any conveyance owned, leased, or contracted by a public transportation agency, or on any public way within 1,000 feet of the real property comprising any school, public park, courthouse, public transportation facility, or residential property

owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 4 felony. "Courthouse" means any building that is used by the Circuit, Appellate, or Supreme Court of this State for the conduct of official business.

(3) Paragraphs (1), (1.5), and (2) of this subsection (c) shall not apply to law enforcement officers or security officers of such school, college, or university or to students carrying or possessing firearms for use in training courses, parades, hunting, target shooting on school ranges, or otherwise with the consent of school authorities and which firearms are transported unloaded enclosed in a suitable case, box, or transportation package.

(4) For the purposes of this subsection (c), "school" means any public or private elementary or secondary school, community college, college, or university.

(5) For the purposes of this subsection (c), "public transportation agency" means a public or private agency that provides for the transportation or conveyance of persons by means available to the general public, except for transportation by automobiles not used for conveyance of the general public as passengers; and "public transportation facility" means a terminal or other place where one may obtain public transportation.

(d) The presence in an automobile other than a public omnibus of any weapon, instrument or substance referred to in subsection (a)(7) is prima facie evidence that it is in the possession of, and is being carried by, all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances: (i) if such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or (ii) if such weapon, instrument or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver.

(e) Exemptions.

(1) Crossbows, Common or Compound bows and Underwater Spearguns are exempted from the definition of ballistic knife as defined in paragraph (1) of subsection (a) of this Section.

(2) The provision of paragraph (1) of subsection (a) of this Section prohibiting the sale, manufacture, purchase, possession, or carrying of any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, does not apply to a person who possesses a currently valid Firearm Owner's Identification Card previously issued in his or her name by the Department of State Police or to a person or an entity engaged in the business of selling or manufacturing switchblade knives.”; and

By deleting line 6 on Page 1 through line 21 on page 3; and

On page 5, by replacing lines 2 through 11 with the following:

“(g) Delivers any firearm ~~of a size which may be concealed upon the person,~~ incidental to a sale, without withholding delivery of the ~~such~~ firearm for at least 72 hours after application for its purchase has been made, or delivers ~~any rifle, shotgun or other long gun,~~ or a stun gun or taser, incidental to a sale, without withholding delivery of the ~~such rifle, shotgun or other long gun,~~ or a stun gun or taser for at least 24 hours after application for its purchase has been made. However, this paragraph (g) does”; and

On page 5, by replacing lines 23-24 with: “Illinois; (3) the sale of a firearm to a nonresident of Illinois while at a”; and

On page 15, immediately after line 5, by inserting the following:

“Sec 10-20. The Code of Criminal Procedure of 1963 is amended by changing Sections 114-15, 119-1, and 122-2.2 as follows:

(725 ILCS 5/114-15)

Sec. 114-15. Intellectual disability.

(a) In a first degree murder case in which the State seeks the death penalty as an appropriate sentence or in a death penalty murder case, any party may raise the issue of the defendant's intellectual disabilities by motion. A defendant wishing to raise the issue of his or her intellectual disabilities shall provide written notice to the State and the court as soon as the defendant reasonably believes such issue will be raised.

(b) The issue of the defendant's intellectual disabilities shall be determined in a pretrial hearing. The court shall be the fact finder on the issue of the defendant's intellectual disabilities and shall determine the issue by a preponderance of evidence in which the moving party has the burden of proof. The court may appoint an expert in the field of intellectual disabilities. The defendant and the State may offer experts from the field of intellectual

disabilities. The court shall determine admissibility of evidence and qualification as an expert.

(c) If after a plea of guilty to first degree murder or death penalty murder, or a finding of guilty of first degree murder or death penalty murder in a bench trial, or a verdict of guilty for first degree murder or death penalty murder in a jury trial, or on a matter remanded from the Supreme Court for sentencing for first degree murder or death penalty murder, and the State seeks the death penalty as an appropriate sentence, the defendant may raise the issue of defendant's intellectual disabilities not at eligibility but at aggravation and mitigation. The defendant and the State may offer experts from the field of intellectual disabilities. The court shall determine admissibility of evidence and qualification as an expert.

(d) In determining whether the defendant is a person with an intellectual disability, the intellectual disability must have manifested itself by the age of 18. IQ tests and psychometric tests administered to the defendant must be the kind and type recognized by experts in the field of intellectual disabilities. In order for the defendant to be considered a person with an intellectual disability, a low IQ must be accompanied by significant deficits in adaptive behavior in at least 2 of the following skill areas: communication, self-care, social or interpersonal skills, home living, self-direction, academics, health and safety, use of community resources, and work. An intelligence quotient (IQ) of 75 or below is presumptive evidence of an intellectual disability.

(e) Evidence of an intellectual disability that did not result in disqualifying the case as a capital case, may be introduced as evidence in mitigation during a capital sentencing hearing. A failure of the court to determine that the defendant is a person with an intellectual disability does not preclude the court during trial from allowing evidence relating to mental disability should the court deem it appropriate.

(f) If the court determines at a pretrial hearing or after remand that a capital defendant is a person with an intellectual disability, and the State does not appeal pursuant to Supreme Court Rule 604, the case shall no longer be considered a capital case and the procedural guidelines established for capital cases shall no longer be applicable to the defendant. In that case, the defendant shall be sentenced under the sentencing provisions of Chapter V of the Unified Code of Corrections.

(Source: P.A. 99-143, eff. 7-27-15.)

(725 ILCS 5/119-1)

Sec. 119-1. Death penalty abolished.

(a) Except as otherwise provided in subsection (a-5) of this Section, beginning ~~Beginning~~ on the effective date of this amendatory Act of the 96th General Assembly, notwithstanding any other law to the contrary, the death penalty is abolished and a sentence to death may not be imposed.

(a-5) A sentence of death shall be imposed for death penalty murder.

(b) All unobligated and unexpended moneys remaining in the Capital Litigation Trust Fund on the effective date of this amendatory Act of the 96th General Assembly shall be transferred into the Death Penalty Abolition Fund, a special fund in the State treasury, to be expended by the Illinois Criminal Justice Information Authority, for services for families of victims of homicide or murder and for training of law enforcement personnel.

(Source: P.A. 96-1543, eff. 7-1-11.)

(725 ILCS 5/122-2.2)

Sec. 122-2.2. Intellectual disability and post-conviction relief.

(a) In cases where no determination of an intellectual disability was made and a defendant has been convicted of first-degree murder or death penalty murder, sentenced to death, and is in custody pending execution of the sentence of death, the following procedures shall apply:

(1) Notwithstanding any other provision of law or rule of court, a defendant may seek relief from the death sentence through a petition for post-conviction relief under this Article alleging that the defendant was a person with an intellectual disability as defined in Section 114-15 at the time the offense was alleged to have been committed.

(2) The petition must be filed within 180 days of the effective date of this amendatory Act of the 93rd General Assembly or within 180 days of the issuance of the mandate by the Illinois Supreme Court setting the date of execution, whichever is later.

(b) All other provisions of this Article governing petitions for post-conviction relief shall apply to a petition for post-conviction relief alleging an intellectual disability.

(Source: P.A. 99-78, eff. 7-20-15; 99-143, eff. 7-27-15.)

(725 ILCS 165/Act rep.)

Sec 10-25. The Firearm Seizure Act is repealed.

Section 10-30. The Unified Code of Corrections is amended by changing Section 5-4.5-10 and by adding Section 5-4.5-20.5 as follows:

(730 ILCS 5/5-4.5-10)

Sec. 5-4.5-10. OFFENSE CLASSIFICATIONS.

(a) FELONY CLASSIFICATIONS. Felonies are classified, for the purpose of sentencing, as follows:

(1) First degree murder (as a separate class of felony).

(1.5) Death penalty murder (as a separate class of felony).

(2) Class X felonies.

(3) Class 1 felonies.

(4) Class 2 felonies.

(5) Class 3 felonies.

(6) Class 4 felonies.

(b) MISDEMEANOR CLASSIFICATIONS. Misdemeanors are classified, for the purpose of sentencing, as follows:

(1) Class A misdemeanors.

(2) Class B misdemeanors.

(3) Class C misdemeanors.

(c) PETTY AND BUSINESS OFFENSES. Petty offenses and business offenses are not classified.

(Source: P.A. 95-1052, eff. 7-1-09.)

(730 ILCS 5/5-4.5-20.5 new)

Sec. 5-4.5-20.5. DEATH PENALTY MURDER; SENTENCE. For death penalty murder, the defendant shall be sentenced to death, unless the trial judge finds that the defendant has, by a preponderance of the evidence, presented sufficiently substantial evidence to outweigh the circumstances of the offense and the evidence presented by the prosecution at the sentencing hearing, in which case the judge shall sentence the defendant to life imprisonment without the possibility of parole.

Article 999. Effective Date.”; and

On page 15, by replacing lines 6 through 7 with: “Section 999-5. Effective date. This Act takes effect upon becoming law.”

With these changes, House Bill 1468 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner

GOVERNOR