

SB3289



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3289

Introduced 2/15/2018, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1

from Ch. 38, par. 24-1

Amends the Criminal Code of 2012. Re-enacts the provision making it a Class 3 felony for a person to violate the prohibition on carrying or possessing a firearm on or about his or her person, except as otherwise authorized by law, within 1,000 feet of a public park. Provides the purpose of the re-enactment is intended to remove any question as to the validity or content of those provisions. Effective immediately.

LRB100 19791 MRW 35066 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Purpose.

5 (a) The General Assembly finds and declares that:

6 (1) Paragraph (1.5) of subsection (c) of Section 24-1
7 of the Criminal Code of 2012 contains a provision making it
8 a Class 3 felony for a person to violate the prohibition on
9 carrying or possessing a firearm on or about his or her
10 person, except as otherwise authorized by law, within 1,000
11 feet of a public park in addition to other specified
12 locations.

13 (2) On February 1, 2018, the Illinois Supreme Court, in
14 *People v. Julio Chairez*, Docket No. 121417, ruled that
15 paragraph (1.5) of subsection (c) of Section 24-1 of the
16 Criminal Code of 2012 as applied to possessing or carrying
17 a firearm within 1,000 feet of a public park violates the
18 defendant's right to keep and bear arms under the second
19 amendment to the United States Constitution, but found it
20 severable from the remaining portions of the statute.
21 However, in reaching its holding the Illinois Supreme Court
22 found the offense in the case occurred prior to the
23 enactment of Public Act 98-63 (effective July 9, 2013)
24 which enacted the Firearm Concealed Carry Act and amended

1 various other statutes including the unlawful use of
2 weapons provisions in Section 24-1 of the Criminal Code of
3 2012; therefore, the Court made clear in its opinion that
4 neither the Firearm Concealed Carry Act nor the amended
5 unlawful use of weapons statute currently in effect were at
6 issue in the case.

7 (3) Based upon the Illinois Supreme Court's
8 determination in the above-cited case that its ruling did
9 not affect the statutes as subsequently amended by Public
10 Act 98-63 and therefore those provisions including
11 paragraph (1.5) of subsection (c) of Section 24-1 of the
12 Criminal Code of 2012 within the amended scheme of firearm
13 possession and use continue to have a presumption of
14 constitutionality and enforceability. However, since the
15 firearm provision concerning unlawful possession or
16 carrying of firearms near public parks is of vital concern
17 to the people of this State and legislative action
18 concerning the provisions of paragraph (1.5) of subsection
19 (c) of Section 24-1 of the Criminal Code of 2012 at issue
20 in the above-cited case is necessary.

21 (b) It is the purpose of this Act to re-enact certain
22 criminal provisions of paragraph (1.5) of subsection (c) of
23 Section 24-1 of the Criminal Code of 2012. This re-enactment is
24 intended to remove any question as to the validity or content
25 of those provisions.

1 Section 5. The Criminal Code of 2012 is amended by changing
2 Section 24-1 as follows:

3 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

4 Sec. 24-1. Unlawful use of weapons.

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

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

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

22 (3) Carries on or about his person or in any vehicle, a
23 tear gas gun projector or bomb or any object containing
24 noxious liquid gas or substance, other than an object
25 containing a non-lethal noxious liquid gas or substance

1 designed solely for personal defense carried by a person 18
2 years of age or older; or

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

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

13 (ii) are not immediately accessible; or

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

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

22 (5) Sets a spring gun; or

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

26 (7) Sells, manufactures, purchases, possesses or

1 carries:

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

14 (ii) any rifle having one or more barrels less than
15 16 inches in length or a shotgun having one or more
16 barrels less than 18 inches in length or any weapon
17 made from a rifle or shotgun, whether by alteration,
18 modification, or otherwise, if such a weapon as
19 modified has an overall length of less than 26 inches;
20 or

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

26 (8) Carries or possesses any firearm, stun gun or taser

1 or other deadly weapon in any place which is licensed to
2 sell intoxicating beverages, or at any public gathering
3 held pursuant to a license issued by any governmental body
4 or any public gathering at which an admission is charged,
5 excluding a place where a showing, demonstration or lecture
6 involving the exhibition of unloaded firearms is
7 conducted.

8 This subsection (a) (8) does not apply to any auction or
9 raffle of a firearm held pursuant to a license or permit
10 issued by a governmental body, nor does it apply to persons
11 engaged in firearm safety training courses; or

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

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

1 weapons that meet one of the following conditions:

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

3 (ii) are not immediately accessible; or

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

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

12 A "stun gun or taser", as used in this paragraph (a)
13 means (i) any device which is powered by electrical
14 charging units, such as, batteries, and which fires one or
15 several barbs attached to a length of wire and which, upon
16 hitting a human, can send out a current capable of
17 disrupting the person's nervous system in such a manner as
18 to render him incapable of normal functioning or (ii) any
19 device which is powered by electrical charging units, such
20 as batteries, and which, upon contact with a human or
21 clothing worn by a human, can send out current capable of
22 disrupting the person's nervous system in such a manner as
23 to render him incapable of normal functioning; or

24 (11) Sells, manufactures or purchases any explosive
25 bullet. For purposes of this paragraph (a) "explosive
26 bullet" means the projectile portion of an ammunition

1 cartridge which contains or carries an explosive charge
2 which will explode upon contact with the flesh of a human
3 or an animal. "Cartridge" means a tubular metal case having
4 a projectile affixed at the front thereof and a cap or
5 primer at the rear end thereof, with the propellant
6 contained in such tube between the projectile and the cap;
7 or

8 (12) (Blank); or

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

17 (b) Sentence. A person convicted of a violation of
18 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
19 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
20 Class A misdemeanor. A person convicted of a violation of
21 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
22 person convicted of a violation of subsection 24-1(a)(6) or
23 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person
24 convicted of a violation of subsection 24-1(a)(7)(i) commits a
25 Class 2 felony and shall be sentenced to a term of imprisonment
26 of not less than 3 years and not more than 7 years, unless the

1 weapon is possessed in the passenger compartment of a motor
2 vehicle as defined in Section 1-146 of the Illinois Vehicle
3 Code, or on the person, while the weapon is loaded, in which
4 case it shall be a Class X felony. A person convicted of a
5 second or subsequent violation of subsection 24-1(a)(4),
6 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3
7 felony. The possession of each weapon in violation of this
8 Section constitutes a single and separate violation.

9 (c) Violations in specific places.

10 (1) A person who violates subsection 24-1(a)(6) or
11 24-1(a)(7) in any school, regardless of the time of day or
12 the time of year, in residential property owned, operated
13 or managed by a public housing agency or leased by a public
14 housing agency as part of a scattered site or mixed-income
15 development, in a public park, in a courthouse, on the real
16 property comprising any school, regardless of the time of
17 day or the time of year, on residential property owned,
18 operated or managed by a public housing agency or leased by
19 a public housing agency as part of a scattered site or
20 mixed-income development, on the real property comprising
21 any public park, on the real property comprising any
22 courthouse, in any conveyance owned, leased or contracted
23 by a school to transport students to or from school or a
24 school related activity, in any conveyance owned, leased,
25 or contracted by a public transportation agency, or on any
26 public way within 1,000 feet of the real property

1 comprising any school, public park, courthouse, public
2 transportation facility, or residential property owned,
3 operated, or managed by a public housing agency or leased
4 by a public housing agency as part of a scattered site or
5 mixed-income development commits a Class 2 felony and shall
6 be sentenced to a term of imprisonment of not less than 3
7 years and not more than 7 years.

8 (1.5) A person who violates subsection 24-1(a)(4),
9 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
10 time of day or the time of year, in residential property
11 owned, operated, or managed by a public housing agency or
12 leased by a public housing agency as part of a scattered
13 site or mixed-income development, in a public park, in a
14 courthouse, on the real property comprising any school,
15 regardless of the time of day or the time of year, on
16 residential property owned, operated, or managed by a
17 public housing agency or leased by a public housing agency
18 as part of a scattered site or mixed-income development, on
19 the real property comprising any public park, on the real
20 property comprising any courthouse, in any conveyance
21 owned, leased, or contracted by a school to transport
22 students to or from school or a school related activity, in
23 any conveyance owned, leased, or contracted by a public
24 transportation agency, or on any public way within 1,000
25 ~~1,000~~ feet of the real property comprising any school,
26 public park ~~public park~~, courthouse, public transportation

1 facility, or residential property owned, operated, or
2 managed by a public housing agency or leased by a public
3 housing agency as part of a scattered site or mixed-income
4 development commits a Class 3 felony.

5 (2) A person who violates subsection 24-1(a)(1),
6 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
7 time of day or the time of year, in residential property
8 owned, operated or managed by a public housing agency or
9 leased by a public housing agency as part of a scattered
10 site or mixed-income development, in a public park, in a
11 courthouse, on the real property comprising any school,
12 regardless of the time of day or the time of year, on
13 residential property owned, operated or managed by a public
14 housing agency or leased by a public housing agency as part
15 of a scattered site or mixed-income development, on the
16 real property comprising any public park, on the real
17 property comprising any courthouse, in any conveyance
18 owned, leased or contracted by a school to transport
19 students to or from school or a school related activity, in
20 any conveyance owned, leased, or contracted by a public
21 transportation agency, or on any public way within 1,000
22 feet of the real property comprising any school, public
23 park, courthouse, public transportation facility, or
24 residential property owned, operated, or managed by a
25 public housing agency or leased by a public housing agency
26 as part of a scattered site or mixed-income development

1 commits a Class 4 felony. "Courthouse" means any building
2 that is used by the Circuit, Appellate, or Supreme Court of
3 this State for the conduct of official business.

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

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

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

24 (d) The presence in an automobile other than a public
25 omnibus of any weapon, instrument or substance referred to in
26 subsection (a) (7) is prima facie evidence that it is in the

1 possession of, and is being carried by, all persons occupying
2 such automobile at the time such weapon, instrument or
3 substance is found, except under the following circumstances:

4 (i) if such weapon, instrument or instrumentality is found upon
5 the person of one of the occupants therein; or (ii) if such
6 weapon, instrument or substance is found in an automobile
7 operated for hire by a duly licensed driver in the due, lawful
8 and proper pursuit of his trade, then such presumption shall
9 not apply to the driver.

10 (e) Exemptions.

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

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

26 (Source: P.A. 99-29, eff. 7-10-15; 100-82, eff. 8-11-17.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.