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LRB094 08327 RLC 43888 a

1 AMENDMENT TO HOUSE BILL 2412

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2412, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Criminal Code of 1961 is amended by  
6 re-enacting in their entirety and changing Sections 31A-1.1 and  
7 31A-1.2 as follows:

8 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)  
9 Sec. 31A-1.1. Bringing Contraband into a Penal  
10 Institution; Possessing Contraband in a Penal Institution.

11 (a) A person commits the offense of bringing contraband  
12 into a penal institution when he knowingly and without  
13 authority of any person designated or authorized to grant such  
14 authority (1) brings an item of contraband into a penal  
15 institution or (2) causes another to bring an item of  
16 contraband into a penal institution or (3) places an item of  
17 contraband in such proximity to a penal institution as to give  
18 an inmate access to the contraband.

19 (b) A person commits the offense of possessing contraband  
20 in a penal institution when he possesses contraband in a penal  
21 institution, regardless of the intent with which he possesses  
22 it.

23 (c) For the purposes of this Section, the words and phrases  
24 listed below shall be defined as follows:

1           (1) "Penal institution" for the purposes of items of  
2 contraband specified in clauses (i) through (xi) of  
3 subsection (c)(2) means any penitentiary, State farm,  
4 reformatory, prison, jail, house of correction, police  
5 detention area, half-way house or other institution or  
6 place for the incarceration or custody of persons under  
7 sentence for offenses awaiting trial or sentence for  
8 offenses, under arrest for an offense, a violation of  
9 probation, a violation of parole, or a violation of  
10 mandatory supervised release, or awaiting a bail setting  
11 hearing or preliminary hearing; provided that where the  
12 place for incarceration or custody is housed within another  
13 public building this Act shall not apply to that part of  
14 such building unrelated to the incarceration or custody of  
15 persons. "Penal institution" for purposes of items of  
16 contraband specified in paragraph (xii) of subsection  
17 (c)(2) means an institution or facility of the Juvenile  
18 Division of the Illinois Department of Corrections that  
19 houses minors who have been adjudicated delinquent.

20           (2) "Item of contraband" means any of the following:

21           (i) "Alcoholic liquor" as such term is defined in  
22 Section 1-3.05 of The Liquor Control Act of 1934 as  
23 such Act may be now or hereafter amended.

24           (ii) "Cannabis" as such term is defined in  
25 subsection (a) of Section 3 of the "Cannabis Control  
26 Act", approved August 16, 1971, as now or hereafter  
27 amended.

28           (iii) "Controlled substance" as such term is  
29 defined in the "Illinois Controlled Substances Act",  
30 approved August 16, 1971, as now or hereafter amended.

31           (iv) "Hypodermic syringe" or hypodermic needle, or  
32 any instrument adapted for use of controlled  
33 substances or cannabis by subcutaneous injection.

34           (v) "Weapon" means any knife, dagger, dirk, billy,

1 razor, stiletto, broken bottle, or other piece of glass  
2 which could be used as a dangerous weapon. Such term  
3 includes any of the devices or implements designated in  
4 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1  
5 of this Act, or any other dangerous weapon or  
6 instrument of like character.

7 (vi) "Firearm" means any device, by whatever name  
8 known, which is designed to expel a projectile or  
9 projectiles by the action of an explosion, expansion of  
10 gas or escape of gas, including but not limited to:

11 (A) any pneumatic gun, spring gun, or B-B gun  
12 which expels a single globular projectile not  
13 exceeding .18 inch in diameter, or;

14 (B) any device used exclusively for signaling  
15 or safety and required as recommended by the United  
16 States Coast Guard or the Interstate Commerce  
17 Commission; or

18 (C) any device used exclusively for the firing  
19 of stud cartridges, explosive rivets or industrial  
20 ammunition; or

21 (D) any device which is powered by electrical  
22 charging units, such as batteries, and which fires  
23 one or several barbs attached to a length of wire  
24 and which, upon hitting a human, can send out  
25 current capable of disrupting the person's nervous  
26 system in such a manner as to render him incapable  
27 of normal functioning, commonly referred to as a  
28 stun gun or taser.

29 (vii) "Firearm ammunition" means any  
30 self-contained cartridge or shotgun shell, by whatever  
31 name known, which is designed to be used or adaptable  
32 to use in a firearm, including but not limited to:

33 (A) any ammunition exclusively designed for  
34 use with a device used exclusively for signaling or

1 safety and required or recommended by the United  
2 States Coast Guard or the Interstate Commerce  
3 Commission; or

4 (B) any ammunition designed exclusively for  
5 use with a stud or rivet driver or other similar  
6 industrial ammunition.

7 (viii) "Explosive" means, but is not limited to,  
8 bomb, bombshell, grenade, bottle or other container  
9 containing an explosive substance of over one-quarter  
10 ounce for like purposes such as black powder bombs and  
11 Molotov cocktails or artillery projectiles.

12 (ix) "Tool to defeat security mechanisms" means,  
13 but is not limited to, handcuff or security restraint  
14 key, tool designed to pick locks, or device or  
15 instrument capable of unlocking handcuff or security  
16 restraints, doors to cells, rooms, gates or other areas  
17 of the penal institution.

18 (x) "Cutting tool" means, but is not limited to,  
19 hacksaw blade, wirecutter, or device, instrument or  
20 file capable of cutting through metal.

21 (xi) "Electronic contraband" means, but is not  
22 limited to, any electronic, video recording device,  
23 computer, or cellular communications equipment,  
24 including, but not limited to, cellular telephones,  
25 cellular telephone batteries, videotape recorders,  
26 pagers, computers, and computer peripheral equipment  
27 brought into or possessed in a penal institution  
28 without the written authorization of the Chief  
29 Administrative Officer.

30 (xii) With respect to institutions and facilities  
31 of the Juvenile Division of the Illinois Department of  
32 Corrections that house minors who have been  
33 adjudicated delinquent only, video games that are  
34 harmful to minors and violent video games.

1           (3) "Harmful to minors" means that quality of any  
2 description or representation, in whatever form, of  
3 nudity, sexual conduct, sexual excitement, or  
4 sado-masochistic abuse, when, taken as a whole, it (i)  
5 predominately appeals to the prurient interest in sex of  
6 minors, (ii) is patently offensive to prevailing standards  
7 in the adult community in the State as a whole with respect  
8 to what is suitable material for minors, and (iii) lacks  
9 serious literary, artistic, political, or scientific value  
10 for minors.

11           (4) "Nudity" means the showing of the human male or  
12 female genitals, pubic area or buttocks with less than a  
13 full opaque covering, or the showing of the female breast  
14 with less than a fully opaque covering of any portion below  
15 the top of the nipple, or the depiction of covered male  
16 genitals in a discernably turgid state.

17           (5) "Sado-masochistic abuse" means flagellation or  
18 torture by or upon a person clad in undergarments, a mask  
19 or bizarre costume, or the condition of being fettered,  
20 bound or otherwise physically restrained on the part of one  
21 clothed for sexual gratification or stimulation.

22           (6) "Sexual conduct" means acts of masturbation,  
23 sexual intercourse, or physical contact with a person's  
24 clothed or unclothed genitals, pubic area, buttocks or, if  
25 such person be a female, breast.

26           "Sexual excitement" means the condition of human male  
27 or female genitals when in a state of sexual stimulation or  
28 arousal.

29           (7) "Video game" means an object or device that stores  
30 recorded data or instructions, receives data or  
31 instructions generated by a person who uses it, and, by  
32 processing the data or instructions, creates an  
33 interactive game capable of being played, viewed, or  
34 experienced on or through a computer, gaming system,

1 console, or other technology.

2 (8) "Violent" video games include depictions of or  
3 simulations of human-on-human violence in which the player  
4 kills, seriously injures, or otherwise causes serious  
5 physical harm to another human, including but not limited  
6 to depictions of death, dismemberment, amputation,  
7 decapitation, maiming, disfigurement, mutilation of body  
8 parts, or rape.

9 (c-5) Bringing a video game that is harmful to minors or a  
10 violent video game into an institution or facility of the  
11 Juvenile Division of the Illinois Department of Corrections is  
12 a Class A misdemeanor. Possessing a video game that is harmful  
13 to minors or a violent video game in an institution or facility  
14 of the Juvenile Division of the Illinois Department of  
15 Corrections is a Class A misdemeanor.

16 (d) Bringing alcoholic liquor into a penal institution is a  
17 Class 4 felony. Possessing alcoholic liquor in a penal  
18 institution is a Class 4 felony.

19 (e) Bringing cannabis into a penal institution is a Class 3  
20 felony. Possessing cannabis in a penal institution is a Class 3  
21 felony.

22 (f) Bringing any amount of a controlled substance  
23 classified in Schedules III, IV or V of Article II of the  
24 Controlled Substance Act into a penal institution is a Class 2  
25 felony. Possessing any amount of a controlled substance  
26 classified in Schedule III, IV, or V of Article II of the  
27 Controlled Substance Act in a penal institution is a Class 2  
28 felony.

29 (g) Bringing any amount of a controlled substance  
30 classified in Schedules I or II of Article II of the Controlled  
31 Substance Act into a penal institution is a Class 1 felony.  
32 Possessing any amount of a controlled substance classified in  
33 Schedules I or II of Article II of the Controlled Substance Act  
34 in a penal institution is a Class 1 felony.

1 (h) Bringing an item of contraband listed in paragraph (iv)  
2 of subsection (c)(2) into a penal institution is a Class 1  
3 felony. Possessing an item of contraband listed in paragraph  
4 (iv) of subsection (c)(2) in a penal institution is a Class 1  
5 felony.

6 (i) Bringing an item of contraband listed in paragraph (v),  
7 (ix), (x), or (xi) of subsection (c)(2) into a penal  
8 institution is a Class 1 felony. Possessing an item of  
9 contraband listed in paragraph (v), (ix), (x), or (xi) of  
10 subsection (c)(2) in a penal institution is a Class 1 felony.

11 (j) Bringing an item of contraband listed in paragraphs  
12 (vi), (vii) or (viii) of subsection (c)(2) in a penal  
13 institution is a Class X felony. Possessing an item of  
14 contraband listed in paragraphs (vi), (vii), or (viii) of  
15 subsection (c)(2) in a penal institution is a Class X felony.

16 (k) It shall be an affirmative defense to subsection (b)  
17 hereof, that such possession was specifically authorized by  
18 rule, regulation, or directive of the governing authority of  
19 the penal institution or order issued pursuant thereto.

20 (l) It shall be an affirmative defense to subsection (a)(1)  
21 and subsection (b) hereof that the person bringing into or  
22 possessing contraband in a penal institution had been arrested,  
23 and that that person possessed such contraband at the time of  
24 his arrest, and that such contraband was brought into or  
25 possessed in the penal institution by that person as a direct  
26 and immediate result of his arrest.

27 (l-5) The Director of Corrections or chief administrative  
28 officer of an institution or facility of the Juvenile Division  
29 of the Department of Corrections may not authorize the bringing  
30 into or possession of a video game that is harmful to minors or  
31 a violent video game in an institution or facility of the  
32 Juvenile Division of the Department of Corrections.

33 (m) Items confiscated may be retained for use by the  
34 Department of Corrections or disposed of as deemed appropriate

1 by the Chief Administrative Officer in accordance with  
2 Department rules or disposed of as required by law.

3 (Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

4 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

5 Sec. 31A-1.2. Unauthorized bringing of contraband into a  
6 penal institution by an employee; unauthorized possessing of  
7 contraband in a penal institution by an employee; unauthorized  
8 delivery of contraband in a penal institution by an employee.

9 (a) A person commits the offense of unauthorized bringing  
10 of contraband into a penal institution by an employee when a  
11 person who is an employee knowingly and without authority or  
12 any person designated or authorized to grant such authority:

13 (1) brings or attempts to bring an item of contraband  
14 listed in paragraphs (i) through (iv) or (xii) of  
15 subsection (d) (4) into a penal institution, or

16 (2) causes or permits another to bring an item of  
17 contraband listed in paragraphs (i) through (iv) or (xii)  
18 of subsection (d) (4) into a penal institution.

19 (b) A person commits the offense of unauthorized possession  
20 of contraband in a penal institution by an employee when a  
21 person who is an employee knowingly and without authority of  
22 any person designated or authorized to grant such authority  
23 possesses contraband listed in paragraphs (i) through (iv) or  
24 (xii) of subsection (d) (4) in a penal institution, regardless  
25 of the intent with which he possesses it.

26 (c) A person commits the offense of unauthorized delivery  
27 of contraband in a penal institution by an employee when a  
28 person who is an employee knowingly and without authority of  
29 any person designated or authorized to grant such authority:

30 (1) delivers or possesses with intent to deliver an  
31 item of contraband to any inmate of a penal institution, or

32 (2) conspires to deliver or solicits the delivery of an  
33 item of contraband to any inmate of a penal institution, or

1 (3) causes or permits the delivery of an item of  
2 contraband to any inmate of a penal institution, or

3 (4) permits another person to attempt to deliver an  
4 item of contraband to any inmate of a penal institution.

5 (d) For purpose of this Section, the words and phrases  
6 listed below shall be defined as follows:

7 (1) "Penal Institution" shall have the meaning  
8 ascribed to it in subsection (c)(1) of Section 31A-1.1 of  
9 this Code;

10 (2) "Employee" means any elected or appointed officer,  
11 trustee or employee of a penal institution or of the  
12 governing authority of the penal institution, or any person  
13 who performs services for the penal institution pursuant to  
14 contract with the penal institution or its governing  
15 authority.

16 (3) "Deliver" or "delivery" means the actual,  
17 constructive or attempted transfer of possession of an item  
18 of contraband, with or without consideration, whether or  
19 not there is an agency relationship;

20 (4) "Item of contraband" means any of the following:

21 (i) "Alcoholic liquor" as such term is defined in  
22 Section 1-3.05 of the Liquor Control Act of 1934.

23 (ii) "Cannabis" as such term is defined in  
24 subsection (a) of Section 3 of the Cannabis Control  
25 Act.

26 (iii) "Controlled substance" as such term is  
27 defined in the Illinois Controlled Substances Act.

28 (iv) "Hypodermic syringe" or hypodermic needle, or  
29 any instrument adapted for use of controlled  
30 substances or cannabis by subcutaneous injection.

31 (v) "Weapon" means any knife, dagger, dirk, billy,  
32 razor, stiletto, broken bottle, or other piece of glass  
33 which could be used as a dangerous weapon. Such term  
34 includes any of the devices or implements designated in

1 subsections (a) (1), (a) (3) and (a) (6) of Section 24-1  
2 of this Act, or any other dangerous weapon or  
3 instrument of like character.

4 (vi) "Firearm" means any device, by whatever name  
5 known, which is designed to expel a projectile or  
6 projectiles by the action of an explosion, expansion of  
7 gas or escape of gas, including but not limited to:

8 (A) any pneumatic gun, spring gun, or B-B gun  
9 which expels a single globular projectile not  
10 exceeding .18 inch in diameter; or

11 (B) any device used exclusively for signaling  
12 or safety and required or recommended by the United  
13 States Coast Guard or the Interstate Commerce  
14 Commission; or

15 (C) any device used exclusively for the firing  
16 of stud cartridges, explosive rivets or industrial  
17 ammunition; or

18 (D) any device which is powered by electrical  
19 charging units, such as batteries, and which fires  
20 one or several barbs attached to a length of wire  
21 and which, upon hitting a human, can send out  
22 current capable of disrupting the person's nervous  
23 system in such a manner as to render him incapable  
24 of normal functioning, commonly referred to as a  
25 stun gun or taser.

26 (vii) "Firearm ammunition" means any  
27 self-contained cartridge or shotgun shell, by whatever  
28 name known, which is designed to be used or adaptable  
29 to use in a firearm, including but not limited to:

30 (A) any ammunition exclusively designed for  
31 use with a device used exclusively for signaling or  
32 safety and required or recommended by the United  
33 States Coast Guard or the Interstate Commerce  
34 Commission; or

1 (B) any ammunition designed exclusively for  
2 use with a stud or rivet driver or other similar  
3 industrial ammunition.

4 (viii) "Explosive" means, but is not limited to,  
5 bomb, bombshell, grenade, bottle or other container  
6 containing an explosive substance of over one-quarter  
7 ounce for like purposes such as black powder bombs and  
8 Molotov cocktails or artillery projectiles.

9 (ix) "Tool to defeat security mechanisms" means,  
10 but is not limited to, handcuff or security restraint  
11 key, tool designed to pick locks, or device or  
12 instrument capable of unlocking handcuff or security  
13 restraints, doors to cells, rooms, gates or other areas  
14 of the penal institution.

15 (x) "Cutting tool" means, but is not limited to,  
16 hacksaw blade, wirecutter, or device, instrument or  
17 file capable of cutting through metal.

18 (xi) "Electronic contraband" means, but is not  
19 limited to, any electronic, video recording device,  
20 computer, or cellular communications equipment,  
21 including, but not limited to, cellular telephones,  
22 cellular telephone batteries, videotape recorders,  
23 pagers, computers, and computer peripheral equipment.

24 (xii) With respect to institutions and facilities  
25 of the Juvenile Division of the Illinois Department of  
26 Corrections only, video games that are harmful to  
27 minors and violent video games.

28 (5) "Harmful to minors", "video game", and "violent"  
29 have the meanings ascribed to them in Section 31A-1.1 of  
30 this Code.

31 (e) A violation of paragraph (a) or (b) of this Section  
32 involving a video game that is harmful to minors or a violent  
33 video game is a Class A misdemeanor. A violation of paragraphs  
34 (a) or (b) of this Section involving alcohol is a Class 4

1 felony. A violation of paragraph (a) or (b) of this Section  
2 involving cannabis is a Class 2 felony. A violation of  
3 paragraph (a) or (b) involving any amount of a controlled  
4 substance classified in Schedules III, IV or V of Article II of  
5 the Illinois Controlled Substances Act is a Class 1 felony. A  
6 violation of paragraph (a) or (b) of this Section involving any  
7 amount of a controlled substance classified in Schedules I or  
8 II of Article II of the Illinois Controlled Substances Act is a  
9 Class X felony. A violation of paragraph (a) or (b) involving  
10 an item of contraband listed in paragraph (iv) of subsection  
11 (d)(4) is a Class X felony. A violation of paragraph (a) or (b)  
12 involving an item of contraband listed in paragraph (v) or (xi)  
13 of subsection (d)(4) is a Class 1 felony. A violation of  
14 paragraph (a) or (b) involving an item of contraband listed in  
15 paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a  
16 Class X felony.

17 (f) A violation of paragraph (c) of this Section involving  
18 a video game that is harmful to minors or a violent video game  
19 is a Class A misdemeanor. A violation of paragraph (c) of this  
20 Section involving alcoholic liquor is a Class 3 felony. A  
21 violation of paragraph (c) involving cannabis is a Class 1  
22 felony. A violation of paragraph (c) involving any amount of a  
23 controlled substance classified in Schedules III, IV or V of  
24 Article II of the Illinois Controlled Substances Act is a Class  
25 X felony. A violation of paragraph (c) involving any amount of  
26 a controlled substance classified in Schedules I or II of  
27 Article II of the Illinois Controlled Substances Act is a Class  
28 X felony for which the minimum term of imprisonment shall be 8  
29 years. A violation of paragraph (c) involving an item of  
30 contraband listed in paragraph (iv) of subsection (d)(4) is a  
31 Class X felony for which the minimum term of imprisonment shall  
32 be 8 years. A violation of paragraph (c) involving an item of  
33 contraband listed in paragraph (v), (ix) or (x) of subsection  
34 (d)(4) is a Class X felony for which the minimum term of

1 imprisonment shall be 10 years. A violation of paragraph (c)  
2 involving an item of contraband listed in paragraphs (vi),  
3 (vii) or (viii) of subsection (d)(4) is a Class X felony for  
4 which the minimum term of imprisonment shall be 12 years.

5 (f-5) The Director of Corrections or chief administrative  
6 officer of an institution or facility of the Juvenile Division  
7 of the Department of Corrections may not authorize the bringing  
8 into or possession of a video game that is harmful to minors or  
9 a violent video game by an employee in an institution or  
10 facility of the Juvenile Division of the Department of  
11 Corrections.

12 (g) Items confiscated may be retained for use by the  
13 Department of Corrections or disposed of as deemed appropriate  
14 by the Chief Administrative Officer in accordance with  
15 Department rules or disposed of as required by law.

16 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)".