



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4538

by Rep. Terri Bryant

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 2012 concerning the Interference With Penal Institution Article of the Code. Provides that in addition to any other penalty provided by law, an additional one year of imprisonment shall be added to the sentence of a person who commits bringing contraband into a penal institution or unauthorized bringing or delivery of contraband into a penal institution by an employee by using an unmanned aerial vehicle. Provides that a person who knowingly and intentionally operates an unmanned aerial vehicle below the navigable airspace overlaying a State penal institution is guilty of a Class A misdemeanor. Provides that this provision does not apply to an employee who operates the unmanned aerial vehicle within the scope of his or her employment, or a person who receives prior permission from the penal institution to operate the unmanned aerial vehicle. Provides that a person who knowingly and intentionally captures images or data of a State penal institution through the operation of an unmanned aerial vehicle is guilty of a Class 4 felony. Provides that this provision does not apply to an employee who captures images or data of a State penal institution through the operation of an unmanned aerial vehicle within the scope of his or her employment, or a person who receives prior permission from the penal institution to capture images or data of a State penal institution through the operation of an unmanned aerial vehicle. Defines "State penal institution" and "unmanned aerial vehicle".

LRB099 16130 RLC 40455 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 5. The Criminal Code of 2012 is amended by changing
5 Sections 31A-0.1, 31A-1.1, and 31A-1.2 and by adding Sections
6 31A-1.3 and 31A-1.4 as follows:

7 (720 ILCS 5/31A-0.1)

8 Sec. 31A-0.1. Definitions. For the purposes of this
9 Article:

10 "Deliver" or "delivery" means the actual, constructive or
11 attempted transfer of possession of an item of contraband, with
12 or without consideration, whether or not there is an agency
13 relationship.

14 "Employee" means any elected or appointed officer, trustee
15 or employee of a penal institution or of the governing
16 authority of the penal institution, or any person who performs
17 services for the penal institution pursuant to contract with
18 the penal institution or its governing authority.

19 "Item of contraband" means any of the following:

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

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

1 (iii) "Controlled substance" as that term is defined in
2 the Illinois Controlled Substances Act.

3 (iii-a) "Methamphetamine" as that term is defined in
4 the Illinois Controlled Substances Act or the
5 Methamphetamine Control and Community Protection Act.

6 (iv) "Hypodermic syringe" or hypodermic needle, or any
7 instrument adapted for use of controlled substances or
8 cannabis by subcutaneous injection.

9 (v) "Weapon" means any knife, dagger, dirk, billy,
10 razor, stiletto, broken bottle, or other piece of glass
11 which could be used as a dangerous weapon. This term
12 includes any of the devices or implements designated in
13 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1 of
14 this Code, or any other dangerous weapon or instrument of
15 like character.

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

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

23 (B) any device used exclusively for signaling or
24 safety and required as recommended by the United States
25 Coast Guard or the Interstate Commerce Commission; or

26 (C) any device used exclusively for the firing of

1 stud cartridges, explosive rivets or industrial
2 ammunition; or

3 (D) any device which is powered by electrical
4 charging units, such as batteries, and which fires one
5 or several barbs attached to a length of wire and
6 which, upon hitting a human, can send out current
7 capable of disrupting the person's nervous system in
8 such a manner as to render him or her incapable of
9 normal functioning, commonly referred to as a stun gun
10 or taser.

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

15 (A) any ammunition exclusively designed for use
16 with a device used exclusively for signaling or safety
17 and required or recommended by the United States Coast
18 Guard or the Interstate Commerce Commission; or

19 (B) any ammunition designed exclusively for use
20 with a stud or rivet driver or other similar industrial
21 ammunition.

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

1 (ix) "Tool to defeat security mechanisms" means, but is
2 not limited to, handcuff or security restraint key, tool
3 designed to pick locks, popper, or any device or instrument
4 used to or capable of unlocking or preventing from locking
5 any handcuff or security restraints, doors to cells, rooms,
6 gates or other areas of the penal institution.

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

10 (xi) "Electronic contraband" for the purposes of
11 Section 31A-1.1 of this Article means, but is not limited
12 to, any electronic, video recording device, computer, or
13 cellular communications equipment, including, but not
14 limited to, cellular telephones, cellular telephone
15 batteries, videotape recorders, pagers, computers, and
16 computer peripheral equipment brought into or possessed in
17 a penal institution without the written authorization of
18 the Chief Administrative Officer. "Electronic contraband"
19 for the purposes of Section 31A-1.2 of this Article, means,
20 but is not limited to, any electronic, video recording
21 device, computer, or cellular communications equipment,
22 including, but not limited to, cellular telephones,
23 cellular telephone batteries, videotape recorders, pagers,
24 computers, and computer peripheral equipment.

25 "Penal institution" means any penitentiary, State farm,
26 reformatory, prison, jail, house of correction, police

1 detention area, half-way house or other institution or place
2 for the incarceration or custody of persons under sentence for
3 offenses awaiting trial or sentence for offenses, under arrest
4 for an offense, a violation of probation, a violation of
5 parole, a violation of aftercare release, or a violation of
6 mandatory supervised release, or awaiting a bail setting
7 hearing or preliminary hearing; provided that where the place
8 for incarceration or custody is housed within another public
9 building this Article shall not apply to that part of the
10 building unrelated to the incarceration or custody of persons.

11 "State penal institution" means a facility or institution
12 of the Department of Corrections.

13 "Unmanned aerial vehicle" means an unmanned aircraft or
14 drone and its associated elements, including, but not limited
15 to, communication links and the components that control the
16 unmanned aircraft that are required for the pilot in command to
17 operate safely and efficiently in the national airspace system.

18 (Source: P.A. 97-1108, eff. 1-1-13; 98-558, eff. 1-1-14.)

19 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

20 Sec. 31A-1.1. Bringing Contraband into a Penal
21 Institution; Possessing Contraband in a Penal Institution.

22 (a) A person commits bringing contraband into a penal
23 institution when he or she knowingly and without authority of
24 any person designated or authorized to grant this authority (1)
25 brings an item of contraband into a penal institution or (2)

1 causes another to bring an item of contraband into a penal
2 institution or (3) places an item of contraband in such
3 proximity to a penal institution as to give an inmate access to
4 the contraband.

5 (b) A person commits possessing contraband in a penal
6 institution when he or she knowingly possesses contraband in a
7 penal institution, regardless of the intent with which he or
8 she possesses it.

9 (c) (Blank).

10 (d) Sentence.

11 (1) Bringing into or possessing alcoholic liquor in a
12 penal institution is a Class 4 felony.

13 (2) Bringing into or possessing cannabis in a penal
14 institution is a Class 3 felony.

15 (3) Bringing into or possessing any amount of a
16 controlled substance classified in Schedules III, IV or V
17 of Article II of the Illinois Controlled Substances Act in
18 a penal institution is a Class 2 felony.

19 (4) Bringing into or possessing any amount of a
20 controlled substance classified in Schedules I or II of
21 Article II of the Illinois Controlled Substances Act in a
22 penal institution is a Class 1 felony.

23 (5) Bringing into or possessing a hypodermic syringe in
24 a penal institution is a Class 1 felony.

25 (6) Bringing into or possessing a weapon, tool to
26 defeat security mechanisms, cutting tool, or electronic

1 contraband in a penal institution is a Class 1 felony.

2 (7) Bringing into or possessing a firearm, firearm
3 ammunition, or explosive in a penal institution is a Class
4 X felony.

5 (8) If a person commits bringing contraband into a
6 penal institution by use of an unmanned aerial vehicle, in
7 addition to any other penalty provided in this subsection
8 (d), one year of imprisonment shall be added to the
9 sentence imposed by the court.

10 (e) It shall be an affirmative defense to subsection (b),
11 that the possession was specifically authorized by rule,
12 regulation, or directive of the governing authority of the
13 penal institution or order issued under it.

14 (f) It shall be an affirmative defense to subsection (a) (1)
15 and subsection (b) that the person bringing into or possessing
16 contraband in a penal institution had been arrested, and that
17 person possessed the contraband at the time of his or her
18 arrest, and that the contraband was brought into or possessed
19 in the penal institution by that person as a direct and
20 immediate result of his or her arrest.

21 (g) Items confiscated may be retained for use by the
22 Department of Corrections or disposed of as deemed appropriate
23 by the Chief Administrative Officer in accordance with
24 Department rules or disposed of as required by law.

25 (Source: P.A. 97-1108, eff. 1-1-13; 98-756, eff. 7-16-14.)

1 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

2 Sec. 31A-1.2. Unauthorized bringing of contraband into a
3 penal institution by an employee; unauthorized possessing of
4 contraband in a penal institution by an employee; unauthorized
5 delivery of contraband in a penal institution by an employee.

6 (a) A person commits unauthorized bringing of contraband
7 into a penal institution by an employee when a person who is an
8 employee knowingly and without authority of any person
9 designated or authorized to grant this authority:

10 (1) brings or attempts to bring an item of contraband
11 into a penal institution, or

12 (2) causes or permits another to bring an item of
13 contraband into a penal institution.

14 (b) A person commits unauthorized possession of contraband
15 in a penal institution by an employee when a person who is an
16 employee knowingly and without authority of any person
17 designated or authorized to grant this authority possesses an
18 item of contraband in a penal institution, regardless of the
19 intent with which he or she possesses it.

20 (c) A person commits unauthorized delivery of contraband in
21 a penal institution by an employee when a person who is an
22 employee knowingly and without authority of any person
23 designated or authorized to grant this authority:

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

26 (2) conspires to deliver or solicits the delivery of an

1 item of contraband to any inmate of a penal institution, or

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

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

6 (d) For a violation of subsection (a) or (b) involving a
7 cellular telephone or cellular telephone battery, the
8 defendant must intend to provide the cellular telephone or
9 cellular telephone battery to any inmate in a penal
10 institution, or to use the cellular telephone or cellular
11 telephone battery at the direction of an inmate or for the
12 benefit of any inmate of a penal institution.

13 (e) Sentence.

14 (1) A violation of paragraphs (a) or (b) of this
15 Section involving alcohol is a Class 4 felony. A violation
16 of paragraph (a) or (b) of this Section involving cannabis
17 is a Class 2 felony. A violation of paragraph (a) or (b)
18 involving any amount of a controlled substance classified
19 in Schedules III, IV or V of Article II of the Illinois
20 Controlled Substances Act is a Class 1 felony. A violation
21 of paragraph (a) or (b) of this Section involving any
22 amount of a controlled substance classified in Schedules I
23 or II of Article II of the Illinois Controlled Substances
24 Act is a Class X felony. A violation of paragraph (a) or
25 (b) involving a hypodermic syringe is a Class X felony. A
26 violation of paragraph (a) or (b) involving a weapon, tool

1 to defeat security mechanisms, cutting tool, or electronic
2 contraband is a Class 1 felony. A violation of paragraph
3 (a) or (b) involving a firearm, firearm ammunition, or
4 explosive is a Class X felony.

5 (2) A violation of paragraph (c) of this Section
6 involving alcoholic liquor is a Class 3 felony. A violation
7 of paragraph (c) involving cannabis is a Class 1 felony. A
8 violation of paragraph (c) involving any amount of a
9 controlled substance classified in Schedules III, IV or V
10 of Article II of the Illinois Controlled Substances Act is
11 a Class X felony. A violation of paragraph (c) involving
12 any amount of a controlled substance classified in
13 Schedules I or II of Article II of the Illinois Controlled
14 Substances Act is a Class X felony for which the minimum
15 term of imprisonment shall be 8 years. A violation of
16 paragraph (c) involving a hypodermic syringe is a Class X
17 felony for which the minimum term of imprisonment shall be
18 8 years. A violation of paragraph (c) involving a weapon,
19 tool to defeat security mechanisms, cutting tool, or
20 electronic contraband is a Class X felony for which the
21 minimum term of imprisonment shall be 10 years. A violation
22 of paragraph (c) involving a firearm, firearm ammunition,
23 or explosive is a Class X felony for which the minimum term
24 of imprisonment shall be 12 years.

25 (3) If a person violates this Section by use of an
26 unmanned aerial vehicle, in addition to any other penalty

1 provided in this subsection (e), one year of imprisonment
2 shall be added to the sentence imposed by the court.

3 (f) Items confiscated may be retained for use by the
4 Department of Corrections or disposed of as deemed appropriate
5 by the Chief Administrative Officer in accordance with
6 Department rules or disposed of as required by law.

7 (g) For a violation of subsection (a) or (b) involving
8 alcoholic liquor, a weapon, firearm, firearm ammunition, tool
9 to defeat security mechanisms, cutting tool, or electronic
10 contraband, the items shall not be considered to be in a penal
11 institution when they are secured in an employee's locked,
12 private motor vehicle parked on the grounds of a penal
13 institution.

14 (Source: P.A. 96-328, eff. 8-11-09; 96-1112, eff. 1-1-11;
15 96-1325, eff. 7-27-10; 97-333, eff. 8-12-11; 97-1108, eff.
16 1-1-13.)

17 (720 ILCS 5/31A-1.3 new)

18 Sec. 31A-1.3. Operating an unmanned aerial vehicle below
19 the navigable airspace overlaying a State penal institution.

20 (a) Except as provided in subsection (b) of this Section, a
21 person commits operating an unmanned aerial vehicle below the
22 navigable airspace overlaying a State penal institution when he
23 or she knowingly and intentionally operates an unmanned aerial
24 vehicle below the navigable airspace, as defined in 49 U.S.C.
25 40102, overlaying a State penal institution.

1 (b) This Section does not apply to an employee who operates
2 the unmanned aerial vehicle within the scope of his or her
3 employment, or a person who receives prior permission from the
4 penal institution to operate the unmanned aerial vehicle.

5 (c) Sentence. A violation of this Section is a Class A
6 misdemeanor.

7 (720 ILCS 5/31A-1.4 new)

8 Sec. 31A-1.4. Capturing images or data of a State penal
9 institution through the operation of an unmanned aerial
10 vehicle.

11 (a) Except as provided in subsection (b) of this Section, a
12 person commits capturing images or data of a State penal
13 institution through the operation of an unmanned aerial vehicle
14 when he or she knowingly and intentionally captures images or
15 data of a State penal institution through the operation of an
16 unmanned aerial vehicle.

17 (b) This Section does not apply to an employee who captures
18 images or data of a State penal institution through the
19 operation of an unmanned aerial vehicle within the scope of his
20 or her employment, or a person who receives prior permission
21 from the penal institution to capture images or data of a State
22 penal institution through the operation of an unmanned aerial
23 vehicle.

24 (c) Sentence. A violation of this Section is a Class 4
25 felony.

1 INDEX

2 Statutes amended in order of appearance

3 720 ILCS 5/31A-0.1

4 720 ILCS 5/31A-1.1 from Ch. 38, par. 31A-1.1

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

6 720 ILCS 5/31A-1.3 new

7 720 ILCS 5/31A-1.4 new