



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4524

Introduced 2/5/2020, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-0.1

730 ILCS 5/3-6-2

from Ch. 38, par. 1003-6-2

Amends the Criminal Code of 2012. In the Interference with Penal Institution Article of the Code, exempts from the definition of "electronic contraband" electronic, video recording devices, computers, and computer peripheral equipment used in online educational courses approved by the Director of Corrections or the chief administrative officer of the penal institution. Defines "Internet" and "online". Amends the Unified Code of Corrections. Provides that the educational programs for all committed persons provided by the Department of Corrections include educational courses taught or provided online.

LRB101 16558 RLC 65942 b

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 Section 31A-0.1 as follows:

6 (720 ILCS 5/31A-0.1)

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

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

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

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

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

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

23 (iii) "Controlled substance" as that term is defined in

1 the Illinois Controlled Substances Act.

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

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

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

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

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

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

25 (C) any device used exclusively for the firing of
26 stud cartridges, explosive rivets or industrial

1 ammunition; or

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

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

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

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

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

26 (ix) "Tool to defeat security mechanisms" means, but is

1 not limited to, handcuff or security restraint key, tool
2 designed to pick locks, popper, or any device or instrument
3 used to or capable of unlocking or preventing from locking
4 any handcuff or security restraints, doors to cells, rooms,
5 gates or other areas of the penal institution.

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

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

1 Corrections or the chief administrative officer of the
2 penal institution. In this definition, "Internet" means an
3 interactive computer service or system or an information
4 service, system, or access software provider that provides
5 or enables computer access by multiple users to a computer
6 server; and "online" means the use of any electronic device
7 to access the Internet.

8 "Penal institution" means any penitentiary, State farm,
9 reformatory, prison, jail, house of correction, police
10 detention area, half-way house or other institution or place
11 for the incarceration or custody of persons under sentence for
12 offenses awaiting trial or sentence for offenses, under arrest
13 for an offense, a violation of probation, a violation of
14 parole, a violation of aftercare release, or a violation of
15 mandatory supervised release, or awaiting a bail setting
16 hearing or preliminary hearing; provided that where the place
17 for incarceration or custody is housed within another public
18 building this Article shall not apply to that part of the
19 building unrelated to the incarceration or custody of persons.

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

21 Section 10. The Unified Code of Corrections is amended by
22 changing Section 3-6-2 as follows:

23 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

24 Sec. 3-6-2. Institutions and facility administration.

1 (a) Each institution and facility of the Department shall
2 be administered by a chief administrative officer appointed by
3 the Director. A chief administrative officer shall be
4 responsible for all persons assigned to the institution or
5 facility. The chief administrative officer shall administer
6 the programs of the Department for the custody and treatment of
7 such persons.

8 (b) The chief administrative officer shall have such
9 assistants as the Department may assign.

10 (c) The Director or Assistant Director shall have the
11 emergency powers to temporarily transfer individuals without
12 formal procedures to any State, county, municipal or regional
13 correctional or detention institution or facility in the State,
14 subject to the acceptance of such receiving institution or
15 facility, or to designate any reasonably secure place in the
16 State as such an institution or facility and to make transfers
17 thereto. However, transfers made under emergency powers shall
18 be reviewed as soon as practicable under Article 8, and shall
19 be subject to Section 5-905 of the Juvenile Court Act of 1987.
20 This Section shall not apply to transfers to the Department of
21 Human Services which are provided for under Section 3-8-5 or
22 Section 3-10-5.

23 (d) The Department shall provide educational programs for
24 all committed persons, including educational courses taught or
25 provided online as defined in Section 31A-0.1 of the Criminal
26 Code of 2012, so that all persons have an opportunity to attain

1 the achievement level equivalent to the completion of the
2 twelfth grade in the public school system in this State. Other
3 higher levels of attainment shall be encouraged and
4 professional instruction shall be maintained wherever
5 possible. The Department may establish programs of mandatory
6 education and may establish rules and regulations for the
7 administration of such programs. A person committed to the
8 Department who, during the period of his or her incarceration,
9 participates in an educational program provided by or through
10 the Department and through that program is awarded or earns the
11 number of hours of credit required for the award of an
12 associate, baccalaureate, or higher degree from a community
13 college, college, or university located in Illinois shall
14 reimburse the State, through the Department, for the costs
15 incurred by the State in providing that person during his or
16 her incarceration with the education that qualifies him or her
17 for the award of that degree. The costs for which reimbursement
18 is required under this subsection shall be determined and
19 computed by the Department under rules and regulations that it
20 shall establish for that purpose. However, interest at the rate
21 of 6% per annum shall be charged on the balance of those costs
22 from time to time remaining unpaid, from the date of the
23 person's parole, mandatory supervised release, or release
24 constituting a final termination of his or her commitment to
25 the Department until paid.

26 (d-5) A person committed to the Department is entitled to

1 confidential testing for infection with human immunodeficiency
2 virus (HIV) and to counseling in connection with such testing,
3 with no copay to the committed person. A person committed to
4 the Department who has tested positive for infection with HIV
5 is entitled to medical care while incarcerated, counseling, and
6 referrals to support services, in connection with that positive
7 test result. Implementation of this subsection (d-5) is subject
8 to appropriation.

9 (e) A person committed to the Department who becomes in
10 need of medical or surgical treatment but is incapable of
11 giving consent thereto shall receive such medical or surgical
12 treatment by the chief administrative officer consenting on the
13 person's behalf. Before the chief administrative officer
14 consents, he or she shall obtain the advice of one or more
15 physicians licensed to practice medicine in all its branches in
16 this State. If such physician or physicians advise:

17 (1) that immediate medical or surgical treatment is
18 required relative to a condition threatening to cause
19 death, damage or impairment to bodily functions, or
20 disfigurement; and

21 (2) that the person is not capable of giving consent to
22 such treatment; the chief administrative officer may give
23 consent for such medical or surgical treatment, and such
24 consent shall be deemed to be the consent of the person for
25 all purposes, including, but not limited to, the authority
26 of a physician to give such treatment.

1 (e-5) If a physician providing medical care to a committed
2 person on behalf of the Department advises the chief
3 administrative officer that the committed person's mental or
4 physical health has deteriorated as a result of the cessation
5 of ingestion of food or liquid to the point where medical or
6 surgical treatment is required to prevent death, damage, or
7 impairment to bodily functions, the chief administrative
8 officer may authorize such medical or surgical treatment.

9 (f) In the event that the person requires medical care and
10 treatment at a place other than the institution or facility,
11 the person may be removed therefrom under conditions prescribed
12 by the Department. Neither the Department of Corrections nor
13 the Department of Juvenile Justice may require a committed
14 person or person committed to any facility operated by the
15 Department of Juvenile Justice, as set forth in Section
16 3-2.5-15 of this Code, to pay any co-payment for receiving
17 medical or dental services.

18 (f-5) The Department shall comply with the Health Care
19 Violence Prevention Act.

20 (g) Any person having sole custody of a child at the time
21 of commitment or any woman giving birth to a child after her
22 commitment, may arrange through the Department of Children and
23 Family Services for suitable placement of the child outside of
24 the Department of Corrections. The Director of the Department
25 of Corrections may determine that there are special reasons why
26 the child should continue in the custody of the mother until

1 the child is 6 years old.

2 (h) The Department may provide Family Responsibility
3 Services which may consist of, but not be limited to the
4 following:

5 (1) family advocacy counseling;

6 (2) parent self-help group;

7 (3) parenting skills training;

8 (4) parent and child overnight program;

9 (5) parent and child reunification counseling, either
10 separately or together, preceding the inmate's release;
11 and

12 (6) a prerelease reunification staffing involving the
13 family advocate, the inmate and the child's counselor, or
14 both and the inmate.

15 (i) (Blank).

16 (j) Any person convicted of a sex offense as defined in the
17 Sex Offender Management Board Act shall be required to receive
18 a sex offender evaluation prior to release into the community
19 from the Department of Corrections. The sex offender evaluation
20 shall be conducted in conformance with the standards and
21 guidelines developed under the Sex Offender Management Board
22 Act and by an evaluator approved by the Board.

23 (k) Any minor committed to the Department of Juvenile
24 Justice for a sex offense as defined by the Sex Offender
25 Management Board Act shall be required to undergo sex offender
26 treatment by a treatment provider approved by the Board and

1 conducted in conformance with the Sex Offender Management Board
2 Act.

3 (1) Prior to the release of any inmate committed to a
4 facility of the Department or the Department of Juvenile
5 Justice, the Department must provide the inmate with
6 appropriate information verbally, in writing, by video, or
7 other electronic means, concerning HIV and AIDS. The Department
8 shall develop the informational materials in consultation with
9 the Department of Public Health. At the same time, the
10 Department must also offer the committed person the option of
11 testing for infection with human immunodeficiency virus (HIV),
12 with no copayment for the test. Pre-test information shall be
13 provided to the committed person and informed consent obtained
14 as required in subsection (d) of Section 3 and Section 5 of the
15 AIDS Confidentiality Act. The Department may conduct opt-out
16 HIV testing as defined in Section 4 of the AIDS Confidentiality
17 Act. If the Department conducts opt-out HIV testing, the
18 Department shall place signs in English, Spanish and other
19 languages as needed in multiple, highly visible locations in
20 the area where HIV testing is conducted informing inmates that
21 they will be tested for HIV unless they refuse, and refusal or
22 acceptance of testing shall be documented in the inmate's
23 medical record. The Department shall follow procedures
24 established by the Department of Public Health to conduct HIV
25 testing and testing to confirm positive HIV test results. All
26 testing must be conducted by medical personnel, but pre-test

1 and other information may be provided by committed persons who
2 have received appropriate training. The Department, in
3 conjunction with the Department of Public Health, shall develop
4 a plan that complies with the AIDS Confidentiality Act to
5 deliver confidentially all positive or negative HIV test
6 results to inmates or former inmates. Nothing in this Section
7 shall require the Department to offer HIV testing to an inmate
8 who is known to be infected with HIV, or who has been tested
9 for HIV within the previous 180 days and whose documented HIV
10 test result is available to the Department electronically. The
11 testing provided under this subsection (1) shall consist of a
12 test approved by the Illinois Department of Public Health to
13 determine the presence of HIV infection, based upon
14 recommendations of the United States Centers for Disease
15 Control and Prevention. If the test result is positive, a
16 reliable supplemental test based upon recommendations of the
17 United States Centers for Disease Control and Prevention shall
18 be administered.

19 Prior to the release of an inmate who the Department knows
20 has tested positive for infection with HIV, the Department in a
21 timely manner shall offer the inmate transitional case
22 management, including referrals to other support services.

23 (m) The chief administrative officer of each institution or
24 facility of the Department shall make a room in the institution
25 or facility available for substance use disorder services to be
26 provided to committed persons on a voluntary basis. The

1 services shall be provided for one hour once a week at a time
2 specified by the chief administrative officer of the
3 institution or facility if the following conditions are met:

4 (1) the substance use disorder service contacts the
5 chief administrative officer to arrange the meeting;

6 (2) the committed person may attend the meeting for
7 substance use disorder services only if the committed
8 person uses pre-existing free time already available to the
9 committed person;

10 (3) all disciplinary and other rules of the institution
11 or facility remain in effect;

12 (4) the committed person is not given any additional
13 privileges to attend substance use disorder services;

14 (5) if the substance use disorder service does not
15 arrange for scheduling a meeting for that week, no
16 substance use disorder services shall be provided to the
17 committed person in the institution or facility for that
18 week;

19 (6) the number of committed persons who may attend a
20 substance use disorder meeting shall not exceed 40 during
21 any session held at the correctional institution or
22 facility;

23 (7) a volunteer seeking to provide substance use
24 disorder services under this subsection (m) must submit an
25 application to the Department of Corrections under
26 existing Department rules and the Department must review

1 the application within 60 days after submission of the
2 application to the Department; and

3 (8) each institution and facility of the Department
4 shall manage the substance use disorder services program
5 according to its own processes and procedures.

6 For the purposes of this subsection (m), "substance use
7 disorder services" means recovery services for persons with
8 substance use disorders provided by volunteers of recovery
9 support services recognized by the Department of Human
10 Services.

11 (Source: P.A. 100-759, eff. 1-1-19; 100-1051, eff. 1-1-19;
12 101-81, eff. 7-12-19; 101-86, eff. 1-1-20.)