



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB5132

Introduced 2/8/2024, by Rep. Dave Severin - Patrick Windhorst  
- David Friess

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-0.1	
720 ILCS 5/31A-1.1	from Ch. 38, par. 31A-1.1
720 ILCS 5/31A-1.2	from Ch. 38, par. 31A-1.2
720 ILCS 5/31A-1.3 new	
720 ILCS 5/31A-1.4 new	

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 overlying 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".

LRB103 36012 RLC 66099 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  
5 changing Sections 31A-0.1, 31A-1.1, and 31A-1.2 and by adding  
6 Sections 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,  
12 with or without consideration, whether or not there is an  
13 agency 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  
2 in 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  
19 gas or escape of gas, including but not limited to:

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

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

1 (C) any device used exclusively for the firing of  
2 stud cartridges, explosive rivets or industrial  
3 ammunition; or

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

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

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

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

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

1 or artillery projectiles.

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

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

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

1 equipment.

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

15 "State penal institution" means a facility or institution  
16 of the Department of Corrections.

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

23 (Source: P.A. 101-652, eff. 1-1-23.)

24 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

25 Sec. 31A-1.1. Bringing Contraband into a Penal

1 Institution; Possessing Contraband in a Penal Institution.

2 (a) A person commits bringing contraband into a penal  
3 institution when he or she knowingly and without authority of  
4 any person designated or authorized to grant this authority  
5 (1) brings an item of contraband into a penal institution or  
6 (2) causes another to bring an item of contraband into a penal  
7 institution or (3) places an item of contraband in such  
8 proximity to a penal institution as to give an inmate access to  
9 the contraband.

10 (b) A person commits possessing contraband in a penal  
11 institution when he or she knowingly possesses contraband in a  
12 penal institution, regardless of the intent with which he or  
13 she possesses it.

14 (c) (Blank).

15 (d) Sentence.

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

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

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

24 (4) Bringing into or possessing any amount of a  
25 controlled substance classified in Schedules I or II of  
26 Article II of the Illinois Controlled Substances Act in a

1 penal institution is a Class 1 felony.

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

4 (6) Bringing into or possessing a weapon, tool to  
5 defeat security mechanisms, cutting tool, or electronic  
6 contraband in a penal institution is a Class 1 felony.

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

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

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

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

26 (g) Items confiscated may be retained for use by the



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

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

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

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

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

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

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

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

24 (c) A person commits unauthorized delivery of contraband  
25 in a penal institution by an employee when a person who is an

1 employee knowingly and without authority of any person  
2 designated or authorized to grant this authority:

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

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

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

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

13 (d) For a violation of subsection (a) or (b) involving a  
14 cellular telephone or cellular telephone battery, the  
15 defendant must intend to provide the cellular telephone or  
16 cellular telephone battery to any inmate in a penal  
17 institution, or to use the cellular telephone or cellular  
18 telephone battery at the direction of an inmate or for the  
19 benefit of any inmate of a penal institution.

20 (e) Sentence.

21 (1) A violation of paragraphs (a) or (b) of this  
22 Section involving alcohol is a Class 4 felony. A violation  
23 of paragraph (a) or (b) of this Section involving cannabis  
24 is a Class 2 felony. A violation of paragraph (a) or (b)  
25 involving any amount of a controlled substance classified  
26 in Schedules III, IV or V of Article II of the Illinois

1           Controlled Substances Act is a Class 1 felony. A violation  
2           of paragraph (a) or (b) of this Section involving any  
3           amount of a controlled substance classified in Schedules I  
4           or II of Article II of the Illinois Controlled Substances  
5           Act is a Class X felony. A violation of paragraph (a) or  
6           (b) involving a hypodermic syringe is a Class X felony. A  
7           violation of paragraph (a) or (b) involving a weapon, tool  
8           to defeat security mechanisms, cutting tool, or electronic  
9           contraband is a Class 1 felony. A violation of paragraph  
10          (a) or (b) involving a firearm, firearm ammunition, or  
11          explosive is a Class X felony.

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

1 mechanisms, cutting tool, or electronic contraband is a  
2 Class X felony for which the minimum term of imprisonment  
3 shall be 10 years. A violation of paragraph (c) involving  
4 a firearm, firearm ammunition, or explosive is a Class X  
5 felony for which the minimum term of imprisonment shall be  
6 12 years.

7 (3) If a person violates this Section by use of an  
8 unmanned aerial vehicle, in addition to any other penalty  
9 provided in this subsection (e), one year of imprisonment  
10 shall be added to the sentence imposed by the court.

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

15 (g) For a violation of subsection (a) or (b) involving  
16 alcoholic liquor, a weapon, firearm, firearm ammunition, tool  
17 to defeat security mechanisms, cutting tool, or electronic  
18 contraband, the items shall not be considered to be in a penal  
19 institution when they are secured in an employee's locked,  
20 private motor vehicle parked on the grounds of a penal  
21 institution.

22 (Source: P.A. 96-328, eff. 8-11-09; 96-1112, eff. 1-1-11;  
23 96-1325, eff. 7-27-10; 97-333, eff. 8-12-11; 97-1108, eff.  
24 1-1-13.)

25 (720 ILCS 5/31A-1.3 new)

1       Sec. 31A-1.3. Operating an unmanned aerial vehicle below  
2 the navigable airspace overlying a State penal institution.

3       (a) Except as provided in subsection (b) of this Section,  
4 a person commits operating an unmanned aerial vehicle below  
5 the navigable airspace overlying a State penal institution  
6 when he or she knowingly and intentionally operates an  
7 unmanned aerial vehicle below the navigable airspace, as  
8 defined in 49 U.S.C. 40102, overlying a State penal  
9 institution.

10       (b) This Section does not apply to an employee who  
11 operates the unmanned aerial vehicle within the scope of his  
12 or her employment, or a person who receives prior permission  
13 from the penal institution to operate the unmanned aerial  
14 vehicle.

15       (c) Sentence. A violation of this Section is a Class A  
16 misdemeanor.

17       (720 ILCS 5/31A-1.4 new)

18       Sec. 31A-1.4. Capturing images or data of a State penal  
19 institution through the operation of an unmanned aerial  
20 vehicle.

21       (a) Except as provided in subsection (b) of this Section,  
22 a person commits capturing images or data of a State penal  
23 institution through the operation of an unmanned aerial  
24 vehicle when he or she knowingly and intentionally captures  
25 images or data of a State penal institution through the

1 operation of an unmanned aerial vehicle.

2 (b) This Section does not apply to an employee who  
3 captures images or data of a State penal institution through  
4 the operation of an unmanned aerial vehicle within the scope  
5 of his or her employment, or a person who receives prior  
6 permission from the penal institution to capture images or  
7 data of a State penal institution through the operation of an  
8 unmanned aerial vehicle.

9 (c) Sentence. A violation of this Section is a Class 4  
10 felony.