



Rep. Terri Bryant

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09900HB4538ham001

LRB099 16130 MRW 45395 a

1 AMENDMENT TO HOUSE BILL 4538

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4538 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by  
5 changing Sections 31A-1.1 and 31A-1.2 and by adding Sections  
6 2-2.5, 2-11.5, 2-21.5, 2-23, 21-5.3, and 31A-1.3 as follows:

7 (720 ILCS 5/2-2.5 new)

8 Sec. 2-2.5. Aircraft.

9 "Aircraft" means any contrivance invented, used, or  
10 designed to navigate, or fly in, the air.

11 (720 ILCS 5/2-11.5 new)

12 Sec. 2-11.5. Navigable airspace.

13 "Navigable airspace" has the meaning ascribed to it in 49  
14 U.S.C. 40102.

1 (720 ILCS 5/2-21.5 new)

2 Sec. 2-21.5. State penal institution.

3 "State penal institution" means a facility or institution  
4 of the Department of Corrections or Department of Juvenile  
5 Justice.

6 (720 ILCS 5/2-23 new)

7 Sec. 2-23. Unmanned aerial vehicle.

8 "Unmanned aerial vehicle" means an unmanned aircraft or  
9 drone and its associated elements, including, but not limited  
10 to, communication links and the components that control the  
11 unmanned aircraft that are required for the pilot in command to  
12 operate safely and efficiently in the national airspace system.

13 (720 ILCS 5/21-5.3 new)

14 Sec. 21-5.3. Criminal trespass to a State penal institution  
15 with an aircraft or unmanned aerial vehicle.

16 (a) Except as provided in subsection (b) of this Section, a  
17 person commits criminal trespass to a State penal institution  
18 with an aircraft or unmanned aerial vehicle when he or she,  
19 without lawful authority, knowingly and intentionally operates  
20 an aircraft or unmanned aerial vehicle below the navigable  
21 airspace overlaying a State penal institution.

22 (b) This Section does not apply to an employee of the State  
23 penal institution who operates the aircraft or unmanned aerial  
24 vehicle within the scope of his or her employment, or a person

1 who receives prior permission from the State penal institution  
2 to operate the aircraft or unmanned aerial vehicle.

3 (c) Sentence. A violation of this Section is a Class A  
4 misdemeanor.

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

6 Sec. 31A-1.1. Bringing Contraband into a Penal  
7 Institution; Possessing Contraband in a Penal Institution.

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

16 (b) A person commits possessing contraband in a penal  
17 institution when he or she knowingly possesses contraband in a  
18 penal institution, regardless of the intent with which he or  
19 she possesses it.

20 (c) (Blank).

21 (d) Sentence.

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

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

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

5           (4) Bringing into or possessing any amount of a  
6 controlled substance classified in Schedules I or II of  
7 Article II of the Illinois Controlled Substances Act in a  
8 penal institution is a Class 1 felony.

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

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

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

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

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

26           (f) It shall be an affirmative defense to subsection (a) (1)

1 and subsection (b) that the person bringing into or possessing  
2 contraband in a penal institution had been arrested, and that  
3 person possessed the contraband at the time of his or her  
4 arrest, and that the contraband was brought into or possessed  
5 in the penal institution by that person as a direct and  
6 immediate result of his or her arrest.

7 (g) Items confiscated may be retained for use by the  
8 Department of Corrections or disposed of as deemed appropriate  
9 by the Chief Administrative Officer in accordance with  
10 Department rules or disposed of as required by law.

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

12 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

13 Sec. 31A-1.2. Unauthorized bringing of contraband into a  
14 penal institution by an employee; unauthorized possessing of  
15 contraband in a penal institution by an employee; unauthorized  
16 delivery of contraband in a penal institution by an employee.

17 (a) A person commits unauthorized bringing of contraband  
18 into a penal institution by an employee when a person who is an  
19 employee knowingly and without authority of any person  
20 designated or authorized to grant this authority:

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

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

25 (b) A person commits unauthorized possession of contraband

1 in a penal institution by an employee when a person who is an  
2 employee knowingly and without authority of any person  
3 designated or authorized to grant this authority possesses an  
4 item of contraband in a penal institution, regardless of the  
5 intent with which he or she possesses it.

6 (c) A person commits unauthorized delivery of contraband in  
7 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) delivers or possesses with intent to deliver an  
11 item of contraband to any inmate of a penal institution, or

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

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

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

18 (d) For a violation of subsection (a) or (b) involving a  
19 cellular telephone or cellular telephone battery, the  
20 defendant must intend to provide the cellular telephone or  
21 cellular telephone battery to any inmate in a penal  
22 institution, or to use the cellular telephone or cellular  
23 telephone battery at the direction of an inmate or for the  
24 benefit of any inmate of a penal institution.

25 (e) Sentence.

26 (1) A violation of paragraphs (a) or (b) of this

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

17 (2) A violation of paragraph (c) of this Section  
18 involving alcoholic liquor is a Class 3 felony. A violation  
19 of paragraph (c) involving cannabis is a Class 1 felony. A  
20 violation of paragraph (c) involving any amount of a  
21 controlled substance classified in Schedules III, IV or V  
22 of Article II of the Illinois Controlled Substances Act is  
23 a Class X felony. A violation of paragraph (c) involving  
24 any amount of a controlled substance classified in  
25 Schedules I or II of Article II of the Illinois Controlled  
26 Substances Act is a Class X felony for which the minimum

1 term of imprisonment shall be 8 years. A violation of  
2 paragraph (c) involving a hypodermic syringe is a Class X  
3 felony for which the minimum term of imprisonment shall be  
4 8 years. A violation of paragraph (c) involving a weapon,  
5 tool to defeat security mechanisms, cutting tool, or  
6 electronic contraband is a Class X felony for which the  
7 minimum term of imprisonment shall be 10 years. A violation  
8 of paragraph (c) involving a firearm, firearm ammunition,  
9 or explosive is a Class X felony for which the minimum term  
10 of imprisonment shall be 12 years.

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

15 (f) Items confiscated may be retained for use by the  
16 Department of Corrections or disposed of as deemed appropriate  
17 by the Chief Administrative Officer in accordance with  
18 Department rules or disposed of as required by law.

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

26 (Source: P.A. 96-328, eff. 8-11-09; 96-1112, eff. 1-1-11;



1 96-1325, eff. 7-27-10; 97-333, eff. 8-12-11; 97-1108, eff.  
2 1-1-13.)

3 (720 ILCS 5/31A-1.3 new)

4 Sec. 31A-1.3. Capturing images or data of a State penal  
5 institution through the operation of an aircraft or unmanned  
6 aerial vehicle.

7 (a) Except as provided in subsection (b) of this Section, a  
8 person commits capturing images or data of a State penal  
9 institution through the operation of an aircraft or unmanned  
10 aerial vehicle when he or she, without lawful authority,  
11 knowingly and intentionally operates an aircraft or unmanned  
12 aerial vehicle below the navigable airspace overlaying a State  
13 penal institution and captures images or data of the State  
14 penal institution through the operation of the aircraft or  
15 unmanned aerial vehicle, with the intent to commit, facilitate,  
16 or aid in the commission of a violation of this Article or  
17 Section 31-6 or 31-7 of the Criminal Code of 2012.

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

1           (c) Sentence. A violation of this Section is a Class 4  
2           felony."