



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2935

by Rep. Thomas M. Bennett

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 2012. Includes in the definition of "item of contraband", a recording device and broadcast equipment. Defines "recording device" and "broadcast equipment". Includes in the definition of "penal institution" the airspace above the ground on which a penal institution is sited. Provides that possessing contraband that is a recording device, broadcast equipment, or electronic contraband in a penal institution, on penal institution property, or within the proximity of penal institution property with the intent to disrupt safety, security, or operations of the penal institution, is a Class 2 felony. Provides that a person commits unauthorized possession of contraband in a penal institution by an employee when a person who is an employee knowingly and without authority of any person designated or authorized to grant this authority delivers, possesses, conspires to deliver or solicits delivery, causes or permits delivery, or permits another to attempt to deliver, any item of contraband within the proximity of penal institution property with the intent to disrupt safety, security, or operations of the penal institution. Provides that placing or causing to be placed, or allowing another to place or cause to place a recording device, broadcast equipment, or electronic contraband on penal institution property or within the proximity of penal institution property with the intent to disrupt safety, security, or operations of the penal institution is a Class 2 felony. Provides that if the intent is to deliver the contraband to an inmate, it is a Class 4 felony.

LRB100 10360 RLC 20552 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 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 (i-d) "Broadcast equipment" means, but is not limited
22 to, any hardware, instrument, apparatus, software, or item
23 that contains a camera or recording device of any type, or

1 is capable of capturing, transmitting, intercepting, or
2 projecting any sound, image, pulse wave, radio signal,
3 television signal, or radio signal and television signal.

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

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

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

11 (iv) "Hypodermic syringe" or hypodermic needle, or any
12 instrument adapted for use of controlled substances or
13 cannabis by subcutaneous injection.

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

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

25 (A) any pneumatic gun, spring gun, or B-B gun which
26 expels a single globular projectile not exceeding .18

1 inch in diameter; or

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

5 (C) any device used exclusively for the firing of
6 stud cartridges, explosive rivets or industrial
7 ammunition; or

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

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

20 (A) any ammunition exclusively designed for use
21 with a device used exclusively for signaling or safety
22 and required or recommended by the United States Coast
23 Guard or the Interstate Commerce Commission; or

24 (B) any ammunition designed exclusively for use
25 with a stud or rivet driver or other similar industrial
26 ammunition.

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

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

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

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

1 electronic, software operated device, video recording
2 device, computer, radio or radio-operated device, or
3 cellular communications equipment, including, but not
4 limited to, cellular telephones, cellular telephone
5 batteries, videotape recorders, pagers, computers, and
6 computer peripheral equipment.

7 (xii) "Recording device" means, but is not limited to,
8 any instrument, apparatus, method, or device that is
9 capable of receiving, recording, intercepting, or
10 capturing any sounds or images, including, but not limited
11 to, magnetic, digital, chemical, thermodynamic,
12 photochemical, mechanical, magnetic, optical, electrical,
13 or emulsion.

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

26 "Penal institution" includes the airspace above the ground on

1 which a penal institution is sited.

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

3 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

4 Sec. 31A-1.1. Bringing Contraband into a Penal
5 Institution; Possessing Contraband in a Penal Institution.

6 (a) A person commits bringing contraband into a penal
7 institution when he or she knowingly and without authority of
8 any person designated or authorized to grant this authority

9 (1) brings an item of contraband into a penal
10 institution; ~~or~~

11 (2) causes another to bring an item of contraband into
12 a penal institution; ~~or~~

13 (3) places an item of contraband in such proximity to a
14 penal institution as to give an inmate access to the
15 contraband; ~~or-~~

16 (4) places or causes to be placed a recording device,
17 broadcast equipment, or electronic contraband on penal
18 institution property, or within the proximity of penal
19 institution property with the intent to disrupt safety,
20 security, or operations of the penal institution.

21 (b) A person commits possessing contraband in a penal
22 institution when he or she knowingly and without authority
23 possesses contraband in a penal institution, regardless of the
24 intent with which he or she possesses it.

25 (c) (Blank).

1 (d) Sentence.

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

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

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

10 (4) Bringing into or possessing any amount of a
11 controlled substance classified in Schedules I or II of
12 Article II of the Illinois Controlled Substances Act in a
13 penal institution is a Class 1 felony.

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

16 (6) Bringing into or possessing a weapon, tool to
17 defeat security mechanisms, cutting tool, ~~or~~ electronic
18 contraband, recording device, broadcast equipment, or
19 electronic contraband in a penal institution, on penal
20 institution property, or within the proximity of penal
21 institution property with the intent to disrupt safety,
22 security, or operations of the penal institution ~~in a penal~~
23 ~~institution~~ is a Class 1 felony.

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

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

5 (f) It shall be an affirmative defense to subsection (a) (1)
6 and subsection (b) that the person bringing into or possessing
7 contraband in a penal institution had been arrested, and that
8 person possessed the contraband at the time of his or her
9 arrest, and that the contraband was brought into or possessed
10 in the penal institution by that person as a direct and
11 immediate result of his or her arrest.

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. 97-1108, eff. 1-1-13; 98-756, eff. 7-16-14.)

17 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

18 Sec. 31A-1.2. Unauthorized bringing of contraband into a
19 penal institution by an employee; unauthorized possessing of
20 contraband in a penal institution by an employee; unauthorized
21 delivery of contraband in a penal institution by an employee.

22 (a) A person commits unauthorized bringing of contraband
23 into a penal institution by an employee when a person who is an
24 employee knowingly and without authority of any person
25 designated or authorized to grant this authority:

1 (1) brings or attempts to bring an item of contraband
2 into a penal institution;~~;~~~~or~~

3 (2) causes or permits another to bring an item of
4 contraband into a penal institution;or~~.~~

5 (3) places or causes to be placed, or permits another
6 to place or cause to be placed, any item of contraband on
7 penal institution property, or within the proximity of
8 penal institution property, with the intent to disrupt
9 safety, security, or operations of the penal institution.

10 (b) A person commits unauthorized possession of contraband
11 in 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 possesses an
14 item of contraband in a penal institution, regardless of the
15 intent with which he or she possesses it.

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

20 (1) delivers or possesses with intent to deliver an
21 item of contraband to any inmate of a penal institution;;~~.~~

22 ~~or~~

23 (2) conspires to deliver or solicits the delivery of an
24 item of contraband to any inmate of a penal institution;;~~.~~

25 ~~or~~

26 (3) causes or permits the delivery of an item of

1 contraband to any inmate of a penal institution; ~~or~~

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

5 (5) delivers, possesses, conspires to deliver or
6 solicits delivery, causes or permits delivery, or permits
7 another to attempt to deliver, any item of contraband
8 within the proximity of penal institution property with the
9 intent to disrupt safety, security, or operations of the
10 penal institution.

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

18 (e) Sentence.

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

1 amount of a controlled substance classified in Schedules I
2 or II of Article II of the Illinois Controlled Substances
3 Act is a Class X felony. A violation of paragraph (a) or
4 (b) involving a hypodermic syringe is a Class X felony. A
5 violation of paragraph (a) or (b) involving placing or
6 causing to be placed, or allowing another to place or cause
7 to place a recording device, broadcast equipment, or
8 electronic contraband on penal institution property or
9 within the proximity of penal institution property with the
10 intent to disrupt safety, security, or operations of the
11 penal institution is a Class 2 felony. A violation of
12 paragraph (a) or (b) involving a weapon, tool to defeat
13 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 placing or causing to be placed,
9 or allowing another to place or cause to place a recording
10 device, broadcast equipment, or electronic contraband on
11 penal institution property or within the proximity of penal
12 institution property with the intent to disrupt safety,
13 security, or operations of the penal institution is a Class
14 4 felony. A violation of paragraph (c) involving a firearm,
15 firearm ammunition, or explosive is a Class X felony for
16 which the minimum term of imprisonment shall be 12 years.

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

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

1 institution.

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

3 96-1325, eff. 7-27-10; 97-333, eff. 8-12-11; 97-1108, eff.

4 1-1-13.)

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