



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1033

Introduced 1/12/2023, 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.

LRB103 04853 RLC 49863 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 Section 31A-0.1 as follows:

6 (720 ILCS 5/31A-0.1)

7 (Text of Section before amendment by P.A. 101-652)

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 bail setting
10 hearing or preliminary hearing; provided that where the place
11 for incarceration or custody is housed within another public
12 building this Article shall not apply to that part of the
13 building unrelated to the incarceration or custody of persons.
14 (Source: P.A. 97-1108, eff. 1-1-13; 98-558, eff. 1-1-14.)

15 (Text of Section after amendment by P.A. 101-652)

16 Sec. 31A-0.1. Definitions. For the purposes of this
17 Article:

18 "Deliver" or "delivery" means the actual, constructive or
19 attempted transfer of possession of an item of contraband,
20 with or without consideration, whether or not there is an
21 agency relationship.

22 "Employee" means any elected or appointed officer, trustee
23 or employee of a penal institution or of the governing
24 authority of the penal institution, or any person who performs
25 services for the penal institution pursuant to contract with

1 the penal institution or its governing authority.

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4 Section 1-3.05 of the Liquor Control Act of 1934.

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6 (a) of Section 3 of the Cannabis Control Act.

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8 in the Illinois Controlled Substances Act.

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10 the Illinois Controlled Substances Act or the
11 Methamphetamine Control and Community Protection Act.

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

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

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

26 (A) any pneumatic gun, spring gun, or B-B gun

1 which expels a single globular projectile not
2 exceeding .18 inch in diameter; or

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

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

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

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

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

26 (B) any ammunition designed exclusively for use

1 with a stud or rivet driver or other similar
2 industrial ammunition.

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

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

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

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

1 for the purposes of Section 31A-1.2 of this Article,
2 means, but is not limited to, any electronic, video
3 recording device, computer, or cellular communications
4 equipment, including, but not limited to, cellular
5 telephones, cellular telephone batteries, videotape
6 recorders, pagers, computers, and computer peripheral
7 equipment. "Electronic contraband" does not include
8 electronic, video recording devices, computers, and
9 computer peripheral equipment used in online educational
10 courses approved by the Director of Corrections or the
11 chief administrative officer of the penal institution. In
12 this definition, "Internet" means an interactive computer
13 service or system or an information service, system, or
14 access software provider that provides or enables computer
15 access by multiple users to a computer server; and
16 "online" means the use of any electronic device to access
17 the Internet.

18 "Penal institution" means any penitentiary, State farm,
19 reformatory, prison, jail, house of correction, police
20 detention area, half-way house or other institution or place
21 for the incarceration or custody of persons under sentence for
22 offenses awaiting trial or sentence for offenses, under arrest
23 for an offense, a violation of probation, a violation of
24 parole, a violation of aftercare release, or a violation of
25 mandatory supervised release, or awaiting a hearing on the
26 setting of conditions of pretrial release or preliminary

1 hearing; provided that where the place for incarceration or
2 custody is housed within another public building this Article
3 shall not apply to that part of the building unrelated to the
4 incarceration or custody of persons.

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

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

8 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

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

10 (a) Each institution and facility of the Department shall
11 be administered by a chief administrative officer appointed by
12 the Director. A chief administrative officer shall be
13 responsible for all persons assigned to the institution or
14 facility. The chief administrative officer shall administer
15 the programs of the Department for the custody and treatment
16 of such persons.

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

19 (c) The Director or Assistant Director shall have the
20 emergency powers to temporarily transfer individuals without
21 formal procedures to any State, county, municipal or regional
22 correctional or detention institution or facility in the
23 State, subject to the acceptance of such receiving institution
24 or facility, or to designate any reasonably secure place in

1 the State as such an institution or facility and to make
2 transfers thereto. However, transfers made under emergency
3 powers shall be reviewed as soon as practicable under Article
4 8, and shall be subject to Section 5-905 of the Juvenile Court
5 Act of 1987. This Section shall not apply to transfers to the
6 Department of Human Services which are provided for under
7 Section 3-8-5 or Section 3-10-5.

8 (d) The Department of Juvenile Justice shall provide
9 educational programs for all committed youth, including
10 educational courses taught or provided online as defined in
11 Section 31A-0.1 of the Criminal Code of 2012, so that all youth
12 have an opportunity to attain the achievement level equivalent
13 to the completion of the twelfth grade in the public school
14 system in this State. Other higher levels of attainment shall
15 be encouraged and professional instruction shall be maintained
16 wherever possible. The Department may establish programs of
17 mandatory education and may establish rules and regulations
18 for the administration of such programs. A person committed to
19 the Department of Corrections who, during the period of his or
20 her incarceration, participates in an educational program
21 provided by or through the Department of Corrections and
22 through that program is awarded or earns the number of hours of
23 credit required for the award of an associate, baccalaureate,
24 or higher degree from a community college, college, or
25 university located in Illinois shall reimburse the State,
26 through the Department of Corrections, for the costs incurred

1 by the State in providing that person during his or her
2 incarceration with the education that qualifies him or her for
3 the award of that degree. The costs for which reimbursement is
4 required under this subsection shall be determined and
5 computed by the Department of Corrections under rules and
6 regulations that it shall establish for that purpose. However,
7 interest at the rate of 6% per annum shall be charged on the
8 balance of those costs from time to time remaining unpaid,
9 from the date of the person's parole, mandatory supervised
10 release, or release constituting a final termination of his or
11 her commitment to the Department of Corrections until paid.

12 (d-5) A person committed to the Department is entitled to
13 confidential testing for infection with human immunodeficiency
14 virus (HIV) and to counseling in connection with such testing,
15 with no copay to the committed person. A person committed to
16 the Department who has tested positive for infection with HIV
17 is entitled to medical care while incarcerated, counseling,
18 and referrals to support services, in connection with that
19 positive test result. Implementation of this subsection (d-5)
20 is subject to appropriation.

21 (e) A person committed to the Department who becomes in
22 need of medical or surgical treatment but is incapable of
23 giving consent thereto shall receive such medical or surgical
24 treatment by the chief administrative officer consenting on
25 the person's behalf. Before the chief administrative officer
26 consents, he or she shall obtain the advice of one or more

1 physicians licensed to practice medicine in all its branches
2 in this State. If such physician or physicians advise:

3 (1) that immediate medical or surgical treatment is
4 required relative to a condition threatening to cause
5 death, damage or impairment to bodily functions, or
6 disfigurement; and

7 (2) that the person is not capable of giving consent
8 to such treatment; the chief administrative officer may
9 give consent for such medical or surgical treatment, and
10 such consent shall be deemed to be the consent of the
11 person for all purposes, including, but not limited to,
12 the authority of a physician to give such treatment.

13 (e-5) If a physician providing medical care to a committed
14 person on behalf of the Department advises the chief
15 administrative officer that the committed person's mental or
16 physical health has deteriorated as a result of the cessation
17 of ingestion of food or liquid to the point where medical or
18 surgical treatment is required to prevent death, damage, or
19 impairment to bodily functions, the chief administrative
20 officer may authorize such medical or surgical treatment.

21 (f) In the event that the person requires medical care and
22 treatment at a place other than the institution or facility,
23 the person may be removed therefrom under conditions
24 prescribed by the Department. Neither the Department of
25 Corrections nor the Department of Juvenile Justice may require
26 a committed person or person committed to any facility

1 operated by the Department of Juvenile Justice, as set forth
2 in Section 3-2.5-15 of this Code, to pay any co-payment for
3 receiving medical or dental services.

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

6 (g) Any person having sole custody of a child at the time
7 of commitment or any woman giving birth to a child after her
8 commitment, may arrange through the Department of Children and
9 Family Services for suitable placement of the child outside of
10 the Department of Corrections. The Director of the Department
11 of Corrections may determine that there are special reasons
12 why the child should continue in the custody of the mother
13 until the child is 6 years old.

14 (h) The Department may provide Family Responsibility
15 Services which may consist of, but not be limited to the
16 following:

- 17 (1) family advocacy counseling;
18 (2) parent self-help group;
19 (3) parenting skills training;
20 (4) parent and child overnight program;
21 (5) parent and child reunification counseling, either
22 separately or together, preceding the inmate's release;
23 and
24 (6) a prerelease reunification staffing involving the
25 family advocate, the inmate and the child's counselor, or
26 both and the inmate.

1 (i) (Blank).

2 (j) Any person convicted of a sex offense as defined in the
3 Sex Offender Management Board Act shall be required to receive
4 a sex offender evaluation prior to release into the community
5 from the Department of Corrections. The sex offender
6 evaluation shall be conducted in conformance with the
7 standards and guidelines developed under the Sex Offender
8 Management Board Act and by an evaluator approved by the
9 Board.

10 (k) Any minor committed to the Department of Juvenile
11 Justice for a sex offense as defined by the Sex Offender
12 Management Board Act shall be required to undergo sex offender
13 treatment by a treatment provider approved by the Board and
14 conducted in conformance with the Sex Offender Management
15 Board Act.

16 (l) Prior to the release of any inmate committed to a
17 facility of the Department or the Department of Juvenile
18 Justice, the Department must provide the inmate with
19 appropriate information verbally, in writing, by video, or
20 other electronic means, concerning HIV and AIDS. The
21 Department shall develop the informational materials in
22 consultation with the Department of Public Health. At the same
23 time, the Department must also offer the committed person the
24 option of testing for infection with human immunodeficiency
25 virus (HIV), with no copayment for the test. Pre-test
26 information shall be provided to the committed person and

1 informed consent obtained as required in subsection (d) of
2 Section 3 and Section 5 of the AIDS Confidentiality Act. The
3 Department may conduct opt-out HIV testing as defined in
4 Section 4 of the AIDS Confidentiality Act. If the Department
5 conducts opt-out HIV testing, the Department shall place signs
6 in English, Spanish and other languages as needed in multiple,
7 highly visible locations in the area where HIV testing is
8 conducted informing inmates that they will be tested for HIV
9 unless they refuse, and refusal or acceptance of testing shall
10 be documented in the inmate's medical record. The Department
11 shall follow procedures established by the Department of
12 Public Health to conduct HIV testing and testing to confirm
13 positive HIV test results. All testing must be conducted by
14 medical personnel, but pre-test and other information may be
15 provided by committed persons who have received appropriate
16 training. The Department, in conjunction with the Department
17 of Public Health, shall develop a plan that complies with the
18 AIDS Confidentiality Act to deliver confidentially all
19 positive or negative HIV test results to inmates or former
20 inmates. Nothing in this Section shall require the Department
21 to offer HIV testing to an inmate who is known to be infected
22 with HIV, or who has been tested for HIV within the previous
23 180 days and whose documented HIV test result is available to
24 the Department electronically. The testing provided under this
25 subsection (1) shall consist of a test approved by the
26 Illinois Department of Public Health to determine the presence

1 of HIV infection, based upon recommendations of the United
2 States Centers for Disease Control and Prevention. If the test
3 result is positive, a reliable supplemental test based upon
4 recommendations of the United States Centers for Disease
5 Control and Prevention shall be administered.

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

10 (m) The chief administrative officer of each institution
11 or facility of the Department shall make a room in the
12 institution or facility available for substance use disorder
13 services to be provided to committed persons on a voluntary
14 basis. The services shall be provided for one hour once a week
15 at a time specified by the chief administrative officer of the
16 institution or facility if the following conditions are met:

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

19 (2) the committed person may attend the meeting for
20 substance use disorder services only if the committed
21 person uses pre-existing free time already available to
22 the committed person;

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

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

1 (5) if the substance use disorder service does not
2 arrange for scheduling a meeting for that week, no
3 substance use disorder services shall be provided to the
4 committed person in the institution or facility for that
5 week;

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

10 (7) a volunteer seeking to provide substance use
11 disorder services under this subsection (m) must submit an
12 application to the Department of Corrections under
13 existing Department rules and the Department must review
14 the application within 60 days after submission of the
15 application to the Department; and

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

19 For the purposes of this subsection (m), "substance use
20 disorder services" means recovery services for persons with
21 substance use disorders provided by volunteers of recovery
22 support services recognized by the Department of Human
23 Services.

24 (Source: P.A. 101-81, eff. 7-12-19; 101-86, eff. 1-1-20;
25 102-350, eff. 8-13-21.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.