



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4122

by Rep. Jerry Costello, II

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/2-2.5 new  
720 ILCS 5/2-11.5 new  
720 ILCS 5/2-23 new  
720 ILCS 5/21-5.3 new  
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

Amends the Criminal Code of 2012. Creates the offense of criminal trespass to a penal institution with an aircraft or unmanned aerial vehicle. Provides that a person commits the offense when he or she, without lawful authority, knowingly and intentionally operates an aircraft or unmanned aerial vehicle below the navigable airspace overlaying a penal institution. Creates the offense of capturing images or data of a penal institution through the operation of an aircraft or unmanned aerial vehicle. Provides that a person commits the offense when he or she, without lawful authority, knowingly and intentionally operates an aircraft or unmanned aerial vehicle below the navigable airspace overlaying a penal institution and captures images or data of the penal institution through the operation of the aircraft or unmanned aerial vehicle, with the intent to commit, facilitate, or aid in the commission of a violation of the Interference With Penal Institution Article of the Code or the offense of escape or aiding escape. Establishes penalties and provides exemptions.

LRB100 15058 RLC 29897 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-1.1 and 31A-1.2 and by adding Sections 2-2.5,  
6 2-11.5, 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.

15 (720 ILCS 5/2-23 new)

16 Sec. 2-23. Unmanned aerial vehicle.

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 to  
21 operate safely and efficiently in the national airspace system.

1 (720 ILCS 5/21-5.3 new)

2 Sec. 21-5.3. Criminal trespass to a penal institution with  
3 an aircraft or unmanned aerial vehicle.

4 (a) Except as provided in subsection (b) of this Section, a  
5 person commits criminal trespass to a penal institution with an  
6 aircraft or unmanned aerial vehicle when he or she, without  
7 lawful authority, knowingly and intentionally operates an  
8 aircraft or unmanned aerial vehicle below the navigable  
9 airspace overlaying a penal institution.

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

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

17 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

18 Sec. 31A-1.1. Bringing Contraband into a Penal  
19 Institution; Possessing Contraband in a Penal Institution.

20 (a) A person commits bringing contraband into a penal  
21 institution when he or she knowingly and without authority of  
22 any person designated or authorized to grant this authority (1)  
23 brings an item of contraband into a penal institution or (2)  
24 causes another to bring an item of contraband into a penal

1 institution or (3) places an item of contraband in such  
2 proximity to a penal institution as to give an inmate access to  
3 the contraband.

4 (b) A person commits possessing contraband in a penal  
5 institution when he or she knowingly possesses contraband in a  
6 penal institution, regardless of the intent with which he or  
7 she possesses it.

8 (c) (Blank).

9 (d) Sentence.

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

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

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

18 (4) Bringing into or possessing any amount of a  
19 controlled substance classified in Schedules I or II of  
20 Article II of the Illinois Controlled Substances Act in a  
21 penal institution is a Class 1 felony.

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

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

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

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

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

13          (f) It shall be an affirmative defense to subsection (a) (1)  
14          and subsection (b) that the person bringing into or possessing  
15          contraband in a penal institution had been arrested, and that  
16          person possessed the contraband at the time of his or her  
17          arrest, and that the contraband was brought into or possessed  
18          in the penal institution by that person as a direct and  
19          immediate result of his or her arrest.

20          (g) Items confiscated may be retained for use by the  
21          Department of Corrections or disposed of as deemed appropriate  
22          by the Chief Administrative Officer in accordance with  
23          Department rules or disposed of as required by law.

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

25                 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

1           Sec. 31A-1.2. Unauthorized bringing of contraband into a  
2 penal institution by an employee; unauthorized possessing of  
3 contraband in a penal institution by an employee; unauthorized  
4 delivery of contraband in a penal institution by an employee.

5           (a) A person commits unauthorized bringing of contraband  
6 into a penal institution by an employee when a person who is an  
7 employee knowingly and without authority of any person  
8 designated or authorized to grant this authority:

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

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

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

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

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

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

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

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

5           (d) For a violation of subsection (a) or (b) involving a  
6           cellular telephone or cellular telephone battery, the  
7           defendant must intend to provide the cellular telephone or  
8           cellular telephone battery to any inmate in a penal  
9           institution, or to use the cellular telephone or cellular  
10          telephone battery at the direction of an inmate or for the  
11          benefit of any inmate of a penal institution.

12          (e) Sentence.

13          (1) A violation of paragraphs (a) or (b) of this  
14          Section involving alcohol is a Class 4 felony. A violation  
15          of paragraph (a) or (b) of this Section involving cannabis  
16          is a Class 2 felony. A violation of paragraph (a) or (b)  
17          involving any amount of a controlled substance classified  
18          in Schedules III, IV or V of Article II of the Illinois  
19          Controlled Substances Act is a Class 1 felony. A violation  
20          of paragraph (a) or (b) of this Section involving any  
21          amount of a controlled substance classified in Schedules I  
22          or II of Article II of the Illinois Controlled Substances  
23          Act is a Class X felony. A violation of paragraph (a) or  
24          (b) involving a hypodermic syringe is a Class X felony. A  
25          violation of paragraph (a) or (b) involving a weapon, tool  
26          to defeat security mechanisms, cutting tool, or electronic

1 contraband is a Class 1 felony. A violation of paragraph  
2 (a) or (b) involving a firearm, firearm ammunition, or  
3 explosive is a Class X felony.

4 (2) A violation of paragraph (c) of this Section  
5 involving alcoholic liquor is a Class 3 felony. A violation  
6 of paragraph (c) involving cannabis is a Class 1 felony. A  
7 violation of paragraph (c) involving any amount of a  
8 controlled substance classified in Schedules III, IV or V  
9 of Article II of the Illinois Controlled Substances Act is  
10 a Class X felony. A violation of paragraph (c) involving  
11 any amount of a controlled substance classified in  
12 Schedules I or II of Article II of the Illinois Controlled  
13 Substances Act is a Class X felony for which the minimum  
14 term of imprisonment shall be 8 years. A violation of  
15 paragraph (c) involving a hypodermic syringe is a Class X  
16 felony for which the minimum term of imprisonment shall be  
17 8 years. A violation of paragraph (c) involving a weapon,  
18 tool to defeat security mechanisms, cutting tool, or  
19 electronic contraband is a Class X felony for which the  
20 minimum term of imprisonment shall be 10 years. A violation  
21 of paragraph (c) involving a firearm, firearm ammunition,  
22 or explosive is a Class X felony for which the minimum term  
23 of imprisonment shall be 12 years.

24 (3) If a person violates this Section by use of an  
25 unmanned aerial vehicle, in addition to any other penalty  
26 provided in this subsection (e), one year of imprisonment



1           shall be added to the sentence imposed by the court.

2           (f) Items confiscated may be retained for use by the  
3 Department of Corrections or disposed of as deemed appropriate  
4 by the Chief Administrative Officer in accordance with  
5 Department rules or disposed of as required by law.

6           (g) For a violation of subsection (a) or (b) involving  
7 alcoholic liquor, a weapon, firearm, firearm ammunition, tool  
8 to defeat security mechanisms, cutting tool, or electronic  
9 contraband, the items shall not be considered to be in a penal  
10 institution when they are secured in an employee's locked,  
11 private motor vehicle parked on the grounds of a penal  
12 institution.

13           (Source: P.A. 96-328, eff. 8-11-09; 96-1112, eff. 1-1-11;  
14 96-1325, eff. 7-27-10; 97-333, eff. 8-12-11; 97-1108, eff.  
15 1-1-13.)

16           (720 ILCS 5/31A-1.3 new)

17           Sec. 31A-1.3. Capturing images or data of a penal  
18 institution through the operation of an aircraft or unmanned  
19 aerial vehicle.

20           (a) Except as provided in subsection (b) of this Section, a  
21 person commits capturing images or data of a penal institution  
22 through the operation of an aircraft or unmanned aerial vehicle  
23 when he or she, without lawful authority, knowingly and  
24 intentionally operates an aircraft or unmanned aerial vehicle  
25 below the navigable airspace overlaying a penal institution and

1 captures images or data of the penal institution through the  
2 operation of the aircraft or unmanned aerial vehicle, with the  
3 intent to commit, facilitate, or aid in the commission of a  
4 violation of this Article or Section 31-6 or 31-7 of the  
5 Criminal Code of 2012.

6 (b) This Section does not apply to an employee of the penal  
7 institution who captures images or data of the facility or  
8 institution through the operation of an aircraft or unmanned  
9 aerial vehicle within the scope of his or her employment, or a  
10 person who receives prior permission from the penal institution  
11 to capture images or data of the facility or institution  
12 through the operation of an aircraft or unmanned aerial  
13 vehicle.

14 (c) Sentence. A violation of this Section is a Class 4  
15 felony.