



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3608

Introduced 2/22/2021, 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.

LRB102 03808 RLC 13821 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 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,
11 with or without consideration, whether or not there is an
12 agency 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 (ii) "Cannabis" as that term is defined in subsection
22 (a) of Section 3 of the Cannabis Control Act.

23 (iii) "Controlled substance" as that term is defined

1 in the Illinois Controlled Substances Act.

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

5 (iv) "Hypodermic syringe" or hypodermic needle, or any
6 instrument adapted for use of controlled substances or
7 cannabis by subcutaneous injection.

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

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

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

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

26 (C) any device used exclusively for the firing of

1 stud cartridges, explosive rivets or industrial
2 ammunition; or

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

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

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

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

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

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

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

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

1 electronic, video recording devices, computers, and
2 computer peripheral equipment used in online educational
3 courses approved by the Director of Corrections or the
4 chief administrative officer of the penal institution. In
5 this definition, "Internet" means an interactive computer
6 service or system or an information service, system, or
7 access software provider that provides or enables computer
8 access by multiple users to a computer server; and
9 "online" means the use of any electronic device to access
10 the Internet.

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

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

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

1 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

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

3 (a) Each institution and facility of the Department shall
4 be administered by a chief administrative officer appointed by
5 the Director. A chief administrative officer shall be
6 responsible for all persons assigned to the institution or
7 facility. The chief administrative officer shall administer
8 the programs of the Department for the custody and treatment
9 of such persons.

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

12 (c) The Director or Assistant Director shall have the
13 emergency powers to temporarily transfer individuals without
14 formal procedures to any State, county, municipal or regional
15 correctional or detention institution or facility in the
16 State, subject to the acceptance of such receiving institution
17 or facility, or to designate any reasonably secure place in
18 the State as such an institution or facility and to make
19 transfers thereto. However, transfers made under emergency
20 powers shall be reviewed as soon as practicable under Article
21 8, and shall be subject to Section 5-905 of the Juvenile Court
22 Act of 1987. This Section shall not apply to transfers to the
23 Department of Human Services which are provided for under
24 Section 3-8-5 or Section 3-10-5.

25 (d) The Department shall provide educational programs for

1 all committed persons, including educational courses taught or
2 provided online as defined in Section 31A-0.1 of the Criminal
3 Code of 2012, so that all persons have an opportunity to attain
4 the achievement level equivalent to the completion of the
5 twelfth grade in the public school system in this State. Other
6 higher levels of attainment shall be encouraged and
7 professional instruction shall be maintained wherever
8 possible. The Department may establish programs of mandatory
9 education and may establish rules and regulations for the
10 administration of such programs. A person committed to the
11 Department who, during the period of his or her incarceration,
12 participates in an educational program provided by or through
13 the Department and through that program is awarded or earns
14 the number of hours of credit required for the award of an
15 associate, baccalaureate, or higher degree from a community
16 college, college, or university located in Illinois shall
17 reimburse the State, through the Department, for the costs
18 incurred by the State in providing that person during his or
19 her incarceration with the education that qualifies him or her
20 for the award of that degree. The costs for which
21 reimbursement is required under this subsection shall be
22 determined and computed by the Department under rules and
23 regulations that it shall establish for that purpose. However,
24 interest at the rate of 6% per annum shall be charged on the
25 balance of those costs from time to time remaining unpaid,
26 from the date of the person's parole, mandatory supervised

1 release, or release constituting a final termination of his or
2 her commitment to the Department until paid.

3 (d-5) A person committed to the Department is entitled to
4 confidential testing for infection with human immunodeficiency
5 virus (HIV) and to counseling in connection with such testing,
6 with no copay to the committed person. A person committed to
7 the Department who has tested positive for infection with HIV
8 is entitled to medical care while incarcerated, counseling,
9 and referrals to support services, in connection with that
10 positive test result. Implementation of this subsection (d-5)
11 is subject to appropriation.

12 (e) A person committed to the Department who becomes in
13 need of medical or surgical treatment but is incapable of
14 giving consent thereto shall receive such medical or surgical
15 treatment by the chief administrative officer consenting on
16 the person's behalf. Before the chief administrative officer
17 consents, he or she shall obtain the advice of one or more
18 physicians licensed to practice medicine in all its branches
19 in this State. If such physician or physicians advise:

20 (1) that immediate medical or surgical treatment is
21 required relative to a condition threatening to cause
22 death, damage or impairment to bodily functions, or
23 disfigurement; and

24 (2) that the person is not capable of giving consent
25 to such treatment; the chief administrative officer may
26 give consent for such medical or surgical treatment, and

1 such consent shall be deemed to be the consent of the
2 person for all purposes, including, but not limited to,
3 the authority of a physician to give such treatment.

4 (e-5) If a physician providing medical care to a committed
5 person on behalf of the Department advises the chief
6 administrative officer that the committed person's mental or
7 physical health has deteriorated as a result of the cessation
8 of ingestion of food or liquid to the point where medical or
9 surgical treatment is required to prevent death, damage, or
10 impairment to bodily functions, the chief administrative
11 officer may authorize such medical or surgical treatment.

12 (f) In the event that the person requires medical care and
13 treatment at a place other than the institution or facility,
14 the person may be removed therefrom under conditions
15 prescribed by the Department. Neither the Department of
16 Corrections nor the Department of Juvenile Justice may require
17 a committed person or person committed to any facility
18 operated by the Department of Juvenile Justice, as set forth
19 in Section 3-2.5-15 of this Code, to pay any co-payment for
20 receiving medical or dental services.

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

23 (g) Any person having sole custody of a child at the time
24 of commitment or any woman giving birth to a child after her
25 commitment, may arrange through the Department of Children and
26 Family Services for suitable placement of the child outside of

1 the Department of Corrections. The Director of the Department
2 of Corrections may determine that there are special reasons
3 why the child should continue in the custody of the mother
4 until the child is 6 years old.

5 (h) The Department may provide Family Responsibility
6 Services which may consist of, but not be limited to the
7 following:

8 (1) family advocacy counseling;

9 (2) parent self-help group;

10 (3) parenting skills training;

11 (4) parent and child overnight program;

12 (5) parent and child reunification counseling, either
13 separately or together, preceding the inmate's release;
14 and

15 (6) a prerelease reunification staffing involving the
16 family advocate, the inmate and the child's counselor, or
17 both and the inmate.

18 (i) (Blank).

19 (j) Any person convicted of a sex offense as defined in the
20 Sex Offender Management Board Act shall be required to receive
21 a sex offender evaluation prior to release into the community
22 from the Department of Corrections. The sex offender
23 evaluation shall be conducted in conformance with the
24 standards and guidelines developed under the Sex Offender
25 Management Board Act and by an evaluator approved by the
26 Board.

1 (k) Any minor committed to the Department of Juvenile
2 Justice for a sex offense as defined by the Sex Offender
3 Management Board Act shall be required to undergo sex offender
4 treatment by a treatment provider approved by the Board and
5 conducted in conformance with the Sex Offender Management
6 Board Act.

7 (l) Prior to the release of any inmate committed to a
8 facility of the Department or the Department of Juvenile
9 Justice, the Department must provide the inmate with
10 appropriate information verbally, in writing, by video, or
11 other electronic means, concerning HIV and AIDS. The
12 Department shall develop the informational materials in
13 consultation with the Department of Public Health. At the same
14 time, the Department must also offer the committed person the
15 option of testing for infection with human immunodeficiency
16 virus (HIV), with no copayment for the test. Pre-test
17 information shall be provided to the committed person and
18 informed consent obtained as required in subsection (d) of
19 Section 3 and Section 5 of the AIDS Confidentiality Act. The
20 Department may conduct opt-out HIV testing as defined in
21 Section 4 of the AIDS Confidentiality Act. If the Department
22 conducts opt-out HIV testing, the Department shall place signs
23 in English, Spanish and other languages as needed in multiple,
24 highly visible locations in the area where HIV testing is
25 conducted informing inmates that they will be tested for HIV
26 unless they refuse, and refusal or acceptance of testing shall

1 be documented in the inmate's medical record. The Department
2 shall follow procedures established by the Department of
3 Public Health to conduct HIV testing and testing to confirm
4 positive HIV test results. All testing must be conducted by
5 medical personnel, but pre-test and other information may be
6 provided by committed persons who have received appropriate
7 training. The Department, in conjunction with the Department
8 of Public Health, shall develop a plan that complies with the
9 AIDS Confidentiality Act to deliver confidentially all
10 positive or negative HIV test results to inmates or former
11 inmates. Nothing in this Section shall require the Department
12 to offer HIV testing to an inmate who is known to be infected
13 with HIV, or who has been tested for HIV within the previous
14 180 days and whose documented HIV test result is available to
15 the Department electronically. The testing provided under this
16 subsection (1) shall consist of a test approved by the
17 Illinois Department of Public Health to determine the presence
18 of HIV infection, based upon recommendations of the United
19 States Centers for Disease Control and Prevention. If the test
20 result is positive, a reliable supplemental test based upon
21 recommendations of the United States Centers for Disease
22 Control and Prevention shall be administered.

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

1 (m) The chief administrative officer of each institution
2 or facility of the Department shall make a room in the
3 institution or facility available for substance use disorder
4 services to be provided to committed persons on a voluntary
5 basis. The services shall be provided for one hour once a week
6 at a time specified by the chief administrative officer of the
7 institution or facility if the following conditions are met:

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

10 (2) the committed person may attend the meeting for
11 substance use disorder services only if the committed
12 person uses pre-existing free time already available to
13 the committed person;

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

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

18 (5) if the substance use disorder service does not
19 arrange for scheduling a meeting for that week, no
20 substance use disorder services shall be provided to the
21 committed person in the institution or facility for that
22 week;

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

1 (7) a volunteer seeking to provide substance use
2 disorder services under this subsection (m) must submit an
3 application to the Department of Corrections under
4 existing Department rules and the Department must review
5 the application within 60 days after submission of the
6 application to the Department; and

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

10 For the purposes of this subsection (m), "substance use
11 disorder services" means recovery services for persons with
12 substance use disorders provided by volunteers of recovery
13 support services recognized by the Department of Human
14 Services.

15 (Source: P.A. 100-759, eff. 1-1-19; 100-1051, eff. 1-1-19;
16 101-81, eff. 7-12-19; 101-86, eff. 1-1-20.)