

# SB2138



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2138

Introduced 2/10/2023, by Sen. Andrew S. Chesney

### SYNOPSIS AS INTRODUCED:

720 ILCS 5/31-1

from Ch. 38, par. 31-1

Amends the Criminal Code of 2012. Deletes the mental state of "knowingly" from the elements of the offense of resisting or obstructing a peace officer, firefighter, or correctional institution employee.

LRB103 27171 RLC 53541 b

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  
5 changing Section 31-1 as follows:

6 (720 ILCS 5/31-1) (from Ch. 38, par. 31-1)

7 Sec. 31-1. Resisting or obstructing a peace officer,  
8 firefighter, or correctional institution employee.

9 (a) A person who ~~knowingly~~:

10 (1) resists arrest, or

11 (2) obstructs the performance by one known to the  
12 person to be a peace officer, firefighter, or correctional  
13 institution employee of any authorized act within his or  
14 her official capacity commits a Class A misdemeanor.

15 (a-5) In addition to any other sentence that may be  
16 imposed, a court shall order any person convicted of resisting  
17 or obstructing a peace officer, firefighter, or correctional  
18 institution employee to be sentenced to a minimum of 48  
19 consecutive hours of imprisonment or ordered to perform  
20 community service for not less than 100 hours as may be  
21 determined by the court. The person shall not be eligible for  
22 probation in order to reduce the sentence of imprisonment or  
23 community service.

1 (a-7) A person convicted for a violation of this Section  
2 whose violation was the proximate cause of an injury to a peace  
3 officer, firefighter, or correctional institution employee is  
4 guilty of a Class 4 felony.

5 (b) For purposes of this Section, "correctional  
6 institution employee" means any person employed to supervise  
7 and control inmates incarcerated in a penitentiary, State  
8 farm, reformatory, prison, jail, house of correction, police  
9 detention area, half-way house, or other institution or place  
10 for the incarceration or custody of persons under sentence for  
11 offenses or awaiting trial or sentence for offenses, under  
12 arrest for an offense, a violation of probation, a violation  
13 of parole, a violation of aftercare release, a violation of  
14 mandatory supervised release, or awaiting a hearing or  
15 preliminary hearing on setting the conditions of pretrial  
16 release, or who are sexually dangerous persons or who are  
17 sexually violent persons; and "firefighter" means any  
18 individual, either as an employee or volunteer, of a regularly  
19 constituted fire department of a municipality or fire  
20 protection district who performs fire fighting duties,  
21 including, but not limited to, the fire chief, assistant fire  
22 chief, captain, engineer, driver, ladder person, hose person,  
23 pipe person, and any other member of a regularly constituted  
24 fire department. "Firefighter" also means a person employed by  
25 the Office of the State Fire Marshal to conduct arson  
26 investigations.

1           (c) It is an affirmative defense to a violation of this  
2 Section if a person resists or obstructs the performance of  
3 one known by the person to be a firefighter by returning to or  
4 remaining in a dwelling, residence, building, or other  
5 structure to rescue or to attempt to rescue any person.

6           (d) A person shall not be subject to arrest for resisting  
7 arrest under this Section unless there is an underlying  
8 offense for which the person was initially subject to arrest.

9           (Source: P.A. 101-652, eff. 1-1-23; 102-28, eff. 6-25-21.)