

1 AN ACT in relation to criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 1.

5 Section 1-1. Findings; purpose; validation.

6 (a) The General Assembly finds and declares that:

7 (1) Public Act 88-669, effective November 29, 1994,
8 contained provisions amending the Criminal Code of 1961 and
9 the Unified Code of Corrections. Public Act 88-669 also
10 contained other provisions.

11 (2) The Illinois Supreme Court declared Public Act
12 88-669 to be unconstitutional as a violation of the single
13 subject clause of the Illinois Constitution in *People v.*
14 *Olender*, Docket No. 98932, opinion filed December 15, 2005.

15 (b) The purpose of this Article 1 is to re-enact the
16 provisions of the Criminal Code of 1961 and the Unified Code of
17 Corrections that were affected by Public Act 88-669 and to
18 minimize or prevent any problems concerning those provisions
19 that may arise from the unconstitutionality of Public Act
20 88-669. This re-enactment is intended to remove any question as
21 to the validity and content of those provisions; it is not
22 intended to supersede any other Public Act that amends the
23 provisions re-enacted in this Article 1. The re-enacted
24 material is shown in this Article 1 as existing text (i.e.,
25 without underscoring) and may include changes made by
26 subsequent amendments.

27 (c) The re-enactment of provisions of the Criminal Code of
28 1961 and the Unified Code of Corrections by this Article 1 is
29 not intended, and shall not be construed, to impair any legal
30 argument concerning whether those provisions were
31 substantially re-enacted by any other Public Act.

32 (d) All otherwise lawful actions taken before the effective

1 date of this Article 1 in reliance on or pursuant to the
2 provisions re-enacted by this Article 1, as those provisions
3 were set forth in Public Act 88-669 or as subsequently amended,
4 by any officer, employee, or agency of State government or by
5 any other person or entity, are hereby validated, except to the
6 extent prohibited under the Illinois or United States
7 Constitution.

8 (e) This Article 1 applies, without limitation, to actions
9 pending on or after the effective date of this Article 1,
10 except to the extent prohibited under the Illinois or United
11 States Constitution.

12 Section 1-5. The Criminal Code of 1961 is amended by
13 re-enacting Section 36-1 as follows:

14 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

15 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
16 with the knowledge and consent of the owner in the commission
17 of, or in the attempt to commit as defined in Section 8-4 of
18 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
19 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2,
20 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 18-2,
21 19-1, 19-2, 19-3, 20-1, 20-2, 20.5-6, 24-1.2, 24-1.2-5, 24-1.5,
22 or 28-1 of this Code, paragraph (a) of Section 12-4 of this
23 Code, paragraph (a) of Section 12-15 or paragraphs (a), (c) or
24 (d) of Section 12-16 of this Code, or paragraph (a)(6) or
25 (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24
26 or 26 of the Cigarette Tax Act if the vessel, vehicle or
27 aircraft contains more than 10 cartons of such cigarettes; (c)
28 Section 28, 29 or 30 of the Cigarette Use Tax Act if the
29 vessel, vehicle or aircraft contains more than 10 cartons of
30 such cigarettes; (d) Section 44 of the Environmental Protection
31 Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the
32 offenses described in the following provisions of the Illinois
33 Vehicle Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2),
34 (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); (g)

1 an offense described in subsection (g) of Section 6-303 of the
2 Illinois Vehicle Code; or (h) an offense described in
3 subsection (e) of Section 6-101 of the Illinois Vehicle Code;
4 may be seized and delivered forthwith to the sheriff of the
5 county of seizure.

6 Within 15 days after such delivery the sheriff shall give
7 notice of seizure to each person according to the following
8 method: Upon each such person whose right, title or interest is
9 of record in the office of the Secretary of State, the
10 Secretary of Transportation, the Administrator of the Federal
11 Aviation Agency, or any other Department of this State, or any
12 other state of the United States if such vessel, vehicle or
13 aircraft is required to be so registered, as the case may be,
14 by mailing a copy of the notice by certified mail to the
15 address as given upon the records of the Secretary of State,
16 the Department of Aeronautics, Department of Public Works and
17 Buildings or any other Department of this State or the United
18 States if such vessel, vehicle or aircraft is required to be so
19 registered. Within that 15 day period the sheriff shall also
20 notify the State's Attorney of the county of seizure about the
21 seizure.

22 In addition, any mobile or portable equipment used in the
23 commission of an act which is in violation of Section 7g of the
24 Metropolitan Water Reclamation District Act shall be subject to
25 seizure and forfeiture under the same procedures provided in
26 this Article for the seizure and forfeiture of vessels,
27 vehicles and aircraft, and any such equipment shall be deemed a
28 vessel, vehicle or aircraft for purposes of this Article.

29 When a person discharges a firearm at another individual
30 from a vehicle with the knowledge and consent of the owner of
31 the vehicle and with the intent to cause death or great bodily
32 harm to that individual and as a result causes death or great
33 bodily harm to that individual, the vehicle shall be subject to
34 seizure and forfeiture under the same procedures provided in
35 this Article for the seizure and forfeiture of vehicles used in
36 violations of clauses (a), (b), (c), or (d) of this Section.

1 If the spouse of the owner of a vehicle seized for an
2 offense described in subsection (g) of Section 6-303 of the
3 Illinois Vehicle Code, a violation of subdivision (c-1)(1),
4 (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501
5 of the Illinois Vehicle Code, or Section 9-3 of this Code makes
6 a showing that the seized vehicle is the only source of
7 transportation and it is determined that the financial hardship
8 to the family as a result of the seizure outweighs the benefit
9 to the State from the seizure, the vehicle may be forfeited to
10 the spouse or family member and the title to the vehicle shall
11 be transferred to the spouse or family member who is properly
12 licensed and who requires the use of the vehicle for employment
13 or family transportation purposes. A written declaration of
14 forfeiture of a vehicle under this Section shall be sufficient
15 cause for the title to be transferred to the spouse or family
16 member. The provisions of this paragraph shall apply only to
17 one forfeiture per vehicle. If the vehicle is the subject of a
18 subsequent forfeiture proceeding by virtue of a subsequent
19 conviction of either spouse or the family member, the spouse or
20 family member to whom the vehicle was forfeited under the first
21 forfeiture proceeding may not utilize the provisions of this
22 paragraph in another forfeiture proceeding. If the owner of the
23 vehicle seized owns more than one vehicle, the procedure set
24 out in this paragraph may be used for only one vehicle.

25 Property declared contraband under Section 40 of the
26 Illinois Streetgang Terrorism Omnibus Prevention Act may be
27 seized and forfeited under this Article.

28 (Source: P.A. 93-187, eff. 7-11-03; 94-329, eff. 1-1-06.)

29 Section 1-10. The Unified Code of Corrections is amended by
30 re-enacting Sections 3-7-6, 3-12-2, and 3-12-5 as follows:

31 (730 ILCS 5/3-7-6) (from Ch. 38, par. 1003-7-6)

32 Sec. 3-7-6. Reimbursement for expenses.

33 (a) Responsibility of committed persons. For the purposes
34 of this Section, "committed persons" mean those persons who

1 through judicial determination have been placed in the custody
2 of the Department on the basis of a conviction as an adult.
3 Committed persons shall be responsible to reimburse the
4 Department for the expenses incurred by their incarceration at
5 a rate to be determined by the Department in accordance with
6 this Section.

7 (1) Committed persons shall fully cooperate with the
8 Department by providing complete financial information for
9 the purposes under this Section.

10 (2) The failure of a committed person to fully
11 cooperate as provided for in clauses (3) and (4) of
12 subsection (a-5) shall be considered for purposes of a
13 parole determination. Any committed person who willfully
14 refuses to cooperate with the obligations set forth in this
15 Section may be subject to the loss of good conduct credit
16 towards his or her sentence of up to 180 days.

17 (a-5) Assets information form.

18 (1) The Department shall develop a form, which shall be
19 used by the Department to obtain information from all
20 committed persons regarding assets of the persons.

21 (2) In order to enable the Department to determine the
22 financial status of the committed person, the form shall
23 provide for obtaining the age and marital status of a
24 committed person, the number and ages of children of the
25 person, the number and ages of other dependents, the type
26 and value of real estate, the type and value of personal
27 property, cash and bank accounts, the location of any lock
28 boxes, the type and value of investments, pensions and
29 annuities and any other personalty of significant cash
30 value, including but not limited to jewelry, art work and
31 collectables, and all medical or dental insurance policies
32 covering the committed person. The form may also provide
33 for other information deemed pertinent by the Department in
34 the investigation of a committed person's assets.

35 (3) Upon being developed, the form shall be submitted
36 to each committed person as of the date the form is

1 developed and to every committed person who thereafter is
2 sentenced to imprisonment under the jurisdiction of the
3 Department. The form may be resubmitted to a committed
4 person by the Department for purpose of obtaining current
5 information regarding the assets of the person.

6 (4) Every committed person shall complete the form or
7 provide for completion of the form and the committed person
8 shall swear under oath or affirm that to the best of his or
9 her knowledge the information provided is complete and
10 accurate.

11 (b) Expenses. The rate at which sums to be charged for the
12 expenses incurred by a committed person for his or her
13 confinement shall be computed by the Department as the average
14 per capita cost per day for all inmates of that institution or
15 facility for that fiscal year. The average per capita cost per
16 day shall be computed by the Department based on the average
17 per capita cost per day for the operation of that institution
18 or facility for the fiscal year immediately preceding the
19 period of incarceration for which the rate is being calculated.
20 The Department shall establish rules and regulations providing
21 for the computation of the above costs, and shall determine the
22 average per capita cost per day for each of its institutions or
23 facilities for each fiscal year. The Department shall have the
24 power to modify its rules and regulations, so as to provide for
25 the most accurate and most current average per capita cost per
26 day computation. Where the committed person is placed in a
27 facility outside the Department, the Department may pay the
28 actual cost of services in that facility, and may collect
29 reimbursement for the entire amount paid from the committed
30 person receiving those services.

31 (c) Records. The records of the Department, including, but
32 not limited to, those relating to: the average per capita cost
33 per day for a particular institution or facility for a
34 particular year, and the calculation of the average per capita
35 cost per day; the average daily population of a particular
36 Department correctional institution or facility for a

1 particular year; the specific placement of a particular
2 committed person in various Department correctional
3 institutions or facilities for various periods of time; and the
4 record of transactions of a particular committed person's trust
5 account under Section 3-4-3 of this Act; may be proved in any
6 legal proceeding, by a reproduced copy thereof or by a computer
7 printout of Department records, under the certificate of the
8 Director. If reproduced copies are used, the Director must
9 certify that those are true and exact copies of the records on
10 file with the Department. If computer printouts of records of
11 the Department are offered as proof, the Director must certify
12 that those computer printouts are true and exact
13 representations of records properly entered into standard
14 electronic computing equipment, in the regular course of the
15 Department's business, at or reasonably near the time of the
16 occurrence of the facts recorded, from trustworthy and reliable
17 information. The reproduced copy or computer printout shall,
18 without further proof, be admitted into evidence in any legal
19 proceeding, and shall be prima facie correct and prima facie
20 evidence of the accuracy of the information contained therein.

21 (d) Authority. The Director, or the Director's designee,
22 may, when he or she knows or reasonably believes that a
23 committed person, or the estate of that person, has assets
24 which may be used to satisfy all or part of a judgment rendered
25 under this Act, or when he or she knows or reasonably believes
26 that a committed person is engaged in gang-related activity and
27 has a substantial sum of money or other assets, provide for the
28 forwarding to the Attorney General of a report on the committed
29 person and that report shall contain a completed form under
30 subsection (a-5) together with all other information available
31 concerning the assets of the committed person and an estimate
32 of the total expenses for that committed person, and authorize
33 the Attorney General to institute proceedings to require the
34 persons, or the estates of the persons, to reimburse the
35 Department for the expenses incurred by their incarceration.
36 The Attorney General, upon authorization of the Director, or

1 the Director's designee, shall institute actions on behalf of
2 the Department and pursue claims on the Department's behalf in
3 probate and bankruptcy proceedings, to recover from committed
4 persons the expenses incurred by their confinement. For
5 purposes of this subsection (d), "gang-related" activity has
6 the meaning ascribed to it in Section 10 of the Illinois
7 Streetgang Terrorism Omnibus Prevention Act.

8 (e) Scope and limitations.

9 (1) No action under this Section shall be initiated
10 more than 2 years after the release or death of the
11 committed person in question.

12 (2) The death of a convicted person, by execution or
13 otherwise, while committed to a Department correctional
14 institution or facility shall not act as a bar to any
15 action or proceeding under this Section.

16 (3) The assets of a committed person, for the purposes
17 of this Section, shall include any property, tangible or
18 intangible, real or personal, belonging to or due to a
19 committed or formerly committed person including income or
20 payments to the person from social security, worker's
21 compensation, veteran's compensation, pension benefits, or
22 from any other source whatsoever and any and all assets and
23 property of whatever character held in the name of the
24 person, held for the benefit of the person, or payable or
25 otherwise deliverable to the person. Any trust, or portion
26 of a trust, of which a convicted person is a beneficiary,
27 shall be construed as an asset of the person, to the extent
28 that benefits thereunder are required to be paid to the
29 person, or shall in fact be paid to the person. At the time
30 of a legal proceeding by the Attorney General under this
31 Section, if it appears that the committed person has any
32 assets which ought to be subjected to the claim of the
33 Department under this Section, the court may issue an order
34 requiring any person, corporation, or other legal entity
35 possessed or having custody of those assets to appropriate
36 any of the assets or a portion thereof toward reimbursing

1 the Department as provided for under this Section. No
2 provision of this Section shall be construed in violation
3 of any State or federal limitation on the collection of
4 money judgments.

5 (4) Nothing in this Section shall preclude the
6 Department from applying federal benefits that are
7 specifically provided for the care and treatment of a
8 committed person toward the cost of care provided by a
9 State facility or private agency.

10 (Source: P.A. 92-564, eff. 1-1-03.)

11 (730 ILCS 5/3-12-2) (from Ch. 38, par. 1003-12-2)

12 Sec. 3-12-2. Types of employment.

13 (a) The Department may establish, maintain, train and
14 employ committed persons in industries for the production of
15 articles, materials or supplies for resale to authorized
16 purchasers. It may also employ committed persons on public
17 works, buildings and property, the conservation of natural
18 resources of the State, anti-pollution or environmental
19 control projects, or for other public purposes, for the
20 maintenance of the Department's buildings and properties and
21 for the production of food or other necessities for its
22 programs. The Department may establish, maintain and employ
23 committed persons in the production of vehicle registration
24 plates. A committed person's labor shall not be sold,
25 contracted or hired out by the Department except under this
26 Article and under Section 3-9-2.

27 (b) Works of art, literature, handicraft or other items
28 produced by committed persons as an avocation and not as a
29 product of a work program of the Department may be sold to the
30 public under rules and regulations established by the
31 Department. The cost of selling such products may be deducted
32 from the proceeds, and the balance shall be credited to the
33 person's account under Section 3-4-3. The Department shall
34 notify the Attorney General of the existence of any proceeds
35 which it believes should be applied towards a satisfaction, in

1 whole or in part, of the person's incarceration costs.

2 (Source: P.A. 88-669, eff. 11-29-94; 88-679, eff. 7-1-95.)

3 (730 ILCS 5/3-12-5) (from Ch. 38, par. 1003-12-5)

4 Sec. 3-12-5. Compensation. Persons performing a work
5 assignment under subsection (a) of Section 3-12-2 may receive
6 wages under rules and regulations of the Department. In
7 determining rates of compensation, the Department shall
8 consider the effort, skill and economic value of the work
9 performed. Compensation may be given to persons who participate
10 in other programs of the Department. Of the compensation earned
11 pursuant to this Section, a portion, as determined by the
12 Department, shall be used to offset the cost of the committed
13 person's incarceration. If the committed person files a lawsuit
14 determined frivolous under Article XXII of the Code of Civil
15 Procedure, 50% of the compensation shall be used to offset the
16 filing fees and costs of the lawsuit as provided in that
17 Article until all fees and costs are paid in full. All other
18 wages shall be deposited in the individual's account under
19 rules and regulations of the Department. The Department shall
20 notify the Attorney General of any compensation applied towards
21 a satisfaction, in whole or in part, of the person's
22 incarceration costs.

23 (Source: P.A. 90-505, eff. 8-19-97.)

24 Article 2.

25 Section 2-1. Findings; purpose.

26 (a) The General Assembly finds and declares that:

27 (1) Public Act 89-688, effective June 1, 1997,
28 contained provisions amending Sections 31A-1.1 and 31A-1.2
29 of the Criminal Code of 1961 relating to bringing
30 contraband into a penal institution; possessing contraband
31 in a penal institution; and unauthorized bringing of
32 contraband into a penal institution by an employee. Public
33 Act 89-688 also contained other provisions.

1 (2) On October 20, 2000, in *People v. Jerry Lee Foster*,
2 316 Ill. App. 3d 855, the Illinois Appellate Court, Fourth
3 District, ruled that Public Act 89-688 violates the single
4 subject clause of the Illinois Constitution (Article IV,
5 Section 8 (d)) and is therefore unconstitutional in its
6 entirety. The Illinois Supreme Court agreed with the
7 reasoning of that court in *People v. Burdunice*, 211 Ill. 2d
8 264 (2004).

9 (3) The provisions added to Sections 31A-1.1 and
10 31A-1.2 of the Criminal Code of 1961 by Public Act 89-688
11 are of vital concern to the people of this State. Prompt
12 legislative action concerning those provisions is
13 necessary.

14 (4) Section 31A-1.1 of the Criminal Code of 1961 has
15 subsequently been amended by Public Act 94-556. Section
16 31A-1.2 of the Criminal Code of 1961 has subsequently been
17 amended by Public Acts 90-655, 91-357, and 94-556.

18 (b) It is the purpose of this Article 2 to re-enact
19 Sections 31A-1.1 and 31A-1.2 of the Criminal Code of 1961,
20 including the provisions added by Public Act 89-688 and the
21 subsequent amendment to Section 31A-1.1 by Public Act 94-556
22 and subsequent amendments to Section 31A-1.2 by Public Acts
23 90-655, 91-357, and 94-556. This re-enactment is intended to
24 remove any question as to the validity or content of those
25 provisions; it is not intended to supersede any other Public
26 Act that amends the text of the Sections as set forth in this
27 Article 2. The re-enacted material is shown in this Article 2
28 as existing text (i.e., without underscoring).

29 Section 2-5. The Criminal Code of 1961 is amended by
30 re-enacting Sections 31A-1.1 and 31A-1.2 as follows:

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

32 Sec. 31A-1.1. Bringing Contraband into a Penal
33 Institution; Possessing Contraband in a Penal Institution.

34 (a) A person commits the offense of bringing contraband

1 into a penal institution when he knowingly and without
2 authority of any person designated or authorized to grant such
3 authority (1) brings an item of contraband into a penal
4 institution or (2) causes another to bring an item of
5 contraband into a penal institution or (3) places an item of
6 contraband in such proximity to a penal institution as to give
7 an inmate access to the contraband.

8 (b) A person commits the offense of possessing contraband
9 in a penal institution when he possesses contraband in a penal
10 institution, regardless of the intent with which he possesses
11 it.

12 (c) For the purposes of this Section, the words and phrases
13 listed below shall be defined as follows:

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

27 (2) "Item of contraband" means any of the following:

28 (i) "Alcoholic liquor" as such term is defined in
29 Section 1-3.05 of the Liquor Control Act of 1934.

30 (ii) "Cannabis" as such term is defined in
31 subsection (a) of Section 3 of the Cannabis Control
32 Act.

33 (iii) "Controlled substance" as such term is
34 defined in the Illinois Controlled Substances Act.

35 (iii-a) "Methamphetamine" as such term is defined
36 in the Illinois Controlled Substances Act or the

1 Methamphetamine Control and Community Protection Act.

2 (iv) "Hypodermic syringe" or hypodermic needle, or
3 any instrument adapted for use of controlled
4 substances or cannabis by subcutaneous injection.

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

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

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

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

23 (C) any device used exclusively for the firing
24 of stud cartridges, explosive rivets or industrial
25 ammunition; or

26 (D) any device which is powered by electrical
27 charging units, such as batteries, and which fires
28 one or several barbs attached to a length of wire
29 and which, upon hitting a human, can send out
30 current capable of disrupting the person's nervous
31 system in such a manner as to render him incapable
32 of normal functioning, commonly referred to as a
33 stun gun or taser.

34 (vii) "Firearm ammunition" means any
35 self-contained cartridge or shotgun shell, by whatever
36 name known, which is designed to be used or adaptable

1 to use in a firearm, including but not limited to:

2 (A) any ammunition exclusively designed for
3 use with a device used exclusively for signaling or
4 safety and required or recommended by the United
5 States Coast Guard or the Interstate Commerce
6 Commission; or

7 (B) any ammunition designed exclusively for
8 use with a stud or rivet driver or other similar
9 industrial ammunition.

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

15 (ix) "Tool to defeat security mechanisms" means,
16 but is not limited to, handcuff or security restraint
17 key, tool designed to pick locks, or device or
18 instrument capable of unlocking handcuff or security
19 restraints, doors to cells, rooms, gates or other areas
20 of the penal institution.

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

24 (xi) "Electronic contraband" means, but is not
25 limited to, any electronic, video recording device,
26 computer, or cellular communications equipment,
27 including, but not limited to, cellular telephones,
28 cellular telephone batteries, videotape recorders,
29 pagers, computers, and computer peripheral equipment
30 brought into or possessed in a penal institution
31 without the written authorization of the Chief
32 Administrative Officer.

33 (d) Bringing alcoholic liquor into a penal institution is a
34 Class 4 felony. Possessing alcoholic liquor in a penal
35 institution is a Class 4 felony.

36 (e) Bringing cannabis into a penal institution is a Class 3

1 felony. Possessing cannabis in a penal institution is a Class 3
2 felony.

3 (f) Bringing any amount of a controlled substance
4 classified in Schedules III, IV or V of Article II of the
5 Controlled Substance Act into a penal institution is a Class 2
6 felony. Possessing any amount of a controlled substance
7 classified in Schedule III, IV, or V of Article II of the
8 Controlled Substance Act in a penal institution is a Class 2
9 felony.

10 (g) Bringing any amount of a controlled substance
11 classified in Schedules I or II of Article II of the Controlled
12 Substance Act into a penal institution is a Class 1 felony.
13 Possessing any amount of a controlled substance classified in
14 Schedules I or II of Article II of the Controlled Substance Act
15 in a penal institution is a Class 1 felony.

16 (h) Bringing an item of contraband listed in paragraph (iv)
17 of subsection (c)(2) into a penal institution is a Class 1
18 felony. Possessing an item of contraband listed in paragraph
19 (iv) of subsection (c)(2) in a penal institution is a Class 1
20 felony.

21 (i) Bringing an item of contraband listed in paragraph (v),
22 (ix), (x), or (xi) of subsection (c)(2) into a penal
23 institution is a Class 1 felony. Possessing an item of
24 contraband listed in paragraph (v), (ix), (x), or (xi) of
25 subsection (c)(2) in a penal institution is a Class 1 felony.

26 (j) Bringing an item of contraband listed in paragraphs
27 (vi), (vii) or (viii) of subsection (c)(2) in a penal
28 institution is a Class X felony. Possessing an item of
29 contraband listed in paragraphs (vi), (vii), or (viii) of
30 subsection (c)(2) in a penal institution is a Class X felony.

31 (k) It shall be an affirmative defense to subsection (b)
32 hereof, that such possession was specifically authorized by
33 rule, regulation, or directive of the governing authority of
34 the penal institution or order issued pursuant thereto.

35 (l) It shall be an affirmative defense to subsection (a)(1)
36 and subsection (b) hereof that the person bringing into or

1 possessing contraband in a penal institution had been arrested,
2 and that that person possessed such contraband at the time of
3 his arrest, and that such contraband was brought into or
4 possessed in the penal institution by that person as a direct
5 and immediate result of his arrest.

6 (m) Items confiscated may be retained for use by the
7 Department of Corrections or disposed of as deemed appropriate
8 by the Chief Administrative Officer in accordance with
9 Department rules or disposed of as required by law.

10 (Source: P.A. 94-556, eff. 9-11-05.)

11 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

12 Sec. 31A-1.2. Unauthorized bringing of contraband into a
13 penal institution by an employee; unauthorized possessing of
14 contraband in a penal institution by an employee; unauthorized
15 delivery of contraband in a penal institution by an employee.

16 (a) A person commits the offense of unauthorized bringing
17 of contraband into a penal institution by an employee when a
18 person who is an employee knowingly and without authority or
19 any person designated or authorized to grant such authority:

20 (1) brings or attempts to bring an item of contraband
21 listed in paragraphs (i) through (iv) of subsection (d)(4)
22 into a penal institution, or

23 (2) causes or permits another to bring an item of
24 contraband listed in paragraphs (i) through (iv) of
25 subsection (d)(4) into a penal institution.

26 (b) A person commits the offense of unauthorized possession
27 of contraband in a penal institution by an employee when a
28 person who is an employee knowingly and without authority of
29 any person designated or authorized to grant such authority
30 possesses contraband listed in paragraphs (i) through (iv) of
31 subsection (d)(4) in a penal institution, regardless of the
32 intent with which he possesses it.

33 (c) A person commits the offense of unauthorized delivery
34 of contraband in a penal institution by an employee when a
35 person who is an employee knowingly and without authority of

1 any person designated or authorized to grant such authority:

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

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

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

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

10 (d) For purpose of this Section, the words and phrases
11 listed below shall be defined as follows:

12 (1) "Penal Institution" shall have the meaning
13 ascribed to it in subsection (c)(1) of Section 31A-1.1 of
14 this Code;

15 (2) "Employee" means any elected or appointed officer,
16 trustee or employee of a penal institution or of the
17 governing authority of the penal institution, or any person
18 who performs services for the penal institution pursuant to
19 contract with the penal institution or its governing
20 authority.

21 (3) "Deliver" or "delivery" means the actual,
22 constructive or attempted transfer of possession of an item
23 of contraband, with or without consideration, whether or
24 not there is an agency relationship;

25 (4) "Item of contraband" means any of the following:

26 (i) "Alcoholic liquor" as such term is defined in
27 Section 1-3.05 of the Liquor Control Act of 1934.

28 (ii) "Cannabis" as such term is defined in
29 subsection (a) of Section 3 of the Cannabis Control
30 Act.

31 (iii) "Controlled substance" as such term is
32 defined in the Illinois Controlled Substances Act.

33 (iii-a) "Methamphetamine" as such term is defined
34 in the Illinois Controlled Substances Act or the
35 Methamphetamine Control and Community Protection Act.

36 (iv) "Hypodermic syringe" or hypodermic needle, or

1 any instrument adapted for use of controlled
2 substances or cannabis by subcutaneous injection.

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

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

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

17 (B) any device used exclusively for signaling
18 or safety and required or recommended by the United
19 States Coast Guard or the Interstate Commerce
20 Commission; or

21 (C) any device used exclusively for the firing
22 of stud cartridges, explosive rivets or industrial
23 ammunition; or

24 (D) any device which is powered by electrical
25 charging units, such as batteries, and which fires
26 one or several barbs attached to a length of wire
27 and which, upon hitting a human, can send out
28 current capable of disrupting the person's nervous
29 system in such a manner as to render him incapable
30 of normal functioning, commonly referred to as a
31 stun gun or taser.

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

36 (A) any ammunition exclusively designed for

1 use with a device used exclusively for signaling or
2 safety and required or recommended by the United
3 States Coast Guard or the Interstate Commerce
4 Commission; or

5 (B) any ammunition designed exclusively for
6 use with a stud or rivet driver or other similar
7 industrial ammunition.

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

13 (ix) "Tool to defeat security mechanisms" means,
14 but is not limited to, handcuff or security restraint
15 key, tool designed to pick locks, or device or
16 instrument capable of unlocking handcuff or security
17 restraints, doors to cells, rooms, gates or other areas
18 of the penal institution.

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

22 (xi) "Electronic contraband" means, but is not
23 limited to, any electronic, video recording device,
24 computer, or cellular communications equipment,
25 including, but not limited to, cellular telephones,
26 cellular telephone batteries, videotape recorders,
27 pagers, computers, and computer peripheral equipment.

28 (e) A violation of paragraphs (a) or (b) of this Section
29 involving alcohol is a Class 4 felony. A violation of paragraph
30 (a) or (b) of this Section involving cannabis is a Class 2
31 felony. A violation of paragraph (a) or (b) involving any
32 amount of a controlled substance classified in Schedules III,
33 IV or V of Article II of the Illinois Controlled Substances Act
34 is a Class 1 felony. A violation of paragraph (a) or (b) of
35 this Section involving any amount of a controlled substance
36 classified in Schedules I or II of Article II of the Illinois

1 Controlled Substances Act is a Class X felony. A violation of
2 paragraph (a) or (b) involving an item of contraband listed in
3 paragraph (iv) of subsection (d)(4) is a Class X felony. A
4 violation of paragraph (a) or (b) involving an item of
5 contraband listed in paragraph (v) or (xi) of subsection (d)(4)
6 is a Class 1 felony. A violation of paragraph (a) or (b)
7 involving an item of contraband listed in paragraphs (vi),
8 (vii) or (viii) of subsection (d)(4) is a Class X felony.

9 (f) A violation of paragraph (c) of this Section involving
10 alcoholic liquor is a Class 3 felony. A violation of paragraph
11 (c) involving cannabis is a Class 1 felony. A violation of
12 paragraph (c) involving any amount of a controlled substance
13 classified in Schedules III, IV or V of Article II of the
14 Illinois Controlled Substances Act is a Class X felony. A
15 violation of paragraph (c) involving any amount of a controlled
16 substance classified in Schedules I or II of Article II of the
17 Illinois Controlled Substances Act is a Class X felony for
18 which the minimum term of imprisonment shall be 8 years. A
19 violation of paragraph (c) involving an item of contraband
20 listed in paragraph (iv) of subsection (d)(4) is a Class X
21 felony for which the minimum term of imprisonment shall be 8
22 years. A violation of paragraph (c) involving an item of
23 contraband listed in paragraph (v), (ix) or (x) of subsection
24 (d)(4) is a Class X felony for which the minimum term of
25 imprisonment shall be 10 years. A violation of paragraph (c)
26 involving an item of contraband listed in paragraphs (vi),
27 (vii) or (viii) of subsection (d)(4) is a Class X felony for
28 which the minimum term of imprisonment shall be 12 years.

29 (g) Items confiscated may be retained for use by the
30 Department of Corrections or disposed of as deemed appropriate
31 by the Chief Administrative Officer in accordance with
32 Department rules or disposed of as required by law.

33 (Source: P.A. 94-556, eff. 9-11-05.)

34 Section 99. Effective date. This Act takes effect upon
35 becoming law.