

By Senator Lee

23-161-00

1 A bill to be entitled
2 An act relating to the offense of possessing a
3 concealed handcuff key; creating s. 843.021,
4 F.S.; providing definitions; providing that it
5 is a third-degree felony for a person placed in
6 custody to possess a concealed handcuff key;
7 providing that disclosure of such possession to
8 a law enforcement officer is a defense to the
9 charge of unlawfully possessing a concealed
10 handcuff key; amending s. 921.0022, F.S.,
11 relating to the Criminal Punishment Code;
12 including the offense of possessing a concealed
13 handcuff key on the offense severity ranking
14 chart; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 843.021, Florida Statutes, is
19 created to read:

20 843.021 Unlawful possession of a concealed handcuff
21 key.--

22 (1) As used in this section, the term:

23 (a) "In custody" means any time while a person has
24 been placed by a law enforcement officer in handcuffs,
25 flexcuffs, or any other device that is intended to restrain
26 movement, regardless of whether such person is under formal
27 arrest.

28 (b) "Handcuff key" means any key, tool, device,
29 implement, or other thing used, designed, or intended to aid
30 in unlocking or removing handcuffs, flexcuffs, or any other
31 device intended to restrain movement.

1 (c) "Concealed handcuff key" means any handcuff key
2 carried by a person in custody in a manner that indicates an
3 intent to prevent discovery of the key by a law enforcement
4 officer, including, but not limited to, a handcuff key
5 carried:

6 1. In a pocket of a piece of clothing of a person in
7 custody and unconnected to any key ring;

8 2. On a necklace of a person in custody;

9 3. On the body part of a person in custody or on any
10 item of clothing of such person, when the handcuff key is
11 secured on the body part or item of clothing by use of tape,
12 glue, line, or other material;

13 4. In or within any compartment, seam, fold, or other
14 encasement within any item of clothing, belt, shoe, or jewelry
15 of a person in custody;

16 5. In or within any sock, hose, shoe, belt,
17 undergarment, glove, hat, or similar item of clothing or
18 accessory of a person in custody;

19 6. By a person in custody and disguised as jewelry or
20 other object; or

21 7. In or within any body cavity of a person in
22 custody.

23 (2) Any person in custody who possesses a concealed
24 handcuff key commits a felony of the third degree, punishable
25 as provided in s. 775.082, s. 775.083, or s. 775.084.

26 (3) It is a defense to a charge of violating this
27 section that, immediately upon being placed in custody, the
28 person in custody actually and effectively disclosed to the
29 law enforcement officer that he or she was in possession of a
30 concealed handcuff key.

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1 (4)(a) It is a defense to a charge of violating this
2 section that the person in custody and in possession of a
3 concealed handcuff key is:

4 1. A federal, state, or local law enforcement officer,
5 including a reserve or auxiliary officer, a licensed security
6 officer, or a private investigator as defined in s. 493.6101;
7 or

8 2. A professional bail bond agent, temporary bail bond
9 agent, or runner, as defined in s. 648.25.

10 (b) However, the defense is not available to any
11 officer, investigator, agent, or runner listed in this
12 subsection if the officer, investigator, agent, or runner,
13 immediately upon being placed in custody, fails to actually
14 and effectively disclose possession of the concealed handcuff
15 key.

16 Section 2. Paragraph (d) of subsection (3) of section
17 921.0022, Florida Statutes, is amended to read:

18 921.0022 Criminal Punishment Code; offense severity
19 ranking chart.--

20 (3) OFFENSE SEVERITY RANKING CHART

21
22 Florida Felony
23 Statute Degree Description
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26 (d) LEVEL 4
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1	316.1935(3)	2nd	Driving at high speed or with
2			wanton disregard for safety while
3			fleeing or attempting to elude
4			law enforcement officer who is in
5			a marked patrol vehicle with
6			siren and lights activated.
7	784.07(2)(b)	3rd	Battery of law enforcement
8			officer, firefighter, intake
9			officer, etc.
10	784.075	3rd	Battery on detention or
11			commitment facility staff.
12	784.08(2)(c)	3rd	Battery on a person 65 years of
13			age or older.
14	784.081(3)	3rd	Battery on specified official or
15			employee.
16	784.082(3)	3rd	Battery by detained person on
17			visitor or other detainee.
18	784.083(3)	3rd	Battery on code inspector.
19	787.03(1)	3rd	Interference with custody;
20			wrongly takes child from
21			appointed guardian.
22	787.04(2)	3rd	Take, entice, or remove child
23			beyond state limits with criminal
24			intent pending custody
25			proceedings.
26	787.04(3)	3rd	Carrying child beyond state lines
27			with criminal intent to avoid
28			producing child at custody
29			hearing or delivering to
30			designated person.
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1	790.115(1)	3rd	Exhibiting firearm or weapon
2			within 1,000 feet of a school.
3	790.115(2)(b)	3rd	Possessing electric weapon or
4			device, destructive device, or
5			other weapon on school property.
6	790.115(2)(c)	3rd	Possessing firearm on school
7			property.
8	800.04(7)(c)	3rd	Lewd or lascivious exhibition;
9			offender less than 18 years.
10	810.02(4)(a)	3rd	Burglary, or attempted burglary,
11			of an unoccupied structure;
12			unarmed; no assault or battery.
13	810.02(4)(b)	3rd	Burglary, or attempted burglary,
14			of an unoccupied conveyance;
15			unarmed; no assault or battery.
16	810.06	3rd	Burglary; possession of tools.
17	810.08(2)(c)	3rd	Trespass on property, armed with
18			firearm or dangerous weapon.
19	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
20			or more but less than \$20,000.
21	812.014		
22	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
23			firearm, motor vehicle,
24			livestock, etc.
25	817.563(1)	3rd	Sell or deliver substance other
26			than controlled substance agreed
27			upon, excluding s. 893.03(5)
28			drugs.
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1	828.125(1)	2nd	Kill, maim, or cause great bodily
2			harm or permanent breeding
3			disability to any registered
4			horse or cattle.
5	837.02(1)	3rd	Perjury in official proceedings.
6	837.021(1)	3rd	Make contradictory statements in
7			official proceedings.
8	<u>843.021</u>	<u>3rd</u>	<u>Possession of a concealed</u>
9			<u>handcuff key by a person in</u>
10			<u>custody.</u>
11	843.025	3rd	Deprive law enforcement,
12			correctional, or correctional
13			probation officer of means of
14			protection or communication.
15	843.15(1)(a)	3rd	Failure to appear while on bail
16			for felony (bond estreature or
17			bond jumping).
18	874.05(1)	3rd	Encouraging or recruiting another
19			to join a criminal street gang.
20	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
21			893.03(1)(a), (b), or (d), or
22			(2)(a) or (b) drugs).
23	914.14(2)	3rd	Witnesses accepting bribes.
24	914.22(1)	3rd	Force, threaten, etc., witness,
25			victim, or informant.
26	914.23(2)	3rd	Retaliation against a witness,
27			victim, or informant, no bodily
28			injury.
29	918.12	3rd	Tampering with jurors.
30	Section 3.		This act shall take effect July 1, 2000.
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SENATE SUMMARY

Provides that it is a felony of the third degree for a person in custody to possess a concealed handcuff key. Defines the term "handcuff key" to include any device used to aid in removing handcuffs, flexcuffs, or any other device intended to restrain movement. Provides that it is a defense to the charge of unlawfully possessing a concealed handcuff key if the person discloses such possession immediately upon being placed in custody by a law enforcement officer.