

By Senator Gainer

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1                                   A bill to be entitled  
 2           An act relating to correctional facility employees;  
 3           amending s. 112.3173, F.S.; providing for forfeiture  
 4           of retirement benefits of correctional facility  
 5           employees who commit certain violations; amending s.  
 6           944.47, F.S.; providing enhanced penalties for  
 7           offenses involving introduction of contraband in  
 8           correctional facilities when committed by correctional  
 9           facility employees; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

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 13           Section 1. Paragraph (e) of subsection (2) of section  
 14           112.3173, Florida Statutes, is amended to read:

15           112.3173 Felonies involving breach of public trust and  
 16           other specified offenses by public officers and employees;  
 17           forfeiture of retirement benefits.—

18           (2) DEFINITIONS.—As used in this section, unless the  
 19           context otherwise requires, the term:

20           (e) "Specified offense" means:

21           1. The committing, aiding, or abetting of an embezzlement  
 22           of public funds;

23           2. The committing, aiding, or abetting of any theft by a  
 24           public officer or employee from his or her employer;

25           3. Bribery in connection with the employment of a public  
 26           officer or employee;

27           4. Any felony specified in chapter 838, except ss. 838.15  
 28           and 838.16;

29           5. The committing of an impeachable offense;

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30           6. The committing of any felony by a public officer or  
31 employee who, willfully and with intent to defraud the public or  
32 the public agency for which the public officer or employee acts  
33 or in which he or she is employed of the right to receive the  
34 faithful performance of his or her duty as a public officer or  
35 employee, realizes or obtains, or attempts to realize or obtain,  
36 a profit, gain, or advantage for himself or herself or for some  
37 other person through the use or attempted use of the power,  
38 rights, privileges, duties, or position of his or her public  
39 office or employment position; ~~or~~

40           7. The committing on or after October 1, 2008, of any  
41 felony defined in s. 800.04 against a victim younger than 16  
42 years of age, or any felony defined in chapter 794 against a  
43 victim younger than 18 years of age, by a public officer or  
44 employee through the use or attempted use of power, rights,  
45 privileges, duties, or position of his or her public office or  
46 employment position; or

47           8. The committing on or after October 1, 2019, of any  
48 violation described in s. 944.47(2)(b).

49           Section 2. Section 944.47, Florida Statutes, is amended to  
50 read:

51           944.47 Introduction, removal, or possession of contraband  
52 ~~certain articles unlawful; penalty.-~~

53           (1) (a) Except through regular channels as authorized by the  
54 officer in charge of the correctional institution, it is  
55 unlawful to introduce into or upon the grounds of any state  
56 correctional institution, or to take or attempt to take or send  
57 or attempt to send therefrom, any of the following articles  
58 which are hereby declared to be contraband for the purposes of

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59 this section, ~~to wit:~~

60 1. Any written or recorded communication or any currency or  
61 coin given or transmitted, or intended to be given or  
62 transmitted, to any inmate of any state correctional  
63 institution.

64 2. Any article of food or clothing given or transmitted, or  
65 intended to be given or transmitted, to any inmate of any state  
66 correctional institution.

67 3. Any intoxicating beverage or beverage which causes or  
68 may cause an intoxicating effect.

69 4. Any controlled substance as defined in s. 893.02(4) or  
70 any prescription or nonprescription drug having a hypnotic,  
71 stimulating, or depressing effect.

72 5. Any firearm or weapon of any kind or any explosive  
73 substance.

74 6. Any cellular telephone or other portable communication  
75 device intentionally and unlawfully introduced inside the secure  
76 perimeter of any state correctional institution without prior  
77 authorization or consent from the officer in charge of such  
78 correctional institution. As used in this subparagraph, the term  
79 "portable communication device" means any device carried, worn,  
80 or stored which is designed or intended to receive or transmit  
81 verbal or written messages, access or store data, or connect  
82 electronically to the Internet or any other electronic device  
83 and which allows communications in any form. Such devices  
84 include, but are not limited to, portable two-way pagers, hand-  
85 held radios, cellular telephones, Blackberry-type devices,  
86 personal digital assistants or PDA's, laptop computers, or any  
87 components of these devices which are intended to be used to

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88 assemble such devices. The term also includes any new technology  
89 that is developed for similar purposes. Excluded from this  
90 definition is any device having communication capabilities which  
91 has been approved or issued by the department for investigative  
92 or institutional security purposes or for conducting other state  
93 business.

94 (b) It is unlawful to transmit or attempt to transmit to,  
95 or cause or attempt to cause to be transmitted to or received  
96 by, any inmate of any state correctional institution any article  
97 or thing declared by this subsection to be contraband, at any  
98 place which is outside the grounds of such institution, except  
99 through regular channels as authorized by the officer in charge  
100 of such correctional institution.

101 (c) It is unlawful for any inmate of any state correctional  
102 institution or any person while upon the grounds of any state  
103 correctional institution to be in actual or constructive  
104 possession of any article or thing declared by this section to  
105 be contraband, except as authorized by the officer in charge of  
106 such correctional institution.

107 (2) (a) A person who violates ~~any provision of~~ this section  
108 as it pertains to an article of contraband described in  
109 subparagraph (1) (a) 1. 7 or subparagraph (1) (a) 2. ~~7~~, or subparagraph  
110 ~~(1) (a) 6.~~ commits a felony of the third degree, punishable as  
111 provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise ~~In~~  
112 ~~all other cases,~~ a violation of ~~a provision of~~ this section is  
113 ~~constitutes~~ a felony of the second degree, punishable as  
114 provided in s. 775.082, s. 775.083, or s. 775.084.

115 (b) A violation of this section by an employee, as defined  
116 in s. 944.115(2) (b), who uses or attempts to use the powers,

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117 rights, privileges, duties, or position of his or her employment  
118 in the commission of the violation is ranked one level above the  
119 ranking specified in s. 921.0022 or s. 921.0023 for the offense  
120 committed.

121 Section 3. This act shall take effect October 1, 2019.