

By Senator Simmons

9-01409-20

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1                   A bill to be entitled  
2       An act relating to contraband in specified facilities;  
3       amending s. 916.1085, F.S.; prohibiting the  
4       introduction of cannabis and certain related  
5       substances into specified facilities of the Department  
6       of Children and Families or of the Agency for Persons  
7       with Disabilities; providing a definition; providing  
8       criminal penalties; amending ss. 944.47 and 951.22,  
9       F.S.; prohibiting the introduction of *Cannabis sativa*  
10      and certain related substances and vapor-generating  
11      electronic devices into specified detention  
12      facilities; providing a definition; providing criminal  
13      penalties; amending s. 985.711, F.S.; prohibiting the  
14      introduction of *Cannabis sativa* and certain related  
15      substances, cellular telephones and other portable  
16      communication devices, and vapor-generating electronic  
17      devices into specified juvenile detention facilities  
18      or commitment programs; providing a definition;  
19      providing criminal penalties; amending s. 921.0022,  
20      F.S.; ranking the offense of introducing certain  
21      contraband into specified facilities of the Department  
22      of Children and Families on level 4 of the offense  
23      severity ranking chart; providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

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27       Section 1. Paragraph (a) of subsection (1) and paragraph  
28       (c) of subsection (2) of section 916.1085, Florida Statutes, are  
29       amended to read:

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30 916.1085 Introduction or removal of certain articles  
31 unlawful; penalty.-

32 (1) (a) Except as authorized by law or as specifically  
33 authorized by the person in charge of a facility, it is unlawful  
34 to introduce into or upon the grounds of any facility under the  
35 supervision or control of the department or agency, or to take  
36 or attempt to take or send therefrom, any of the following  
37 articles, which are declared to be contraband for the purposes  
38 of this section:

39 1. Any intoxicating beverage or beverage which causes or  
40 may cause an intoxicating effect;

41 2. Any controlled substance as defined in chapter 893 or  
42 any part of any plant of the genus *Cannabis sativa*, whether  
43 growing or not; any seeds of the plant; any resin extracted from  
44 any part of the plant; and any compound, manufacture, salt,  
45 derivative, mixture, or preparation containing such substances,  
46 including marijuana as defined in s. 381.986, hemp as defined in  
47 s. 581.217, and industrial hemp as defined in s. 1004.4473;

48 3. Any firearm or deadly weapon; ~~or~~

49 4. Any cellular telephone or other portable communication  
50 device as described in s. 944.47(1)(a)6. As used in this  
51 subparagraph, the term "portable communication device" does not  
52 include any device that has communication capabilities which has  
53 been approved or issued by the sheriff or officer in charge for  
54 investigative or institutional security purposes or for  
55 conducting other official business;

56 5. Any vapor-generating electronic device as defined in s.  
57 944.47(1)(a)7.; or

58 6.4. Any other item as determined by the department or the

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59 agency, and as designated by rule or by written institutional  
60 policies, to be hazardous to the welfare of clients or the  
61 operation of the facility.

62 (2)

63 (c)1. A person who violates ~~any provision of~~ subparagraph  
64 (1)(a)2. or subparagraph (1)(a)3. commits a felony of the third  
65 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
66 775.084.

67 2. A person who violates subparagraph (1)(a)4. or  
68 subparagraph (1)(a)5. commits a misdemeanor of the first degree,  
69 punishable as provided in s. 775.082 or s. 775.083.

70 Section 2. Paragraph (a) of subsection (1) and subsection  
71 (2) of section 944.47, Florida Statutes, are amended to read:

72 944.47 Introduction, removal, or possession of contraband;  
73 penalty.—

74 (1)(a) Except through regular channels as authorized by the  
75 officer in charge of the correctional institution, it is  
76 unlawful to introduce into or upon the grounds of any state  
77 correctional institution, or to take or attempt to take or send  
78 or attempt to send therefrom, any of the following articles  
79 which are hereby declared to be contraband for the purposes of  
80 this section, to wit:

81 1. Any written or recorded communication or any currency or  
82 coin given or transmitted, or intended to be given or  
83 transmitted, to any inmate of any state correctional  
84 institution.

85 2. Any article of food or clothing given or transmitted, or  
86 intended to be given or transmitted, to any inmate of any state  
87 correctional institution.

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88           3. Any intoxicating beverage or beverage which causes or  
89 may cause an intoxicating effect.

90           4. Any controlled substance as defined in s. 893.02(4); ~~or~~  
91 any prescription or nonprescription drug having a hypnotic,  
92 stimulating, or depressing effect; or any part of any plant of  
93 the genus *Cannabis sativa*, whether growing or not; any seeds of  
94 the plant; any resin extracted from any part of the plant; and  
95 any compound, manufacture, salt, derivative, mixture, or  
96 preparation containing such substances, including marijuana as  
97 defined in s. 381.986, hemp as defined in s. 581.217, and  
98 industrial hemp as defined in s. 1004.4473.

99           5. Any firearm or weapon of any kind or any explosive  
100 substance.

101           6. Any cellular telephone or other portable communication  
102 device intentionally and unlawfully introduced inside the secure  
103 perimeter of any state correctional institution without prior  
104 authorization or consent from the officer in charge of such  
105 correctional institution. As used in this subparagraph, the term  
106 "portable communication device" means any device carried, worn,  
107 or stored which is designed or intended to receive or transmit  
108 verbal or written messages, access or store data, or connect  
109 electronically to the Internet or any other electronic device  
110 and which allows communications in any form. Such devices  
111 include, but are not limited to, portable two-way pagers, hand-  
112 held radios, cellular telephones, Blackberry-type devices,  
113 personal digital assistants or PDA's, laptop computers, or any  
114 components of these devices which are intended to be used to  
115 assemble such devices. The term also includes any new technology  
116 that is developed for similar purposes. Excluded from this

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117 definition is any device having communication capabilities which  
118 has been approved or issued by the department for investigative  
119 or institutional security purposes or for conducting other state  
120 business.

121 7. Any vapor-generating electronic device. As used in this  
122 subparagraph, the term "vapor-generating electronic device"  
123 means any product that employs an electronic, a chemical, or a  
124 mechanical means capable of producing vapor or aerosol from a  
125 nicotine product or any other substance, including, but not  
126 limited to, an electronic cigarette, electronic cigar,  
127 electronic cigarillo, electronic pipe, or other similar device  
128 or product; any replacement cartridge for such device; and any  
129 other container of a solution or other substance intended to be  
130 used with or within such device.

131 (2) (a) A person who violates this section as it pertains to  
132 an article of contraband described in subparagraph (1) (a)1.,  
133 subparagraph (1) (a)2., or subparagraph (1) (a)6. commits a felony  
134 of the third degree, punishable as provided in s. 775.082, s.  
135 775.083, or s. 775.084. A person who violates this section as it  
136 pertains to an article of contraband described in subparagraph  
137 (1) (a)7. commits a misdemeanor of the first degree, punishable  
138 as provided in s. 775.082 or s. 775.083. Otherwise, a violation  
139 of this section is a felony of the second degree, punishable as  
140 provided in s. 775.082, s. 775.083, or s. 775.084.

141 (b) A violation of this section by an employee, as defined  
142 in s. 944.115(2) (b), who uses or attempts to use the powers,  
143 rights, privileges, duties, or position of his or her employment  
144 in the commission of the violation is ranked one level above the  
145 ranking specified in s. 921.0022 or s. 921.0023 for the offense

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146 committed.

147 Section 3. Paragraph (1) is added to subsection (1) of  
148 section 951.22, Florida Statutes, and paragraph (h) of  
149 subsection (1) and subsection (2) of that section are amended,  
150 to read:

151 951.22 County detention facilities; contraband articles.—

152 (1) It is unlawful, except through regular channels as duly  
153 authorized by the sheriff or officer in charge, to introduce  
154 into or possess upon the grounds of any county detention  
155 facility as defined in s. 951.23 or to give to or receive from  
156 any inmate of any such facility wherever said inmate is located  
157 at the time or to take or to attempt to take or send therefrom  
158 any of the following articles, which are contraband:

159 (h) Any narcotic, hypnotic, or excitative drug or drug of  
160 any kind or nature, including nasal inhalators, sleeping pills,  
161 barbiturates, and controlled substances as defined in s.  
162 893.02(4), or any part of any plant of the genus *Cannabis*  
163 *sativa*, whether growing or not; any seeds of the plant; any  
164 resin extracted from any part of the plant; and any compound,  
165 manufacture, salt, derivative, mixture, or preparation  
166 containing such substances, including marijuana as defined in s.  
167 381.986, hemp as defined in s. 581.217, and industrial hemp as  
168 defined in s. 1004.4473.

169 (1) Any vapor-generating electronic device as defined in s.  
170 944.47(1)(a)7.

171 (2) A person who violates paragraph (1)(a), paragraph  
172 (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e),  
173 paragraph (1)(f), ~~or~~ paragraph (1)(g), or paragraph (1)(l)  
174 commits a misdemeanor of the first degree, punishable as

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175 provided in s. 775.082 or s. 775.083. A person who violates  
176 paragraph (1)(h), paragraph (1)(i), paragraph (1)(j), or  
177 paragraph (1)(k) commits a felony of the third degree,  
178 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

179 Section 4. Paragraph (a) of subsection (1) and subsection  
180 (2) of section 985.711, Florida Statutes, are amended to read:

181 985.711 Introduction, removal, or possession of certain  
182 articles unlawful; penalty.—

183 (1)(a) Except as authorized through program policy or  
184 operating procedure or as authorized by the facility  
185 superintendent, program director, or manager, a person may not  
186 introduce into or upon the grounds of a juvenile detention  
187 facility or commitment program, or take or send, or attempt to  
188 take or send, from a juvenile detention facility or commitment  
189 program, any of the following articles, which are declared to be  
190 contraband under this section:

191 1. Any unauthorized article of food or clothing.

192 2. Any intoxicating beverage or any beverage that causes or  
193 may cause an intoxicating effect.

194 3. Any controlled substance~~;~~ as defined in s. 893.02(4)~~;~~  
195 ~~or~~ any prescription or nonprescription drug that has a hypnotic,  
196 stimulating, or depressing effect; or any part of any plant of  
197 the genus *Cannabis sativa*, whether growing or not; any seeds of  
198 the plant; any resin extracted from any part of the plant; and  
199 any compound, manufacture, salt, derivative, mixture, or  
200 preparation containing such substances, including marijuana as  
201 defined in s. 381.986, hemp as defined in s. 581.217, and  
202 industrial hemp as defined in s. 1004.4473.

203 4. Any firearm or weapon of any kind or any explosive

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204 substance.

205 5. Any cellular telephone or other portable communication  
206 device as described in s. 944.47(1)(a)6. As used in this  
207 subparagraph, the term "portable communication device" does not  
208 include any device that has communication capabilities which has  
209 been approved or issued by the sheriff or officer in charge for  
210 investigative or institutional security purposes or for  
211 conducting other official business.

212 6. Any vapor-generating electronic device as defined in s.  
213 944.47(1)(a)7.

214 (2) (a) Any person who violates this section as it pertains  
215 to an article of contraband described in subparagraph (1)(a)1.  
216 commits a felony of the third degree, punishable as provided in  
217 s. 775.082, s. 775.083, or s. 775.084.

218 (b) Any person who violates this section as it pertains to  
219 an article of contraband described in subparagraph (1)(a)5. or  
220 subparagraph (1)(a)6. commits a misdemeanor of the first degree,  
221 punishable as provided in s. 775.082 or s. 775.083.

222  
223 In all other cases, a person who violates this section commits a  
224 felony of the second degree, punishable as provided in s.  
225 775.082, s. 775.083, or s. 775.084.

226 Section 5. Paragraph (d) of subsection (3) of section  
227 921.0022, Florida Statutes, is amended to read:

228 921.0022 Criminal Punishment Code; offense severity ranking  
229 chart.—

230 (3) OFFENSE SEVERITY RANKING CHART

231 (d) LEVEL 4



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233	Florida Statute	Felony Degree	Description
233	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
234	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
235	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
236	517.07 (1)	3rd	Failure to register securities.
237	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
238	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
239	784.074 (1) (c)	3rd	Battery of sexually violent

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predators facility staff.

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784.075 3rd Battery on detention or  
commitment facility staff.

241

784.078 3rd Battery of facility employee by  
throwing, tossing, or expelling  
certain fluids or materials.

242

784.08 (2) (c) 3rd Battery on a person 65 years of  
age or older.

243

784.081 (3) 3rd Battery on specified official  
or employee.

244

784.082 (3) 3rd Battery by detained person on  
visitor or other detainee.

245

784.083 (3) 3rd Battery on code inspector.

246

784.085 3rd Battery of child by throwing,  
tossing, projecting, or  
expelling certain fluids or  
materials.

247

787.03 (1) 3rd Interference with custody;  
wrongly takes minor from  
appointed guardian.

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249 787.04 (2) 3rd Take, entice, or remove child  
beyond state limits with  
criminal intent pending custody  
proceedings.

250 787.04 (3) 3rd Carrying child beyond state  
lines with criminal intent to  
avoid producing child at  
custody hearing or delivering  
to designated person.

251 787.07 3rd Human smuggling.

252 790.115 (1) 3rd Exhibiting firearm or weapon  
within 1,000 feet of a school.

253 790.115 (2) (b) 3rd Possessing electric weapon or  
device, destructive device, or  
other weapon on school  
property.

254 790.115 (2) (c) 3rd Possessing firearm on school  
property.

255 800.04 (7) (c) 3rd Lewd or lascivious exhibition;  
offender less than 18 years.

810.02 (4) (a) 3rd Burglary, or attempted  
burglary, of an unoccupied

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structure; unarmed; no assault  
or battery.

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810.02(4)(b) 3rd Burglary, or attempted  
burglary, of an unoccupied  
conveyance; unarmed; no assault  
or battery.

257

810.06 3rd Burglary; possession of tools.

258

810.08(2)(c) 3rd Trespass on property, armed  
with firearm or dangerous  
weapon.

259

812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000  
or more but less than \$20,000.

260

812.014 3rd Grand theft, 3rd degree;  
(2)(c)4.-10. specified items.

261

812.0195(2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

262

817.505(4)(a) 3rd Patient brokering.

263

817.563(1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.

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893.03(5) drugs.

264

817.568(2)(a) 3rd Fraudulent use of personal  
identification information.

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817.625(2)(a) 3rd Fraudulent use of scanning  
device, skimming device, or  
reencoder.

266

817.625(2)(c) 3rd Possess, sell, or deliver  
skimming device.

267

828.125(1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

268

837.02(1) 3rd Perjury in official  
proceedings.

269

837.021(1) 3rd Make contradictory statements  
in official proceedings.

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838.022 3rd Official misconduct.

271

839.13(2)(a) 3rd Falsifying records of an  
individual in the care and  
custody of a state agency.

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273	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
274	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
275	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
276	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
277	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
278	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
278	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).

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914.14 (2)	3rd	Witnesses accepting bribes.
914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
<u>916.1085 (2) (c) 1.</u>	<u>3rd</u>	<u>Introduction of specified contraband into certain DCF facilities.</u>
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47 (1) (a) 6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
951.22 (1) (h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable

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communication device introduced  
into county detention facility.

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Section 6. This act shall take effect October 1, 2020.