

By the Committee on Criminal Justice; and Senator Simmons

591-02738-20

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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 certain cannabis related substances,
5 cellular telephones and other portable communication
6 devices, and vapor-generating electronic devices
7 inside the secure perimeter of specified facilities of
8 the Department of Children and Families or of the
9 Agency for Persons with Disabilities; providing
10 criminal penalties; amending s. 944.47; prohibiting
11 the introduction of certain cannabis related
12 substances and vapor-generating electronic devices
13 inside the secure perimeter of a correctional
14 institution; providing criminal penalties; amending s.
15 951.22, F.S.; prohibiting the introduction of certain
16 cannabis related substances and vapor-generating
17 electronic devices inside the secure perimeter of a
18 county detention facility; providing criminal
19 penalties; amending s. 985.711, F.S.; prohibiting the
20 introduction of certain cannabis related substances,
21 cellular telephones and other portable communication
22 devices, and vapor-generating electronic devices
23 inside the secure perimeter of specified juvenile
24 detention facilities or commitment programs; providing
25 criminal penalties; amending s. 921.0022, F.S.;
26 ranking the offense of introducing certain contraband
27 into specified facilities of the Department of
28 Children and Families on level 4 of the offense
29 severity ranking chart; providing an effective date.

591-02738-20

20201286c1

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

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

916.1085 Introduction or removal of certain articles unlawful; penalty.—

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

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

2. Any controlled substance as defined in chapter 893, marijuana as defined in s. 381.986, hemp as defined in s. 581.217, and industrial hemp as defined in s. 1004.4473;

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

4. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the person in charge of the facility;

5. Any vapor-generating electronic device as defined in s. 386.203; or

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

591-02738-20

20201286c1

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 any provision of subparagraph
68 (1)(a)1., subparagraph (1)(a)4., subparagraph (1)(a)5., or
69 subparagraph (1)(a)6. commits a misdemeanor of the first degree,
70 punishable as provided in s. 775.082 or s. 775.083.

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

74 944.47 Introduction, removal, or possession of contraband;
75 penalty.—

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

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

87 2. Any article of food or clothing given or transmitted, or

591-02738-20

20201286c1

88 intended to be given or transmitted, to any inmate of any state
89 correctional institution.

90 3. Any intoxicating beverage or beverage which causes or
91 may cause an intoxicating effect.

92 4. Any controlled substance as defined in s. 893.02(4),
93 marijuana as defined in s. 381.986, hemp as defined in s.
94 581.217, industrial hemp as defined in s. 1004.4473, or any
95 prescription or nonprescription drug having a hypnotic,
96 stimulating, or depressing effect.

97 5. Any firearm or weapon of any kind or any explosive
98 substance.

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

591-02738-20

20201286c1

117 or institutional security purposes or for conducting other state
118 business.

119 7. Any vapor-generating electronic device as defined in s.
120 386.203.

121 (2) (a) A person who violates this section as it pertains to
122 an article of contraband described in subparagraph (1) (a)1.,
123 subparagraph (1) (a)2., or subparagraph (1) (a)6. commits a felony
124 of the third degree, punishable as provided in s. 775.082, s.
125 775.083, or s. 775.084. A person who violates this section as it
126 pertains to an article of contraband described in subparagraph
127 (1) (a)7. commits a misdemeanor of the first degree, punishable
128 as provided in s. 775.082 or s. 775.083. Otherwise, a violation
129 of this section is a felony of the second degree, punishable as
130 provided in s. 775.082, s. 775.083, or s. 775.084.

131 Section 3. Subsection (1) and (2) of section 951.22,
132 Florida Statutes, are amended to read:

133 951.22 County detention facilities; contraband articles.—

134 (1) It is unlawful, except through regular channels as duly
135 authorized by the sheriff or officer in charge, to introduce
136 inside the secure perimeter of ~~into or possess upon the grounds~~
137 ~~of~~ any county detention facility as defined in s. 951.23 or to
138 give to or receive from any inmate of any such facility wherever
139 said inmate is located at the time or to take or to attempt to
140 take or send therefrom any of the following articles, which are
141 contraband:

142 (a) Any written or recorded communication. This paragraph
143 does not apply to any document or correspondence exchanged
144 between a lawyer, paralegal, or other legal staff and an inmate
145 at a detention facility if the document or correspondence is

591-02738-20

20201286c1

146 otherwise lawfully possessed and disseminated and relates to the
147 legal representation of the inmate.

148 (b) Any currency or coin.

149 (c) Any article of food or clothing.

150 (d) Any tobacco products as defined in s. 210.25(12).

151 (e) Any cigarette as defined in s. 210.01(1).

152 (f) Any cigar.

153 (g) Any intoxicating beverage or beverage that causes or
154 may cause an intoxicating effect.

155 (h) Any narcotic, hypnotic, or excitative drug or drug of
156 any kind or nature, including nasal inhalators, sleeping pills,
157 barbiturates, marijuana as defined in s. 381.986, hemp as
158 defined in s. 581.217, industrial hemp as defined in s.
159 1004.4473, and controlled substances as defined in s. 893.02(4).

160 (i) Any firearm or any instrumentality customarily used or
161 which is intended to be used as a dangerous weapon.

162 (j) Any instrumentality of any nature which may be or is
163 intended to be used as an aid in effecting or attempting to
164 effect an escape from a county facility.

165 (k) Any cellular telephone or other portable communication
166 device as described in s. 944.47(1)(a)6. The term does not
167 include any device that has communication capabilities which has
168 been approved or issued by the sheriff or officer in charge for
169 investigative or institutional security purposes or for
170 conducting other official business.

171 (l) Any vapor-generating electronic device as defined in s.
172 386.203.

173 (2) A person who violates paragraph (1)(a), paragraph
174 (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e),

591-02738-20

20201286c1

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

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

183 985.711 Introduction, removal, or possession of certain
184 articles unlawful; penalty.—

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

194 1. Any unauthorized article of food or clothing.

195 2. Any intoxicating beverage or any beverage that causes or
196 may cause an intoxicating effect.

197 3. Any controlled substance~~r~~ as defined in s. 893.02(4), and
198 marijuana as defined in s. 381.986, hemp as defined in s.
199 581.217, and industrial hemp as defined in s. 1004.4473; ~~or~~ any
200 prescription or nonprescription drug that has a hypnotic,
201 stimulating, or depressing effect.

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

591-02738-20

20201286c1

204 5. Any cellular telephone or other portable communication
 205 device as described in s. 944.47(1)(a)6. As used in this
 206 subparagraph, the term "portable communication device" does not
 207 include any device that has communication capabilities which has
 208 been approved or issued by the facility superintendent, program
 209 director, or manager.

210 6. Any vapor-generating electronic device as defined in s.
 211 386.203.

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

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

220 (c) In all other cases, a person who violates this section
 221 commits a felony of the second degree, punishable as provided in
 222 s. 775.082, s. 775.083, or s. 775.084.

223 Section 5. Paragraph (d) of subsection (3) of section
 224 921.0022, Florida Statutes, is amended to read:

225 921.0022 Criminal Punishment Code; offense severity ranking
 226 chart.—

227 (3) OFFENSE SEVERITY RANKING CHART

228 (d) LEVEL 4

229

Florida	Felony	Description
Statute	Degree	

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591-02738-20

20201286c1

	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.
231	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
232	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
233	517.07 (1)	3rd	Failure to register securities.
234	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
235	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
236	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
237	784.075	3rd	Battery on detention or

591-02738-20

20201286c1

commitment facility staff.

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

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

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

241

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

242

784.083 (3) 3rd Battery on code inspector.

243

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

244

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

245

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

591-02738-20

20201286c1

proceedings.

246

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

247

787.07 3rd Human smuggling.

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

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

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

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

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

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591-02738-20

20201286c1

254	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
255	810.06	3rd	Burglary; possession of tools.
256	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
257	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
258	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; specified items.
259	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
260	817.505 (4) (a)	3rd	Patient brokering.
261	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
	817.568 (2) (a)	3rd	Fraudulent use of personal

591-02738-20

20201286c1

identification information.

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

263

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

264

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

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837.02 (1) 3rd Perjury in official proceedings.

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

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838.022 3rd Official misconduct.

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

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839.13 (2) (c) 3rd Falsifying records of the Department of Children and Families.

591-02738-20

20201286c1

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843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
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).
914.14(2)	3rd	Witnesses accepting bribes.

591-02738-20

20201286c1

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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.

916.1085(2)(c)1. 3rd Introduction of specified contraband into certain DCF facilities.

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 communication device introduced into county detention facility.

591-02738-20

20201286c1

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