

By the Committees on Judiciary; and Criminal Justice; and
Senator Simmons

590-03526-20

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

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

31
32 Section 1. Paragraph (a) of subsection (1) and paragraph
33 (c) of subsection (2) of section 916.1085, Florida Statutes, are
34 amended to read:

35 916.1085 Introduction or removal of certain articles
36 unlawful; penalty.—

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

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

46 2. Any controlled substance as defined in chapter 893,
47 marijuana as defined in s. 381.986, hemp as defined in s.
48 581.217, and industrial hemp as defined in s. 1004.4473;

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

50 4. Any cellular telephone or other portable communication
51 device as described in s. 944.47(1)(a)6., intentionally and
52 unlawfully introduced inside the secure perimeter of any
53 facility under the operation and control of the department or
54 agency. As used in this subparagraph, the term "portable
55 communication device" does not include any device that has
56 communication capabilities which has been approved or issued by
57 the person in charge of the facility;

58 5. Any vapor-generating electronic device as defined in s.

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59 386.203, intentionally and unlawfully introduced inside the
60 secure perimeter of any facility under the operation and control
61 of the department or agency; or

62 6.4. Any other item as determined by the department or the
63 agency, and as designated by rule or by written institutional
64 policies, to be hazardous to the welfare of clients or the
65 operation of the facility.

66 (2)

67 (c)1. A person who violates any provision of subparagraph
68 (1)(a)2. or subparagraph (1)(a)3. commits a felony of the third
69 degree, punishable as provided in s. 775.082, s. 775.083, or s.
70 775.084.

71 2. A person who violates any provision of subparagraph
72 (1)(a)1., subparagraph (1)(a)4., subparagraph (1)(a)5., or
73 subparagraph (1)(a)6. commits a misdemeanor of the first degree,
74 punishable as provided in s. 775.082 or s. 775.083.

75 Section 2. Paragraph (a) of subsection (1) and paragraph
76 (a) of subsection (2) of section 944.47, Florida Statutes, are
77 amended to read:

78 944.47 Introduction, removal, or possession of contraband;
79 penalty.—

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

87 1. Any written or recorded communication or any currency or

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

91 2. Any article of food or clothing given or transmitted, or
92 intended to be given or transmitted, to any inmate of any state
93 correctional institution.

94 3. Any intoxicating beverage or beverage which causes or
95 may cause an intoxicating effect.

96 4. Any controlled substance as defined in s. 893.02(4),
97 marijuana as defined in s. 381.986, hemp as defined in s.
98 581.217, industrial hemp as defined in s. 1004.4473, or any
99 prescription or nonprescription drug having a hypnotic,
100 stimulating, or depressing effect.

101 5. Any firearm or weapon of any kind or any explosive
102 substance.

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

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117 assemble such devices. The term also includes any new technology
118 that is developed for similar purposes. Excluded from this
119 definition is any device having communication capabilities which
120 has been approved or issued by the department for investigative
121 or institutional security purposes or for conducting other state
122 business.

123 7. Any vapor-generating electronic device as defined in s.
124 386.203, intentionally and unlawfully introduced inside the
125 secure perimeter of any state correctional institution.

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

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

138 951.22 County detention facilities; contraband articles.—

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

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146 (a) Any written or recorded communication. This paragraph
147 does not apply to any document or correspondence exchanged
148 between a lawyer, paralegal, or other legal staff and an inmate
149 at a detention facility if the document or correspondence is
150 otherwise lawfully possessed and disseminated and relates to the
151 legal representation of the inmate.

152 (b) Any currency or coin.

153 (c) Any article of food or clothing.

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

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

156 (f) Any cigar.

157 (g) Any intoxicating beverage or beverage that causes or
158 may cause an intoxicating effect.

159 (h) Any narcotic, hypnotic, or excitative drug or drug of
160 any kind or nature, including nasal inhalators, sleeping pills,
161 barbiturates, marijuana as defined in s. 381.986, hemp as
162 defined in s. 581.217, industrial hemp as defined in s.
163 1004.4473, and controlled substances as defined in s. 893.02(4).

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

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

169 (k) Any cellular telephone or other portable communication
170 device as described in s. 944.47(1)(a)6., intentionally and
171 unlawfully introduced inside the secure perimeter of any county
172 detention facility. The term does not include any device that
173 has communication capabilities which has been approved or issued
174 by the sheriff or officer in charge for investigative or

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175 institutional security purposes or for conducting other official
176 business.

177 (1) Any vapor-generating electronic device as defined in s.
178 386.203, intentionally and unlawfully introduced inside the
179 secure perimeter of any county detention facility.

180 (2) A person who violates paragraph (1)(a), paragraph
181 (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e),
182 paragraph (1)(f), ~~or~~ paragraph (1)(g), or paragraph (1)(l)
183 commits a misdemeanor of the first degree, punishable as
184 provided in s. 775.082 or s. 775.083. A person who violates
185 paragraph (1)(h), paragraph (1)(i), paragraph (1)(j), or
186 paragraph (1)(k) commits a felony of the third degree,
187 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

190 985.711 Introduction, removal, or possession of certain
191 articles unlawful; penalty.-

192 (1)(a) Except as authorized through program policy or
193 operating procedure or as authorized by the facility
194 superintendent, program director, or manager, a person may not
195 introduce into or upon the grounds of a juvenile detention
196 facility or commitment program, or take or send, or attempt to
197 take or send, from a juvenile detention facility or commitment
198 program, any of the following articles, which are declared to be
199 contraband under this section:

- 200 1. Any unauthorized article of food or clothing.
- 201 2. Any intoxicating beverage or any beverage that causes or
202 may cause an intoxicating effect.
- 203 3. Any controlled substance~~r~~, as defined in s. 893.02(4),

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204 marijuana as defined in s. 381.986, hemp as defined in s.
205 581.217, and industrial hemp as defined in s. 1004.4473; ~~or~~ any
206 prescription or nonprescription drug that has a hypnotic,
207 stimulating, or depressing effect.

208 4. Any firearm or weapon of any kind or any explosive
209 substance.

210 5. Any cellular telephone or other portable communication
211 device as described in s. 944.47(1)(a)6., intentionally and
212 unlawfully introduced inside the secure perimeter of any
213 juvenile detention facility or commitment program. As used in
214 this subparagraph, the term "portable communication device" does
215 not include any device that has communication capabilities which
216 has been approved or issued by the facility superintendent,
217 program director, or manager.

218 6. Any vapor-generating electronic device as defined in s.
219 386.203, intentionally and unlawfully introduced inside the
220 secure perimeter of any juvenile detention facility or
221 commitment program.

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

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

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

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233 Section 5. Paragraph (d) of subsection (3) of section
 234 921.0022, Florida Statutes, is amended to read:

235 921.0022 Criminal Punishment Code; offense severity ranking
 236 chart.—

237 (3) OFFENSE SEVERITY RANKING CHART

238 (d) LEVEL 4

239

Florida Statute	Felony Degree	Description
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.
499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07 (1)	3rd	Failure to register securities.
517.12 (1)	3rd	Failure of dealer, associated

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person, or issuer of securities
to register.

245

784.07 (2) (b) 3rd Battery of law enforcement
officer, firefighter, etc.

246

784.074 (1) (c) 3rd Battery of sexually violent
predators facility staff.

247

784.075 3rd Battery on detention or
commitment facility staff.

248

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

249

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

250

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

251

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

252

784.083 (3) 3rd Battery on code inspector.

253

784.085 3rd Battery of child by throwing,
tossing, projecting, or

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expelling certain fluids or materials.

254

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

255

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

256

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

257

787.07 3rd Human smuggling.

258

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

259

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

260

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

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property.

261

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

262

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

263

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

264

810.06 3rd Burglary; possession of tools.

265

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

266

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

267

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

268

812.0195 (2) 3rd Dealing in stolen property by
use of the Internet; property

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stolen \$300 or more.

269

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

270

817.563 (1) 3rd Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

271

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

272

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

273

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

274

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

275

837.02 (1) 3rd Perjury in official proceedings.

276

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

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277

838.022 3rd Official misconduct.

278

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

279

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

280

843.021 3rd Possession of a concealed handcuff key by a person in custody.

281

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

282

843.15(1)(a) 3rd Failure to appear while on bail for felony (bond estreature or bond jumping).

283

847.0135(5)(c) 3rd Lewd or lascivious exhibition using computer; offender less than 18 years.

284

874.05(1)(a) 3rd Encouraging or recruiting

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another to join a criminal gang.

285

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).

286

914.14(2) 3rd Witnesses accepting bribes.

287

914.22(1) 3rd Force, threaten, etc., witness, victim, or informant.

288

914.23(2) 3rd Retaliation against a witness, victim, or informant, no bodily injury.

289

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

290

918.12 3rd Tampering with jurors.

291

934.215 3rd Use of two-way communications device to facilitate commission of a crime.

292

944.47(1)(a)6. 3rd Introduction of contraband (cellular telephone or other

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portable communication device)
into correctional institution.

293

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.

294

295

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