

CHAPTER 2020-59

Committee Substitute for Committee Substitute for Senate Bill No. 1286

An act relating to contraband in specified facilities; amending s. 916.1085, F.S.; prohibiting the introduction of certain cannabis related substances, cellular telephones and other portable communication devices, and vapor-generating electronic devices inside specified facilities of the Department of Children and Families or of the Agency for Persons with Disabilities; providing criminal penalties; amending s. 944.47, F.S.; prohibiting the introduction of certain cannabis related substances and vapor-generating electronic devices inside a state correctional institution; providing criminal penalties; amending s. 951.22, F.S.; prohibiting the introduction of certain cannabis related substances and vapor-generating electronic devices inside a county detention facility; providing criminal penalties; amending s. 985.711, F.S.; prohibiting the introduction of certain cannabis related substances, cellular telephones and other portable communication devices, and vapor-generating electronic devices inside specified juvenile detention facilities or commitment programs; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offense of introducing certain contraband into specified facilities of the Department of Children and Families on level 4 of the offense severity ranking chart; providing an effective date.

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 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, or 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., intentionally and unlawfully introduced inside

the secure perimeter of any forensic facility under the operation and control of the department or agency. 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 forensic facility;

5. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any forensic facility under the operation and control of the department or agency; or

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

(2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

951.22 County detention facilities; contraband articles.—

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

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

document or correspondence is otherwise lawfully possessed and disseminated and relates to the legal representation of the inmate.

- (b) Any currency or coin.
- (c) Any article of food or clothing.
- (d) Any tobacco products as defined in s. 210.25(12).
- (e) Any cigarette as defined in s. 210.01(1).
- (f) Any cigar.
- (g) Any intoxicating beverage or beverage that causes or may cause an intoxicating effect.
- (h) Any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or ~~and~~ controlled substances as defined in s. 893.02(4).
- (i) Any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon.
- (j) Any instrumentality of any nature which may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.
- (k) Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any county detention facility. The term does not include any device that has communication capabilities which has been approved or issued by the sheriff or officer in charge for investigative or institutional security purposes or for conducting other official business.
- (l) Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any county detention facility.
- (2) A person who violates paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e), paragraph (1)(f), ~~or~~ paragraph (1)(g), or paragraph (1)(l) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates paragraph (1)(h), paragraph (1)(i), paragraph (1)(j), or paragraph (1)(k) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

1. Any unauthorized article of food or clothing.
2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
3. Any controlled substance, as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
4. Any firearm or weapon of any kind or any explosive substance.
5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. 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 facility superintendent, program director, or manager.
6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

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

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

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

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

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

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 person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.

Florida Statute	Felony Degree	Description
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
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 structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
817.505(4)(a)	3rd	Patient brokering.
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 identification information.

Florida Statute	Felony Degree	Description
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
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 estreatment 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.
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.

Florida Statute	Felony Degree	Description
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.

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

Approved by the Governor June 20, 2020.

Filed in Office Secretary of State June 20, 2020.