

FILED FEB 15 1996

SENATE FILE 2209
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2030)

Passed Senate, ^(P. 880) Date 3/19/96 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing the offense of promoting or possessing
2 contraband in prisons, jails, and juvenile facilities and
3 establishing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2209

1 Section 1. Section 719.7, Code 1995, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 719.7 PROMOTING OR POSSESSING CONTRABAND.

5 1. "Contraband" includes but is not limited to any of the
6 following:

7 a. A controlled substance or a simulated or counterfeit
8 controlled substance, hypodermic syringe, or intoxicant.

9 b. A dangerous weapon, offensive weapon, pneumatic gun,
10 stun gun, firearm ammunition, explosive or incendiary
11 material, or other material fashioned in such a manner as to
12 be capable of inflicting death or injury.

13 c. Rope, ladder components, key or key pattern, metal
14 file, or other instrument or device designed or intended to
15 facilitate escape of an inmate.

16 2. The sheriff, department of corrections, or department
17 of human services may x-ray a person under the control of the
18 department if there is reason to believe that the person is in
19 possession of contraband. A licensed physician or x-ray
20 technician under the supervision of a licensed physician must
21 x-ray the person.

22 3. A person commits the offense of promoting or possessing
23 contraband if the person, not authorized by law, does any of
24 the following:

25 a. Knowingly introduces contraband into, or onto the
26 grounds of, a secure facility for the detention or custody of
27 juveniles or a jail, detention facility, correctional
28 institution, or institution under the management of the
29 department of corrections.

30 b. Knowingly conveys contraband to any person confined in
31 a secure facility for the detention or custody of juveniles,
32 jail, detention facility, correctional institution, or
33 institution under the management of the department of
34 corrections.

35 c. Knowingly makes, obtains, or possesses contraband while

1 confined in a secure facility for the detention or custody of
2 juveniles, jail, detention facility, correctional institution,
3 or institution under the management of the department of
4 corrections or while being transported or moved incidental to
5 confinement.

6 4. A person who promotes or possesses contraband or fails
7 to report an offense of promoting or possessing contraband
8 commits the following:

9 a. A class "C" felony if the contraband is of the type
10 described in subsection 1, paragraph "b".

11 b. A class "D" felony if the contraband is any other type
12 of contraband.

13 c. An aggravated misdemeanor for failing to report a known
14 violation or attempted violation of this section to an
15 official or officer at the secure facility for the detention
16 or custody of juveniles, jail, detention facility,
17 correctional institution, or institution under the management
18 of the department of corrections.

19 5. Nothing in this section is intended to limit the
20 authority of the administrator of any secure facility for the
21 detention or custody of juveniles, jail, detention facility,
22 correctional institution, or institution under the management
23 of the department of corrections to prescribe or enforce rules
24 concerning the definition of contraband, and the
25 transportation, making, or possession of substances, objects,
26 materials, or items in the institutions or facilities.

27 Sec. 2. Section 719.8, Code 1995, is repealed.

28

EXPLANATION

29 This bill establishes the offense of promoting or
30 possessing contraband. The bill strikes the current section
31 719.7 regarding furnishing intoxicants to inmates and repeals
32 section 719.8 regarding furnishing controlled substances to
33 inmates. Contraband is defined as items such as controlled
34 substances, intoxicants, weapons, explosives, or other items
35 which may be fashioned to cause death or injury, or items

1 which may be used to facilitate an escape.

2 Promoting or possessing contraband is committed when a
3 person without legal authorization to do so attempts to bring,
4 make, or possess contraband into a jail or a detention or
5 correctional facility, including a secure facility for the
6 detention or custody of juveniles. If the contraband is a
7 weapon or other item which may be fashioned to cause death or
8 injury, the person commits a class "C" felony. Any other
9 contraband subjects the person to a class "D" felony.

10 The bill authorizes the x-raying of a person under the
11 control of the sheriff, department of corrections, or
12 department of human services by a physician or licensed x-ray
13 technician to determine if the person possesses contraband.

14 The bill also requires a person to report an attempt to
15 promote or possess contraband or the promotion or possession
16 of contraband to an official or officer at the detention or
17 correctional facility. Failure to report is an aggravated
18 misdemeanor.

19 The bill further provides that the establishment of the
20 offense of promoting or possessing contraband does not limit
21 the authority of facility administrators to adopt rules
22 regarding the definition of contraband, and the introduction,
23 possession, or making of substances, objects, or other items.

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**SENATE FILE 2209
FISCAL NOTE**

The estimate for **Senate File 2209** is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2209 creates an offense of promoting or possessing contraband in correctional facilities, jails, or juvenile detention facilities. Introduction or possession of contraband that is a weapon or item that can be used to cause death or injury is a Class C felony. Introduction or possession of other contraband, such as controlled substances, intoxicants, or items used for escape, is a Class D felony.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will remain stable over the projection period.
2. Prisoner length of stay, revocation rates, and other policies will remain the same, except for those changed by this Bill.
3. There will be a six-month lag effect from the effective date of this Bill for prosecution of the offense and sentencing.
4. One person every two years will be convicted of a Class C felony for introducing contraband into a correctional facility, jail, or detention facility.
5. Approximately 2,000 inmates violate the Department of Corrections contraband rules annually.
6. The Office of the Attorney General estimated that 1.25% of the rule violations would result in prosecutions and convictions.
7. Juvenile offenders will be handled by the juvenile court system and not waived to adult court for possession of contraband.
8. The marginal cost for a prison inmate is \$12 per day.
9. The average cost per case handled by a public defender is \$434. It is assumed the Office of the Attorney General will experience the same costs.

CORRECTIONAL IMPACT

The prison population is projected to have the following increases.

<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
1 inmate	9 inmates	13 inmates

FISCAL IMPACT

The estimated General Fund cost of SF 2209 is provided below:

<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
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\$15,000 \$56,000 \$75,000

The costs are distributed as follows:

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
Prison	\$ 6,000	\$38,000	\$57,000
Public Defender	4,500	9,000	9,000
Attorney General	4,500	9,000	9,000

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Department of Corrections
 Office of the Attorney General
 Office of the Public Defender

(LSB 3347sv, MDF)

FILED FEBRUARY 28, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

Mc Kean
Boettger
Gianetto
Hansen
Bisignani

Succeeded By
SF/HF 2209

SSB-2030
Judiciary

SENATE/HOUSE FILE _____

BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

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22 regarding the definition of contraband, and the introduction,
23 possession, or making of substances, objects, or other items.

24 BACKGROUND STATEMENT

25 SUBMITTED BY THE AGENCY

26 Possession and use of contraband items within the state
27 juvenile, jail, or prison facilities poses a serious security
28 and safety threat.

29 While the present law provides that it is a crime to
30 provide contraband to criminals, it does not expressly
31 prohibit possession of contraband. Currently cases are
32 prosecuted as aiding and abetting under the provision of
33 contraband sections. This complexity could be avoided by
34 clearly making possession a crime.

35 This proposal is based on an Arizona statute that addresses

1 the provision or possession of contraband in a straightforward
2 manner. This proposal addresses four situations:

3 1. Introducing contraband into a secure juvenile facility,
4 jail, or prison.

5 2. Conveying contraband to any person confined in a secure
6 juvenile facility, jail, or prison.

7 3. Possessing contraband while being confined or being
8 transported or moved incidental to secure juvenile detention
9 or custody or jail or prison confinement.

10 4. Failure to report the possession of contraband.

11 In addition, this proposal gives the department of
12 corrections and the department of human services the authority
13 to use X rays upon persons under the control of either
14 department where there is reason to believe the inmate may be
15 in possession of contraband. This issue is specifically
16 related to the situation that occurs in visiting rooms of some
17 of the institutions where an inmate may swallow a balloon of
18 controlled substances that may be provided by a visitor to the
19 institution.

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