

Senate Study Bill 2030

Conference Committee Text

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1 1 Section 1. Section [719.7](#), Code 1995, is amended by
1 2 striking the section and inserting in lieu thereof the
1 3 following:
1 4 719.7 PROMOTING OR POSSESSING CONTRABAND.
1 5 1. "Contraband" includes but is not limited to any of the
1 6 following:
1 7 a. A controlled substance or a simulated or counterfeit
1 8 controlled substance, hypodermic syringe, or intoxicant.
1 9 b. A dangerous weapon, offensive weapon, pneumatic gun,
1 10 stun gun, firearm ammunition, explosive or incendiary
1 11 material, or other material fashioned in such a manner as to
1 12 be capable of inflicting death or injury.
1 13 c. Rope, ladder components, key or key pattern, metal
1 14 file, or other instrument or device designed or intended to
1 15 facilitate escape of an inmate.
1 16 2. The sheriff, department of corrections, or department
1 17 of human services may x-ray a person under the control of the
1 18 department if there is reason to believe that the person is in
1 19 possession of contraband. A licensed physician or x-ray
1 20 technician under the supervision of a licensed physician must
1 21 x-ray the person.
1 22 3. A person commits the offense of promoting or possessing
1 23 contraband if the person, not authorized by law, does any of
1 24 the following:
1 25 a. Knowingly introduces contraband into, or onto the
1 26 grounds of, a secure facility for the detention or custody of
1 27 juveniles or a jail, detention facility, correctional
1 28 institution, or institution under the management of the
1 29 department of corrections.
1 30 b. Knowingly conveys contraband to any person confined in
1 31 a secure facility for the detention or custody of juveniles,
1 32 jail, detention facility, correctional institution, or
1 33 institution under the management of the department of
1 34 corrections.
1 35 c. Knowingly makes, obtains, or possesses contraband while
2 1 confined in a secure facility for the detention or custody of
2 2 juveniles, jail, detention facility, correctional institution,
2 3 or institution under the management of the department of
2 4 corrections or while being transported or moved incidental to
2 5 confinement.
2 6 4. A person who promotes or possesses contraband or fails
2 7 to report an offense of promoting or possessing contraband
2 8 commits the following:
2 9 a. A class "C" felony if the contraband is of the type
2 10 described in subsection 1, paragraph "b".
2 11 b. A class "D" felony if the contraband is any other type
2 12 of contraband.
2 13 c. An aggravated misdemeanor for failing to report a known
2 14 violation or attempted violation of this section to an
2 15 official or officer at the secure facility for the detention
2 16 or custody of juveniles, jail, detention facility,
2 17 correctional institution, or institution under the management
2 18 of the department of corrections.
2 19 5. Nothing in this section is intended to limit the
2 20 authority of the administrator of any secure facility for the
2 21 detention or custody of juveniles, jail, detention facility,

2 22 correctional institution, or institution under the management
2 23 of the department of corrections to prescribe or enforce rules
2 24 concerning the definition of contraband, and the
2 25 transportation, making, or possession of substances, objects,
2 26 materials, or items in the institutions or facilities.
2 27 Sec. 2. Section [719.8](#), Code 1995, is repealed.

2 28 EXPLANATION

2 29 This bill establishes the offense of promoting or
2 30 possessing contraband. The bill strikes the current section
2 31 719.7 regarding furnishing intoxicants to inmates and repeals
2 32 section 719.8 regarding furnishing controlled substances to
2 33 inmates. Contraband is defined as items such as controlled
2 34 substances, intoxicants, weapons, explosives, or other items
2 35 which may be fashioned to cause death or injury, or items
3 1 which may be used to facilitate an escape.

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

3 10 The bill authorizes the x-raying of a person under the
3 11 control of the sheriff, department of corrections, or
3 12 department of human services by a physician or licensed x-ray
3 13 technician to determine if the person possesses contraband.

3 14 The bill also requires a person to report an attempt to
3 15 promote or possess contraband or the promotion or possession
3 16 of contraband to an official or officer at the detention or
3 17 correctional facility. Failure to report is an aggravated
3 18 misdemeanor.

3 19 The bill further provides that the establishment of the
3 20 offense of promoting or possessing contraband does not limit
3 21 the authority of facility administrators to adopt rules
3 22 regarding the definition of contraband, and the introduction,
3 23 possession, or making of substances, objects, or other items.

3 24 BACKGROUND STATEMENT
3 25 SUBMITTED BY THE AGENCY

3 26 Possession and use of contraband items within the state
3 27 juvenile, jail, or prison facilities poses a serious security
3 28 and safety threat.

3 29 While the present law provides that it is a crime to
3 30 provide contraband to criminals, it does not expressly
3 31 prohibit possession of contraband. Currently cases are
3 32 prosecuted as aiding and abetting under the provision of
3 33 contraband sections. This complexity could be avoided by
3 34 clearly making possession a crime.

3 35 This proposal is based on an Arizona statute that addresses
4 1 the provision or possession of contraband in a straightforward
4 2 manner. This proposal addresses four situations:

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

4 5 2. Conveying contraband to any person confined in a secure
4 6 juvenile facility, jail, or prison.

4 7 3. Possessing contraband while being confined or being
4 8 transported or moved incidental to secure juvenile detention
4 9 or custody or jail or prison confinement.

4 10 4. Failure to report the possession of contraband.

4 11 In addition, this proposal gives the department of
4 12 corrections and the department of human services the authority
4 13 to use X rays upon persons under the control of either
4 14 department where there is reason to believe the inmate may be
4 15 in possession of contraband. This issue is specifically
4 16 related to the situation that occurs in visiting rooms of some
4 17 of the institutions where an inmate may swallow a balloon of
4 18 controlled substances that may be provided by a visitor to the

4 19 institution.
4 20 LSB 3347XD 76
4 21 mk/cf/24.1