

FILED MAR 5 '03

SENATE FILE 298
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1030)

Passed Senate, Date Passed 3/18/03 Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act expanding the criminal offense of possessing contraband in
2 correctional institutions to include possessing contraband in
3 a secure facility for the detention or custody of juveniles, a
4 detention facility, or a jail.

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

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SF 298

1 Section 1. Section 719.7, Code 2003, is amended to read as
2 follows:

3 719.7 POSSESSING CONTRABAND.

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

6 a. A controlled substance or a simulated or counterfeit
7 controlled substance, hypodermic syringe, or intoxicating
8 beverage.

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

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

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

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

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

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

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

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

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

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

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

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

28 Sec. 2. Section 911.3, subsection 1, paragraph b, Code
29 2003, is amended to read as follows:

30 b. Section 719.7, 719.8, 725.1, 725.2, or 725.3.

31 EXPLANATION

32 This bill expands the definition of the criminal offense of
33 possessing contraband in correctional institutions to include
34 possessing such contraband in a secure facility for the
35 detention or custody of juveniles, a detention facility, or a

1 jail.

2 The bill and current law define contraband to include
3 controlled substances, intoxicating beverages, weapons,
4 explosives, knives, or other cutting devices, or other items
5 that may be fashioned to cause death or injury, or items that
6 may be used to facilitate an escape.

7 Possessing contraband under the bill and in current law is
8 committed when a person without legal authorization to do so
9 attempts to bring contraband into, or makes or possesses
10 contraband within, a correctional institution, secure facility
11 for the detention or custody of juveniles, detention facility,
12 or jail. If the contraband is a weapon or other item which
13 may be fashioned to cause death or injury, the person commits
14 a class "C" felony. Any other contraband offense subjects the
15 person to a class "D" felony.

16 The bill and current law also require a person to report
17 the offense of possessing contraband or any attempt of
18 possessing such contraband to an official or officer at the
19 correctional institution, secure facility for the detention or
20 custody of juveniles, detention facility, or jail. Failure to
21 report is an aggravated misdemeanor.

22 The bill and current law provide that the criminal offense
23 of possessing contraband does not limit the authority of
24 facility administrators to adopt rules regarding the
25 definition of contraband.

26 The bill also authorizes the sheriff to x-ray a person
27 committed to the jail to determine if the person possesses
28 contraband. Current law authorizes the department of
29 corrections to x-ray a person under the control of the
30 department.

31 The bill provides that a law enforcement initiative
32 surcharge in the amount of \$125 shall also be assessed upon a
33 conviction or deferred judgment for possessing contraband
34 under Code section 719.7. The surcharge is deposited in the
35 general fund of the state.

1 A class "C" felony is punishable by confinement for no more
2 than 10 years and a fine of at least \$1,000 but not more than
3 \$10,000. A class "D" felony is punishable by confinement for
4 no more than five years and a fine of at least \$750 but not
5 more than \$7,500. An aggravated misdemeanor is punishable by
6 confinement for no more than two years and a fine of at least
7 \$500 but not more than \$5,000.

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Description

Senate File 298 expands the definition of the criminal offense of possessing contraband in correctional institutions to include possessing such contraband in a secure facility for the detention or custody of juveniles, a detention facility, or a jail.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2003. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. The median cost per case for indigent defense is \$1,000 for Class D felonies.
5. The marginal cost per day for state prisons is \$12 per offender. The average length of stay for new prison admissions for a Class D felony conviction not against a person is 15 months.
6. The average cost per day for parole supervision is \$1.82 per offender. The average length of stay for a Class D felony conviction is 13 months on parole.
7. The average cost per case for the court system for a Class D felony trial ranges from \$195 to \$1,235, depending if a jury is used. These costs include the time of a court reporter, court attendant, Clerk of Court staff, and a District Court Judge.
8. Juveniles who possess contraband in detention facilities will not be waived to adult court.
9. There are 94 county jails operating in Iowa. There will be one prosecution per jail annually under SF 298. The conviction rate is 50.0%. To the extent that more than one incident per jail per year is charged, the correctional and fiscal impact will be larger.
10. The collection rate is 27.0% for the law enforcement initiative surcharge. The revenue generated by SF 298 is not significant.

Correctional Impact

During FY 2004, there will be 24 new Class D felony convictions under SF 298. All of these offenders will be sentenced to prison. During FY 2005, there will be 47 new Class D felony convictions. All of these offenders will be sentenced to prison.

The prison population will increase by 24 offenders in FY 2004, and by 59 offenders in FY 2005 and each year thereafter. There will be 35 new parole admissions in FY 2005, and 59 new parole admissions each year thereafter.

Fiscal Impact

The estimated fiscal impact of SF 298 to the State General Fund is an increase in expenditures ranging from \$134,000 to \$159,000 in FY 2004, depending on the use of jury trials. The

estimated range of increased expenditures in FY 2005 is from \$337,000 to \$386,000.
Breakdown of expenditures is as follows:

	FY 2004		FY 2005	
	Low	High	Low	High
Judicial Branch	\$ 5,000	\$ 30,000	\$ 9,000	\$ 58,000
Indigent Defense	24,000	24,000	47,000	47,000
Department of Corrections - Prisons	105,000	105,000	258,000	258,000
Community-Based Corrections	0	0	23,000	23,000
Total	<u>\$ 134,000</u>	<u>\$ 159,000</u>	<u>\$ 337,000</u>	<u>\$ 386,000</u>

Law enforcement surcharge revenues are not expected to be significant under the provisions of SF 298.

Sources

Department of Corrections

Judicial Branch

Department of Human Services

Department of Human Rights, Criminal and Juvenile Justice Planning Division

State Public Defender's Office

/s/ Dennis C Prouty

March 10, 2003

Putney
McCoy
Redfern

SSB 1030
Succeeded By
SF/HF 298
Judiciary

SENATE/HOUSE FILE
BY (PROPOSED ATTORNEY GENERAL
BILL)

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S.F. _____ H.F. _____

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THOMAS J. MILLER
ATTORNEY GENERAL

Department of Justice

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE 515/281-5164
FACSIMILE 515/281-4209

MEMORANDUM

TO: Members of the General Assembly
FROM: Anne Sheeley, Legislative Liaison
DATE: January 13, 2003
SUBJECT: Contraband

Highlights

- Present law provides that it is a crime to **introduce** contraband in jail, juvenile, or detention facilities, **but not to possess the contraband.**
- State v. Mitchell, Jr. (Iowa Supreme Court Case) concluded that county jails in which contraband was possessed was a "detention facility" and not a "correctional institution" and therefore the defendant's guilty plea to the offense of possessing contraband in a "correctional institution" lacked a factual basis. As a result the defendant was entitled to have his conviction vacated and the charge dismissed.
- Possession and use of contraband items within the juvenile, jail or detention facilities poses a serious security and safety threat.
- Contraband is defined as items such as, knives, razors, intoxicants, or other items which may be fashioned to cause death or injury, or items which may be used to facilitate an escape.