

House Study Bill 46

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL BILL)

Passed Senate, Date _____ 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, and providing a penalty.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1067DP 81
7 jm/sh/8

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1 1 Section 1. Section 719.7, Code 2005, is amended to read as
1 2 follows:
1 3 719.7 POSSESSING CONTRABAND.
1 4 1. "Contraband" includes but is not limited to any of the
1 5 following:
1 6 a. A controlled substance or a simulated or counterfeit
1 7 controlled substance, hypodermic syringe, or intoxicating
1 8 beverage.
1 9 b. A dangerous weapon, offensive weapon, pneumatic gun,
1 10 stun gun, firearm ammunition, knife of any length or any other
1 11 cutting device, explosive or incendiary material, instrument,
1 12 device, or other material fashioned in such a manner as to be
1 13 capable of inflicting death or injury.
1 14 c. Rope, ladder components, key or key pattern, metal
1 15 file, instrument, device, or other material designed or
1 16 intended to facilitate escape of an inmate.
1 17 2. ~~The sheriff may x-ray a person committed to the jail,~~
1 18 ~~or the department of corrections may x-ray a person under the~~
1 19 ~~control of the department, if there is reason to believe that~~
1 20 ~~the person is in possession of contraband. A licensed~~
1 21 ~~physician or x-ray technician under the supervision of a~~
1 22 ~~licensed physician must x-ray the person.~~
1 23 3. A person commits the offense of possessing contraband
1 24 if the person, not authorized by law, does any of the
1 25 following:
1 26 a. Knowingly introduces contraband into, or onto, the
1 27 grounds of a ~~secure facility for the detention or custody of~~
1 28 ~~juveniles, detention facility, jail, correctional institution,~~
1 29 ~~or institution under the management of the department of~~
1 30 ~~corrections.~~
1 31 b. Knowingly conveys contraband to any person confined in
1 32 a ~~secure facility for the detention or custody of juveniles,~~
1 33 ~~detention facility, jail, correctional institution, or~~
1 34 ~~institution under the management of the department of~~
1 35 ~~corrections.~~
2 1 c. Knowingly makes, obtains, or possesses contraband while
2 2 confined in a ~~secure facility for the detention or custody of~~
2 3 ~~juveniles, detention facility, jail, correctional institution,~~
2 4 ~~or institution under the management of the department of~~
2 5 ~~corrections, or while being transported or moved incidental to~~
2 6 ~~confinement.~~
2 7 4. A person who possesses contraband or fails to report an
2 8 offense of possessing contraband commits the following:
2 9 a. A class "C" felony for the possession of contraband if
2 10 the contraband is of the type described in subsection 1,
2 11 paragraph "b".
2 12 b. A class "D" felony for the possession of contraband if
2 13 the contraband is any other type of contraband.
2 14 c. An aggravated misdemeanor for failing to report a known
2 15 violation or attempted violation of this section to an
2 16 official or officer at a ~~secure facility for the detention or~~
2 17 ~~custody of juveniles, detention facility, jail, correctional~~
2 18 ~~institution, or institution under the management of the~~

2 19 department of corrections.
2 20 5. Nothing in this section is intended to limit the
2 21 authority of the administrator of any secure facility for the
2 22 detention or custody of juveniles, detention facility, jail,
2 23 correctional institution, or institution under the management
2 24 of the department of corrections to prescribe or enforce rules
2 25 concerning the definition of contraband, and the
2 26 transportation, making, or possession of substances, devices,
2 27 instruments, materials, or other items ~~in the institutions~~.
2 28 Sec. 2. Section 911.3, subsection 1, paragraph b, Code
2 29 2005, is amended to read as follows:
2 30 b. Section 719.7, 719.8, 725.1, 725.2, or 725.3.

2 31 EXPLANATION

2 32 This bill expands the definition of the criminal offense of
2 33 possessing contraband in correctional institutions to include
2 34 possessing such contraband in a secure facility for the
2 35 detention or custody of juveniles, a detention facility, or a
3 1 jail.

3 2 Contraband is defined to include controlled substances,
3 3 intoxicating beverages, weapons, explosives, knives, or other
3 4 cutting devices, or other items that may be fashioned to cause
3 5 death or injury, or items that may be used to facilitate an
3 6 escape.

3 7 Possessing contraband under the bill and in current law is
3 8 committed when a person without legal authorization to do so
3 9 attempts to bring contraband into, or makes or possesses
3 10 contraband within, a correctional institution, secure facility
3 11 for the detention or custody of juveniles, detention facility,
3 12 or jail. If the contraband is a weapon or other item which
3 13 may be fashioned to cause death or injury, the person commits
3 14 a class "C" felony. Any other contraband offense subjects the
3 15 person to a class "D" felony.

3 16 The bill requires a person to report the offense of
3 17 possessing contraband or any attempt of possessing such
3 18 contraband to an official or officer at a secure facility for
3 19 the detention or custody of juveniles, detention facility, or
3 20 jail. Current law requires the same reporting requirement at
3 21 correctional institutions. Failure to report is an aggravated
3 22 misdemeanor.

3 23 The bill also authorizes the sheriff to x-ray a person
3 24 committed to the jail to determine if the person possesses
3 25 contraband. Current law authorizes the department of
3 26 corrections to x-ray a person under the control of the
3 27 department.

3 28 The bill provides that a law enforcement initiative
3 29 surcharge in the amount of \$125 shall also be assessed upon a
3 30 conviction or deferred judgment for possessing contraband
3 31 under Code section 719.7. The surcharge is deposited in the
3 32 general fund of the state.

3 33 A class "C" felony is punishable by confinement for no more
3 34 than 10 years and a fine of at least \$1,000 but not more than
3 35 \$10,000. A class "D" felony is punishable by confinement for
4 1 no more than five years and a fine of at least \$750 but not
4 2 more than \$7,500. An aggravated misdemeanor is punishable by
4 3 confinement for no more than two years and a fine of at least
4 4 \$500 but not more than \$5,000.

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