

Senate Study Bill 1285

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

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 2758XC 82
7 jm/es/88

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1 1 Section 1. Section 719.7, Code 2007, 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 2007, 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 is committed when a person without
3 8 legal authorization to do so attempts to bring contraband
3 9 into, or makes or possesses contraband within a correctional
3 10 institution, secure facility for the detention or custody of
3 11 juveniles, detention facility, or jail. Under current law,
3 12 possessing contraband applies to correctional institutions.
3 13 If the contraband is a weapon or other item which may be
3 14 fashioned to cause death or injury, the person commits a class
3 15 "C" felony. Any other contraband offense subjects the person
3 16 to a class "D" felony.

3 17 The bill requires a person to report the offense of
3 18 possessing contraband or any attempt of possessing such
3 19 contraband to an official or officer at a secure facility for
3 20 the detention or custody of juveniles, detention facility, or
3 21 jail. Current law requires the same reporting requirement at
3 22 correctional institutions. Failure to report is an aggravated
3 23 misdemeanor.

3 24 The bill also authorizes the sheriff to x-ray a person
3 25 committed to the jail to determine if the person possesses
3 26 contraband. Current law authorizes the department of
3 27 corrections to x-ray a person under the control of the
3 28 department.

3 29 The bill provides that a law enforcement initiative
3 30 surcharge in the amount of \$125 shall also be assessed upon a
3 31 conviction or deferred judgment for possessing contraband
3 32 under Code section 719.7. The surcharge is deposited in the
3 33 general fund of the state.

3 34 A class "C" felony is punishable by confinement for no more
3 35 than 10 years and a fine of at least \$1,000 but not more than
4 1 \$10,000. A class "D" felony is punishable by confinement for
4 2 no more than five years and a fine of at least \$750 but not
4 3 more than \$7,500. An aggravated misdemeanor is punishable by
4 4 confinement for no more than two years and a fine of at least
4 5 \$625 but not more than \$6,250.

4 6 LSB 2758XC 82

4 7 jm:nh/es/88