

CS/HB 1029 – Detention Facilities

This bill amends s. 951.22, F.S., removing the following acts of introducing contraband into detention facilities from the current Level 6, 3rd degree felony and making each a **1st degree misdemeanor**: any written or recorded communication, any currency or coin, any article of food or clothing, any tobacco products, any cigarette, any cigar, any intoxicating beverage or beverage which causes or may cause an intoxicating effect. Any narcotic and any instrumentality intended to be used as an aid for escape are also removed from the Level 6, 3rd degree felony and made **Level 4, 3rd degree felonies**. Finally, “any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6, F.S.” is now included as a **Level 4, 3rd degree felony**. Any firearm or dangerous weapon remains a Level 6, 3rd degree felony.

Per DOC, in FY 17-18, there were 1,015 (adj.) offenders sentenced under s. 951.22, F.S. Of those sentenced, 333 (adj.) of these offenders were sentenced to prison (mean sentence length=24.9 m, incarceration rate: 32.8% adj.-32.8% unadj.).

Per DOC, in FY 17-18, there were 163 (adj.) offenders sentenced under introducing contraband into or possessing contraband in a correctional facility (s. 944.47, F.S.). Of those sentenced, 53 (adj.) of these offenders were sentenced to prison (mean sentence length=26.8 m, incarceration rate: 32.5% adj.-32.2% unadj.). Within this group, there were 27 (adj.) offenders sentenced for introducing or possessing any written or recorded communication or any currency or coin, with 10 (adj.) receiving a prison sentence (mean sentence length=25.9 m, incarceration rate: 37.0% adj.-36.0% unadj.). Also, there were 2 (adj.) offenders sentenced for introducing or possessing an article of food or clothing, with 1 (adj.) receiving a prison sentence (sentence length=56.0 m, incarceration rate: 50.0% adj.-50.0% unadj.). There were 6 (adj.) offenders sentenced for introducing or possessing an intoxicating beverage or beverage which causes or may cause an intoxicating effect, with none receiving a prison sentence. There were 68 (adj.) offenders sentenced for introducing or possessing a narcotic, with 23 (adj.) receiving a prison sentence (mean sentence length=27.5 m, incarceration rate: 33.8% adj.-33.3% unadj.). For introducing or possessing a cell phone or portable communication device as contraband, there were 26 (adj.) offenders sentenced, with 13 (adj.) receiving a prison sentence (mean sentence length=24.6 m, incarceration rate: 50.0% adj.-50.0% unadj.).

Currently, DOC has a ban on tobacco in correctional facilities, so it is considered contraband to introduce/possess tobacco products. However, s. 944.47, F.S. does not list it as contraband, so there is no data available on the number of offenses occurring in these facilities. However, contraband data indicates that DOC recovered 1,784 pounds of tobacco in FY 17-18. Additionally, s. 944.47, F.S. does not have any instrumentality intended to be used as an aid for escape listed under felony contraband, but DOC data for FY 17-18 show that no items of escape paraphernalia were found during this time period, with only 700 found since the year 2000.

While data can be identified for state correctional institutions for these specific offenses, a similar breakdown cannot be developed for county detention facilities. It is not known if each contraband offense contributes comparable shares of prison sentences for events occurring at county detention facilities. If the proportions were the same, the number of offenders sentenced to prison could be shifted in similar directions with the passage of this bill. Furthermore, sentencing data is not available for tobacco. Data on contraband recovery indicate a high level of demand at correctional facilities; however, it is not known how reducing this to a misdemeanor or lower level felony might impact prison sentences originating from events at county detention facilities. Therefore, the quantity of the prison bed impact cannot be determined.

In FY 17-18, the incarceration rate for a Level 4, 3rd degree felony was 23.5%.

CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate

Requested by: House