

1 A bill to be entitled
 2 An act relating to correctional facility employees;
 3 amending s. 112.3173, F.S.; providing for forfeiture
 4 of retirement benefits of correctional facility
 5 employees who commit certain violations; amending s.
 6 944.47, F.S.; providing enhanced penalties for
 7 offenses involving introduction of contraband in
 8 correctional facilities when committed by correctional
 9 facility employees; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (e) of subsection (2) of section
 14 112.3173, Florida Statutes, is amended to read:

15 112.3173 Felonies involving breach of public trust and
 16 other specified offenses by public officers and employees;
 17 forfeiture of retirement benefits.—

18 (2) DEFINITIONS.—As used in this section, unless the
 19 context otherwise requires, the term:

20 (e) "Specified offense" means:

- 21 1. The committing, aiding, or abetting of an embezzlement
- 22 of public funds;
- 23 2. The committing, aiding, or abetting of any theft by a
- 24 public officer or employee from his or her employer;
- 25 3. Bribery in connection with the employment of a public

26 officer or employee;

27 4. Any felony specified in chapter 838, except ss. 838.15
28 and 838.16;

29 5. The committing of an impeachable offense;

30 6. The committing of any felony by a public officer or
31 employee who, willfully and with intent to defraud the public or
32 the public agency for which the public officer or employee acts
33 or in which he or she is employed of the right to receive the
34 faithful performance of his or her duty as a public officer or
35 employee, realizes or obtains, or attempts to realize or obtain,
36 a profit, gain, or advantage for himself or herself or for some
37 other person through the use or attempted use of the power,
38 rights, privileges, duties, or position of his or her public
39 office or employment position; ~~or~~

40 7. The committing on or after October 1, 2008, of any
41 felony defined in s. 800.04 against a victim younger than 16
42 years of age, or any felony defined in chapter 794 against a
43 victim younger than 18 years of age, by a public officer or
44 employee through the use or attempted use of power, rights,
45 privileges, duties, or position of his or her public office or
46 employment position; or

47 8. The committing on or after October 1, 2019, of any
48 violation described in s. 944.47(2)(b).

49 Section 2. Section 944.47, Florida Statutes, is amended to
50 read:

51 944.47 Introduction, removal, or possession of contraband
 52 ~~certain articles unlawful; penalty.-~~

53 (1) (a) Except through regular channels as authorized by
 54 the officer in charge of the correctional institution, it is
 55 unlawful to introduce into or upon the grounds of any state
 56 correctional institution, or to take or attempt to take or send
 57 or attempt to send therefrom, any of the following articles
 58 which are hereby declared to be contraband for the purposes of
 59 this section, ~~to wit:~~

60 1. Any written or recorded communication or any currency
 61 or coin given or transmitted, or intended to be given or
 62 transmitted, to any inmate of any state correctional
 63 institution.

64 2. Any article of food or clothing given or transmitted,
 65 or intended to be given or transmitted, to any inmate of any
 66 state correctional institution.

67 3. Any intoxicating beverage or beverage which causes or
 68 may cause an intoxicating effect.

69 4. Any controlled substance as defined in s. 893.02(4) or
 70 any prescription or nonprescription drug having a hypnotic,
 71 stimulating, or depressing effect.

72 5. Any firearm or weapon of any kind or any explosive
 73 substance.

74 6. Any cellular telephone or other portable communication
 75 device intentionally and unlawfully introduced inside the secure

76 | perimeter of any state correctional institution without prior
77 | authorization or consent from the officer in charge of such
78 | correctional institution. As used in this subparagraph, the term
79 | "portable communication device" means any device carried, worn,
80 | or stored which is designed or intended to receive or transmit
81 | verbal or written messages, access or store data, or connect
82 | electronically to the Internet or any other electronic device
83 | and which allows communications in any form. Such devices
84 | include, but are not limited to, portable two-way pagers, hand-
85 | held radios, cellular telephones, Blackberry-type devices,
86 | personal digital assistants or PDA's, laptop computers, or any
87 | components of these devices which are intended to be used to
88 | assemble such devices. The term also includes any new technology
89 | that is developed for similar purposes. Excluded from this
90 | definition is any device having communication capabilities which
91 | has been approved or issued by the department for investigative
92 | or institutional security purposes or for conducting other state
93 | business.

94 | (b) It is unlawful to transmit or attempt to transmit to,
95 | or cause or attempt to cause to be transmitted to or received
96 | by, any inmate of any state correctional institution any article
97 | or thing declared by this subsection to be contraband, at any
98 | place which is outside the grounds of such institution, except
99 | through regular channels as authorized by the officer in charge
100 | of such correctional institution.

101 (c) It is unlawful for any inmate of any state
 102 correctional institution or any person while upon the grounds of
 103 any state correctional institution to be in actual or
 104 constructive possession of any article or thing declared by this
 105 section to be contraband, except as authorized by the officer in
 106 charge of such correctional institution.

107 (2) (a) A person who violates ~~any provision of~~ this section
 108 as it pertains to an article of contraband described in
 109 subparagraph (1) (a)1. ~~7~~ or subparagraph (1) (a)2. ~~7~~ or subparagraph
 110 ~~(1) (a)6.~~ commits a felony of the third degree, punishable as
 111 provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise ~~in~~
 112 ~~all other cases,~~ a violation of ~~a provision of~~ this section is
 113 ~~constitutes~~ a felony of the second degree, punishable as
 114 provided in s. 775.082, s. 775.083, or s. 775.084.

115 (b) A violation of this section by an employee, as defined
 116 in s. 944.115(2) (b), who uses or attempts to use the powers,
 117 rights, privileges, duties, or position of his or her employment
 118 in the commission of the violation is ranked one level above the
 119 ranking specified in s. 921.0022 or s. 921.0023 for the offense
 120 committed.

121 Section 3. This act shall take effect October 1, 2019.