

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Drake offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (e) of subsection (2) of section
8 112.3173, Florida Statutes, is amended to read:

9 112.3173 Felonies involving breach of public trust and
10 other specified offenses by public officers and employees;
11 forfeiture of retirement benefits.—

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

14 (e) "Specified offense" means:

15 1. The committing, aiding, or abetting of an embezzlement
16 of public funds;

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17 2. The committing, aiding, or abetting of any theft by a
18 public officer or employee from his or her employer;

19 3. Bribery in connection with the employment of a public
20 officer or employee;

21 4. Any felony specified in chapter 838, except ss. 838.15
22 and 838.16;

23 5. The committing of an impeachable offense;

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

34 7. The committing on or after October 1, 2008, of any
35 felony defined in s. 800.04 against a victim younger than 16
36 years of age, or any felony defined in chapter 794 against a
37 victim younger than 18 years of age, by a public officer or
38 employee through the use or attempted use of power, rights,
39 privileges, duties, or position of his or her public office or
40 employment position.

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41 8. The committing on or after October 1, 2019, of any
42 violation of s. 944.47(2)(b).

43 Section 2. Section 944.47, Florida Statutes, is amended to
44 read:

45 944.47 Introduction, removal, or possession of contraband
46 ~~certain articles unlawful; penalty.-~~

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

54 1. Any written or recorded communication or any currency
55 or coin given or transmitted, or intended to be given or
56 transmitted, to any inmate of any state correctional
57 institution.

58 2. Any article of food or clothing given or transmitted,
59 or intended to be given or transmitted, to any inmate of any
60 state correctional institution.

61 3. Any intoxicating beverage or beverage which causes or
62 may cause an intoxicating effect.

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

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66 5. Any firearm or weapon of any kind or any explosive
67 substance.

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

88 (b) It is unlawful to transmit or attempt to transmit to,
89 or cause or attempt to cause to be transmitted to or received
90 by, any inmate of any state correctional institution any article

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91 or thing declared by this subsection to be contraband, at any
92 place which is outside the grounds of such institution, except
93 through regular channels as authorized by the officer in charge
94 of such correctional institution.

95 (c) It is unlawful for any inmate of any state
96 correctional institution or any person while upon the grounds of
97 any state correctional institution to be in actual or
98 constructive possession of any article or thing declared by this
99 section to be contraband, except as authorized by the officer in
100 charge of such correctional institution.

101 (2) (a) A person who violates ~~any provision of~~ this section
102 as it pertains to an article of contraband described in
103 subparagraph (1) (a) 1. ~~7~~ or subparagraph (1) (a) 2. ~~7~~ or subparagraph
104 ~~(1) (a) 6.~~ commits a felony of the third degree, punishable as
105 provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise ~~In~~
106 ~~all other cases,~~ a violation of ~~a provision of~~ this section is
107 ~~constitutes~~ a felony of the second degree, punishable as
108 provided in s. 775.082, s. 775.083, or s. 775.084.

109 (b) A violation of this section by an employee, as defined
110 in s. 944.115(2) (b), who uses or attempts to use the powers,
111 rights, privileges, duties, or position of his or her employment
112 in the commission of the violation is ranked one level above the
113 ranking specified in s. 921.0022 and 921.0023 for the offense
114 committed.

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

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to correctional facility employees;
amending s. 112.3173, F.S.; providing for forfeiture
of retirement benefits of correctional facility
employees who commit certain violations; amending s.
944.47, F.S.; providing enhanced penalties for
offenses involving introduction of contraband in
correctional facilities when committed by correctional
facility employees; providing an effective date.