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March 22, 2021

ENGROSSED HOUSE
BILL NO. 1023

By: Worthen of the House

and

Weaver of the Senate

An Act relating to prisons and reformatories; amending 57 O.S. 2011, Section 21, as last amended by Section 2, Chapter 226, O.S.L. 2015 (57 O.S. Supp. 2020, Section 21), which relates to penalties for possessing contraband in penal institutions; updating statutory references; providing for the forfeiture of seized items; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 57 O.S. 2011, Section 21, as last amended by Section 2, Chapter 226, O.S.L. 2015 (57 O.S. Supp. 2020, Section 21), is amended to read as follows:

Section 21. A. Any person who, without authority, brings into or has in his or her possession in any jail or state penal institution or other place where prisoners are located, any gun, knife, bomb or other dangerous instrument, any controlled dangerous substance as defined by ~~Section 2-101 et seq. of Title 63 of the Oklahoma Statutes~~ the Uniform Controlled Dangerous Substances Act,

1 any ~~intoxicating~~ alcoholic beverage or ~~low point beer~~ as defined by
2 ~~Sections 163.1 and 163.2~~ Section 1-103 of Title ~~37~~ 37A of the
3 Oklahoma Statutes, money or financial documents for a person other
4 than the inmate or a spouse of the inmate, including but not limited
5 to tax returns, shall be guilty of a felony and, upon conviction,
6 shall be punished by imprisonment in the custody of the Department
7 of Corrections for a term of not less than one (1) year nor more
8 than five (5) years, or by a fine of not less than One Hundred
9 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or
10 by both such fine and imprisonment. Provided, the provisions of
11 this subsection shall not prohibit any Department of Corrections
12 employee who has a valid handgun license pursuant to the Oklahoma
13 Self-Defense Act to keep a firearm in a vehicle on any property set
14 aside for the parking of any vehicle, whether occupied or
15 unoccupied, at any state-owned prison facility, provided the
16 employee has provided annual notification to the Department of
17 Corrections of the brand name, model, serial number, and owner
18 identification information of the firearm, and the firearm is
19 secured and stored in a locked metal storage container located in a
20 locked vehicle. The storage container will be secured in the
21 vehicle by a lockable chain or cable or by utilizing hardware
22 provided by the manufacturer.

23 B. If an inmate is found to be in possession of any item
24 prohibited by this section, upon conviction, such inmate shall be

1 guilty of a felony and shall be punished by imprisonment for a term
2 of not less than five (5) years nor more than twenty (20) years in
3 the custody of the Department of Corrections.

4 C. If the person found to be in possession of any item
5 prohibited by this section has committed, prior to the commission of
6 an offense in violation of this section, two or more felony
7 offenses, and the possession of contraband in violation of this
8 section is within ten (10) years of the completion of the execution
9 of the sentence for any prior offense, such person, upon conviction,
10 shall be guilty of a felony and shall be punished by imprisonment in
11 the custody of the Department of Corrections for a term of not less
12 than twenty (20) years. Felony offenses relied upon shall not have
13 arisen out of the same transaction or occurrence or series of events
14 closely related in time and location.

15 D. Any person who, without authority, brings into or has in his
16 or her possession in any jail or state penal institution or other
17 place where prisoners are located, cigarettes, cigars, snuff,
18 chewing tobacco or any other form of tobacco product shall, upon
19 conviction, be guilty of a misdemeanor punishable by imprisonment in
20 the county jail not to exceed one (1) year, or by a fine not
21 exceeding Five Hundred Dollars (\$500.00), or by both such fine and
22 imprisonment.

23 E. Any person who knowingly, willfully and without authority
24 brings into or has in his or her possession in any secure area of a

1 jail or state penal institution or other secure place where
2 prisoners are located any cellular phone or electronic device
3 capable of sending or receiving any electronic communication shall,
4 upon conviction, be guilty of a felony punishable by imprisonment in
5 the custody of the Department of Corrections for a term not
6 exceeding two (2) years, or by a fine not exceeding Two Thousand
7 Five Hundred Dollars (\$2,500.00), or by both such fine and
8 imprisonment.

9 F. Any ~~electronic communication device which has no~~
10 ~~identifiable owner and which is~~ contraband item prohibited by the
11 provisions of this section that is seized as a result of a violation
12 of this section may be ~~disposed of or sold~~ forfeited by the agency
13 that seized the ~~device~~ contraband item following the procedures
14 outlined in Section 2-506 of Title 63 of the Oklahoma Statutes.

15 G. "Electronic communication" means any transfer of signs,
16 signals, writings, images, sounds, data or intelligence of any
17 nature transmitted in whole or part by a wire, radio,
18 electromagnetic, photo-electronic or photo-optical system, and
19 includes, but is not limited to, the transfer of that communication
20 through the Internet.

21 SECTION 2. This act shall become effective November 1, 2021.

22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
23 March 22, 2021 - DO PASS
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