

BILL ANALYSIS

C.S.H.B. 196
By: Guillen
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law prohibits the introduction of certain items into state correctional facilities, county jails, and regional jails. The proposed legislation would allow county and regional jail administrators to determine what constitutes contraband and also creates an offense if a person provides contraband to an inmate of a jail, introduces contraband into a jail, or possesses contraband while confined in a jail. The penalty for this offense is a class C misdemeanor, unless the offense is committed by an employee or a volunteer of the jail, in which event the offense is a class B misdemeanor.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Adds Section 38.114 to the Penal Code to provide a penalty of a Class C misdemeanor if a person commits an offense by providing contraband to an inmate of a jail, introducing contraband into a jail, or possessing contraband while confined in a jail. Contraband is defined in this bill as any item not provided by or authorized by the sheriff or jail administrator or any item authorized and altered to accommodate a use other than the originally intended use.

This bill provides an offense of a Class B misdemeanor if the offenses above are committed by an employee or a volunteer of a jail. Any items prohibited under Section 38.11(a)(1) or (a)(2), Penal Code do not fall under this section.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill altered the list of what constitutes contraband in Section 38.11 of the Penal Code by changing "an inmate of a correctional facility operated by or under contract with the Texas Department of Criminal Justice" (TDCJ) to "an inmate of a correctional facility".

Unlike the original bill, the substitute does not change Section 38.11 relating to contraband in a correctional facility. Instead, it adds Section 38.114 to the Penal Code, providing that for a state or regional jail, contraband means any item not provided by or authorized by the sheriff or jail administrator or any item that is authorized, but has been altered to accommodate a use other than originally intended. Moreover, it is clearly stated that the term "contraband" does not include any item specifically prohibited in Section 38.11 (a) (1) or (a) (2) of the Penal Code, which lays out specific items that constitutes contraband in a correctional facility operated by or under contract with TDCJ.

The substitute also provides a penalty of a Class C misdemeanor if a person commits an offense by providing contraband to an inmate of a jail, introducing contraband into a jail, or possessing contraband while confined in a jail. The penalty for this offense is a class C misdemeanor, unless the offense is committed by an employee or a volunteer of the jail, in which event the offense is a class B misdemeanor.

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