

BILL ANALYSIS

Senate Research Center

H.B. 864
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Criminal Justice
5/18/2003
Engrossed

DIGEST AND PURPOSE

The introduction of contraband into Texas Department of Criminal Justice (TDJC) correctional facilities poses a significant threat to the security of the institutions. Since certain types of contraband are more threatening than others, administrative sanctions may be insufficient to deter and punish such behavior. Furthermore, under current law, providing a weapon to a person in custody with the intent to facilitate escape is a criminal offense, but having to prove the intent to facilitate escape often complicates prosecution. H.B. 864 makes it a criminal offense to provide money, a cigarette, or a tobacco product to an inmate; for an inmate to possess, or for an individual to provide an inmate with a cell phone; or for an unauthorized individual to possess a weapon in a penal institution or provide an inmate with a weapon.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 38.11, Penal Code, by amending Subsections (a), (d), and (e) and adding Subsection (j), as follows:

- (a) Specifies that a person commits an offense if the person provides a deadly weapon to an inmate of a correctional facility or a cellular telephone, cigarette, tobacco product, or money to an inmate of a correctional facility operated by or under contract with the Texas Department of Criminal Justice (TDJC).
- (d) Provides that a person commits an offense if the person possesses a deadly weapon while in a correctional facility.
- (e) Provides that it is an affirmative defense to prosecution under Subsection (d)(2) of this section that the person possessing the deadly weapon is a peace officer or is an officer or employee of the correctional facility authorized to possess the deadly weapon while on duty or traveling to or from the person's place of assignment. Makes a conforming change.
- (j) Provides that a person commits an offense if the person while an inmate of a correctional facility operated by or under contract with the TDJC possesses a cellular telephone.

SECTION 2. Amends Section 38.11(f), Penal Code, by adding Subdivisions (3) and (4) to define "cigarette" and "tobacco product."

SECTION 3. Amends the heading to Section 38.11, Penal Code, to read as follows:

Sec. 38.11. PROHIBITED SUBSTANCES AND ITEMS IN CORRECTIONAL FACILITY OR ON PROPERTY OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2003.