

# HB263 INTRODUCED



1 AGIDSQ-1  
2 By Representative Wadsworth  
3 RFD: Public Safety and Homeland Security  
4 First Read: 06-Apr-23  
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SYNOPSIS:

Under existing law, a person is guilty of promoting prison contraband if the person intentionally and unlawfully introduces contraband into a detention facility or if the person is confined to a detention facility and obtains or possesses contraband.

Also under existing law, a statute, rule, regulation, or order may define what items constitute "contraband".

This bill would allow a detention facility to adopt a policy to further define what items constitute "contraband" for purposes of banning certain items from detention facilities.

Under existing law, the crimes of promoting prison contraband in the first, second, and third degree limit their application to inmates under certain circumstances.

This bill would further define the crimes of promoting contraband in the first, second, and third degree to apply to juveniles under certain circumstances.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.



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29                   Section 111.05 of the Constitution of Alabama of  
30                   2022, prohibits a general law whose purpose or effect  
31                   would be to require a new or increased expenditure of  
32                   local funds from becoming effective with regard to a  
33                   local governmental entity without enactment by a 2/3  
34                   vote unless: it comes within one of a number of  
35                   specified exceptions; it is approved by the affected  
36                   entity; or the Legislature appropriates funds, or  
37                   provides a local source of revenue, to the entity for  
38                   the purpose.

39                   The purpose or effect of this bill would be to  
40                   require a new or increased expenditure of local funds  
41                   within the meaning of the amendment. However, the bill  
42                   does not require approval of a local governmental  
43                   entity or enactment by a 2/3 vote to become effective  
44                   because it comes within one of the specified exceptions  
45                   contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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53                   Relating to crimes; to amend Sections 13A-10-30,  
54                   13A-10-36, 13A-10-37, and 13A-10-38, Code of Alabama 1975, to  
55                   allow a detention facility to adopt a policy to further define  
56                   what items constitute "contraband" for purposes of banning



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57 certain items from detention facilities; to further define the  
58 crimes of promoting contraband in the first, second, and third  
59 degree to apply to juveniles under certain circumstances; to  
60 make nonsubstantive, technical revisions to update the  
61 existing code language to current style; and in connection  
62 therewith would have as its purpose or effect the requirement  
63 of a new or increased expenditure of local funds within the  
64 meaning of Section 111.05 of the Constitution of Alabama of  
65 2022.

66 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

67 Section 1. Sections 13A-10-30, 13A-10-36, 13A-10-37,  
68 and 13A-10-38, Code of Alabama 1975, are amended to read as  
69 follows:

70 "§13A-10-30

71 (a) The definitions contained in Section 13A-10-1 are  
72 applicable in this article unless the context requires  
73 otherwise.

74 (b) The following definitions are also applicable to  
75 this article:

76 ~~(1)~~ (2) CUSTODY. A restraint or detention by a public  
77 servant pursuant to a lawful arrest, conviction, or order of  
78 court, but does not include mere supervision of probation or  
79 parole, ~~or~~ constraint incidental to release on bail.

80 ~~(2)~~ (3) DETENTION FACILITY. Any place used for the  
81 confinement, pursuant to law, of a person:

82 a. Charged with or convicted of a criminal offense; ~~or~~ .

83 b. Charged with being or adjudicated a youthful  
84 offender, or a neglected minor or juvenile delinquent; ~~or~~ .



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85 c. Held for extradition;~~or.~~  
86 d. Otherwise confined pursuant to an order of court.

87 ~~(3)~~ (4) PENAL FACILITY. Any security correctional  
88 institution for the confinement of persons arrested for,  
89 charged with, or convicted of a criminal offense, including,  
90 but not limited to, ~~the following security facilities:~~ the  
91 state penitentiary and any branch ~~thereof~~ of the state  
92 penitentiary, or any county or city jail.

93 ~~(4)~~ (1) CONTRABAND. Any article or thing which a person  
94 confined in a detention facility is legally prohibited from  
95 obtaining or possessing by statute, rule, regulation,  
96 detention center policy, or order."

97 "§13A-10-36

98 (a) A person is guilty of promoting prison contraband  
99 in the first degree if he or she does either of the following:

100 (1) ~~He intentionally~~ Intentionally and unlawfully  
101 introduces within a detention facility, or provides an inmate  
102 or juvenile with, any deadly weapon, instrument, tool, or  
103 other ~~thing which~~ item that may be useful for escape~~.~~

104 (2) Being a person confined in a detention facility, ~~he~~  
105 intentionally and unlawfully makes, obtains, or possesses any  
106 deadly weapon, instrument, tool, or other ~~thing which~~ item  
107 that may be useful for escape.

108 (b) Promoting prison contraband in the first degree is  
109 a Class C felony."

110 "§13A-10-37

111 (a) A person is guilty of promoting prison contraband  
112 in the second degree if he or she does either of the



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113 following:

114 (1) ~~He intentionally~~ Intentionally and unlawfully  
115 introduces within a detention facility, or provides an inmate  
116 or juvenile with, any narcotic, dangerous drug or controlled  
117 substance as defined in the "Alabama Controlled Substances  
118 Act," or any amendments thereto; ~~or.~~

119 (2) Being a person confined in a detention facility, ~~he~~  
120 intentionally and unlawfully makes, obtains, or possesses any  
121 narcotic, dangerous drug, or controlled substance as defined  
122 in Chapter 2 of Title 20 ~~of this Code.~~

123 (b) Promoting prison contraband in the second degree is  
124 a Class C felony."

125 "§13A-10-38

126 (a) A person is guilty of promoting prison contraband  
127 in the third degree if ~~the person~~ he or she does any of the  
128 following:

129 (1) ~~He or she intentionally~~ Intentionally and unlawfully  
130 introduces within a detention facility, or provides an inmate  
131 or juvenile with, any contraband or ~~thing which~~ item that the  
132 actor knows or should know ~~it~~ is unlawful to introduce or for  
133 the inmate or juvenile to possess.

134 (2) Being a person confined in a detention facility, ~~he~~  
135 ~~or she~~ intentionally and unlawfully makes, obtains, or  
136 possesses any contraband.

137 (3) ~~He or she intentionally~~ Intentionally introduces  
138 within a state detention facility operated by the Department  
139 of Corrections, or provides an inmate in a state detention  
140 facility operated by the Department of Corrections with, any



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141 currency or coin ~~which~~ that the actor knows or should know is  
142 unlawful to introduce or the possession of which is not  
143 authorized by an inmate by the written policy of the  
144 Department of Corrections.

145 (4) Being a person in the custody of the Department of  
146 Corrections, ~~he or she~~ obtains or possesses any currency or  
147 coin, the possession of which is not authorized by the written  
148 policy of the Department of Corrections.

149 (b) Promoting prison contraband in the third degree is  
150 a Class B misdemeanor.

151 (c) Any currency or coin contraband found on or in the  
152 possession of any inmate in any state detention facility  
153 operated by the Department of Corrections, the possession of  
154 which is not authorized by the written policy of the  
155 Department of Corrections, shall be confiscated and liquidated  
156 after notice and a hearing as provided by departmental policy  
157 and the proceeds shall be deposited in the general operating  
158 fund of the department."

159 Section 2. Although this bill would have as its purpose  
160 or effect the requirement of a new or increased expenditure of  
161 local funds, the bill is excluded from further requirements  
162 and application under Section 111.05 of the Constitution of  
163 Alabama of 2022, because the bill defines a new crime or  
164 amends the definition of an existing crime.

165 Section 3. This act shall become effective on the first  
166 day of the third month following its passage and approval by  
167 the Governor, or its otherwise becoming law.