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**CORRECTIONAL FACILITY AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson S. Burton**

Senate Sponsor: Derrin R. Owens

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**LONG TITLE**

**General Description:**

This bill enacts provisions related to communication devices in correctional facilities.

**Highlighted Provisions:**

This bill:

- defines terms;
- makes it a crime to transport, provide, sell, or possess a communication device at a correctional facility in violation of facility policy; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**76-8-311.3**, as last amended by Laws of Utah 2023, Chapter 330

**Utah Code Sections affected by Coordination Clause:**

**76-8-311.3**, as last amended by Laws of Utah 2023, Chapter 330

**76-8-311.11**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

*The following section is affected by a coordination clause at the end of this bill.*

Section 1. Section **76-8-311.3** is amended to read:

**76-8-311.3 . Items prohibited in correctional and mental health facilities --**

**Penalties.**

(1) (a) As used in this section:

- 29           ~~[(a)]~~ "Communication device" means a device designed to receive or transmit an  
 30           image, text message, email, video, location information, or voice communication  
 31           or another device that can be used to communicate electronically.
- 32           ~~(i)~~ "Contraband" means ~~[any]~~ an item not specifically prohibited for possession by  
 33           offenders under this section or Title 58, Chapter 37, Utah Controlled Substances  
 34           Act.
- 35           ~~[(b)]~~ ~~(ii)~~ "Controlled substance" means any substance defined as a controlled  
 36           substance under Title 58, Chapter 37, Utah Controlled Substances Act.
- 37           ~~[(c)]~~ ~~(iii)~~ "Correctional facility" means:
- 38           ~~[(+)]~~ ~~(A)~~ ~~[any]~~ a facility operated by or contracting with the Department of  
 39           Corrections to house ~~[offenders]~~ an offender in either a secure or nonsecure  
 40           setting;
- 41           ~~[(+)]~~ ~~(B)~~ ~~[any]~~ a facility operated by a municipality or a county to house or detain [  
 42           ~~eriminal offenders]~~ an offender;
- 43           ~~[(+)]~~ ~~(C)~~ ~~[any]~~ a juvenile detention facility; ~~[and]~~ or
- 44           ~~[(+)]~~ ~~(D)~~ ~~[any]~~ a building or grounds appurtenant to ~~[the]~~ a facility or ~~[lands]~~ land  
 45           granted to the state, municipality, or county for use as a correctional facility.
- 46           ~~[(d)]~~ ~~(iv)~~ "Electronic cigarette product" means the same as that term is defined in  
 47           Section 76-10-101.
- 48           ~~[(e)]~~ ~~(v)~~ "Medicine" means ~~[any]~~ a prescription drug as defined in Title 58, Chapter  
 49           17b, Pharmacy Practice Act, but does not include ~~[any]~~ a controlled ~~[substances]~~  
 50           substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.
- 51           ~~[(f)]~~ ~~(vi)~~ "Mental health facility" means the same as that term is defined in Section  
 52           26B-5-301.
- 53           ~~[(g)]~~ ~~(vii)~~ "Nicotine product" means the same as that term is defined in Section  
 54           76-10-101.
- 55           ~~[(h)]~~ ~~(viii)~~ "Offender" means ~~[a person]~~ an individual in custody at a correctional  
 56           facility.
- 57           ~~[(+)]~~ ~~(ix)~~ "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 58           ~~[(+)]~~ ~~(x)~~ "Tobacco product" means the same as that term is defined in Section  
 59           76-10-101.
- 60           (2) ~~(a)~~ Notwithstanding Section 76-10-500, a correctional facility or mental health  
 61           facility may ~~[provide by rule that no]~~ prohibit a firearm, ammunition, a dangerous  
 62           weapon, an implement of escape, an explosive, a controlled substance, spirituous or

- 63 fermented liquor, medicine, or poison [~~in any quantity may be~~] from being:
- 64 ~~[(a)]~~ (i) transported to or [~~upon~~] within a correctional facility or mental health facility;
- 65 ~~[(b)]~~ (ii) sold or [~~given away at any~~] provided to an offender at a correctional facility
- 66 or mental health facility; or
- 67 ~~[(c)]~~ (iii) [~~given to or used by any offender~~] possessed by an offender or another
- 68 individual at a correctional facility or mental health facility[~~;~~ ~~or~~].
- 69 ~~[(d)] knowingly or intentionally possessed at a correctional or mental health facility.]~~
- 70 (b) A correctional facility may prohibit a communication device from being:
- 71 (i) transported to or within the correctional facility for the purpose of being sold or
- 72 provided to an offender in the correctional facility;
- 73 (ii) sold or provided to an offender in the correctional facility; or
- 74 (iii) possessed by an offender or another individual at the correctional facility.
- 75 (3) It is a defense to [~~any~~] a prosecution under this section if the accused in committing the
- 76 act made criminal by this section with respect to:
- 77 (a) a correctional facility operated by the Department of Corrections, acted in conformity
- 78 with departmental rule or policy;
- 79 (b) a correctional facility operated by a municipality, acted in conformity with the policy
- 80 of the municipality;
- 81 (c) a correctional facility operated by a county, acted in conformity with the policy of
- 82 the county; or
- 83 (d) a mental health facility, acted in conformity with the policy of the mental health
- 84 facility.
- 85 (4) (a) An individual who transports to or upon a correctional facility, or into a secure
- 86 area of a mental health facility, [~~any~~] a firearm, ammunition, a dangerous weapon, or
- 87 an implement of escape with intent to provide or sell it to [~~any~~] an offender, is guilty
- 88 of a second degree felony.
- 89 (b) An individual who provides or sells to [~~any~~] an offender at a correctional facility, or [
- 90 ~~any~~] a detainee at a secure area of a mental health facility, [~~any~~] a firearm,
- 91 ammunition, a dangerous weapon, or an implement of escape is guilty of a second
- 92 degree felony.
- 93 (c) An offender who possesses at a correctional facility, or a detainee who possesses at a
- 94 secure area of a mental health facility, [~~any~~] a firearm, ammunition, a dangerous
- 95 weapon, or an implement of escape is guilty of a second degree felony.
- 96 (d) An individual who, without the permission of the authority operating the correctional

- 97 facility or the secure area of a mental health facility, knowingly possesses at a  
 98 correctional facility or a secure area of a mental health facility ~~[any]~~ a firearm,  
 99 ammunition, a dangerous weapon, or an implement of escape is guilty of a third  
 100 degree felony.
- 101 (e) An individual violates Section 76-10-306 who knowingly or intentionally transports,  
 102 possesses, distributes, or sells ~~[any]~~ an explosive in a correctional facility or mental  
 103 health facility.
- 104 (5) (a) An individual is guilty of a third degree felony who, without the permission of  
 105 the authority operating the correctional facility or secure area of a mental health  
 106 facility, knowingly transports~~[to or upon a correctional facility or into a secure area~~  
 107 ~~of a mental health facility any]~~:
- 108 (i) a communication device to or within a correctional facility with the intent to  
 109 provide or sell the communication device to an offender in the correctional facility;  
 110 (ii) spirituous or fermented liquor to or within a correctional facility or a secure area  
 111 of a mental health facility;  
 112 ~~[(ii)]~~ (iii) medicine to or within a correctional facility or a secure area of a mental  
 113 health facility[;] whether or not lawfully prescribed for [the] an offender or detainee;  
 114 or  
 115 ~~[(iii)]~~ (iv) poison [in any quantity] to or within a correctional facility or a secure area  
 116 of a mental health facility.
- 117 (b) An individual is guilty of a third degree felony who knowingly violates correctional  
 118 or mental health facility policy or rule by providing or selling~~[to any offender at a~~  
 119 ~~correctional facility or detainee within a secure area of a mental health facility any]~~:
- 120 (i) a communication device to an offender at a correctional facility;  
 121 (ii) spirituous or fermented liquor to an offender at a correctional facility or a  
 122 detainee within a secure area of a mental health facility;  
 123 ~~[(ii)]~~ (iii) medicine[;] to an offender at a correctional facility or detainee within a  
 124 secure area of a mental facility whether or not the medicine is lawfully prescribed  
 125 for the offender; or  
 126 ~~[(iii)]~~ (iv) poison [in any quantity] to an offender at a correctional facility or a detainee  
 127 within a secure area of a mental health facility.
- 128 (c) An ~~[inmate]~~ offender is guilty of a third degree felony who, in violation of  
 129 correctional or mental health facility policy or rule, possesses~~[at a correctional~~  
 130 ~~facility or in a secure area of a mental health facility any]~~:

- 131 (i) a communication device at a correctional facility;  
132 (ii) spirituous or fermented liquor at a correctional facility or in a secure area of a  
133 mental health facility;  
134 ~~[(ii)]~~ (iii) medicine at a correctional facility or in a secure area of a mental health  
135 facility[;] other than medicine provided by the facility's health care providers in  
136 compliance with facility policy; or  
137 ~~[(iii)]~~ (iv) poison [in any quantity] at a correctional facility or in a secure area of a  
138 mental health facility.
- 139 (d) An individual is guilty of a class A misdemeanor who, with the intent to directly or  
140 indirectly provide or sell ~~[any]~~ a tobacco product, electronic cigarette product, or  
141 nicotine product to an offender, directly or indirectly:  
142 (i) transports, delivers, or distributes any tobacco product, electronic cigarette  
143 product, or nicotine product to an offender or on the grounds of any correctional  
144 facility;  
145 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another  
146 person to transport any tobacco product, electronic cigarette product, or nicotine  
147 product to an offender or on any correctional facility, if the person is acting with  
148 the mental state required for the commission of an offense; or  
149 (iii) facilitates, arranges, or causes the transport of any tobacco product, electronic  
150 cigarette product, or nicotine product in violation of this section to an offender or  
151 on the grounds of any correctional facility.
- 152 (e) An individual, other than an offender, is guilty of a class A misdemeanor who,  
153 without the permission of the authority operating the correctional or mental health  
154 facility, ~~[fails to declare or]~~ knowingly possesses ~~[at a correctional facility or in a~~  
155 ~~secure area of a mental health facility any]~~:  
156 (i) subject to Subsection (7), a communication device at a correctional facility;  
157 (ii) spirituous or fermented liquor at a correctional facility or in a secure area of a  
158 mental health facility;  
159 ~~[(ii)]~~ (iii) medicine at a correctional facility or in a secure area of a mental health  
160 facility; or  
161 ~~[(iii)]~~ (iv) poison [in any quantity] at a correctional facility or in a secure area of a  
162 mental health facility.
- 163 (f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B  
164 misdemeanor who, without the permission of the authority operating the

- 165 correctional facility, knowingly engages in any activity that would facilitate the  
 166 possession of any contraband by an offender in a correctional facility.
- 167 (ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic  
 168 cigarette product, or nicotine product take precedence over this Subsection (5)(f).
- 169 (g) Exemptions may be granted for worship for Native American inmates pursuant to  
 170 Section 64-13-40.
- 171 (6) The possession, distribution, or use of a controlled substance at a correctional facility or  
 172 in a secure area of a mental health facility shall be prosecuted in accordance with Title  
 173 58, Chapter 37, Utah Controlled Substances Act.
- 174 (7) (a) A correctional facility that prohibits an individual other than an offender from  
 175 possessing a communication device in the correctional facility under Subsection  
 176 (5)(e)(i) shall post a sign visible to an individual entering the correctional facility that  
 177 provides the individual with notice that possessing a communication device in the  
 178 correctional facility is prohibited and the individual may be prosecuted for possessing  
 179 a communication device.
- 180 (b) A prosecuting attorney may not prosecute an individual under Subsection (5)(e)(i) if  
 181 the correctional facility fails to comply with Subsection (7)(a).
- 182 [~~7~~] (8) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
 183 Rulemaking Act, to establish guidelines for providing written notice to visitors that  
 184 providing any tobacco product, electronic cigarette product, or nicotine product to  
 185 offenders is a class A misdemeanor.

186 Section 2. **Effective date.**

187 This bill takes effect on May 1, 2024.

188 Section 3. **Coordinating H.B. 26 with H.B. 15**

189 If this H.B. 26, Correctional Facility Amendments, and H.B. 15, Criminal Code  
 190 Recodification and Cross References, both pass and become law, it is the intent of the  
 191 Legislature that the Office of Legislative Research and General Counsel prepare the  
 192 Utah Code database for publication by making the following changes:

193 (1) amending Section 76-8-311.3 to read:

194 "76-8-311.3 Establishment of prohibited item policy in a correctional or mental  
 195 health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

196 (1) (a) As used in this section:

197 ~~[(a) "Contraband" means any item not specifically prohibited for possession by~~  
 198 ~~offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.~~

199 ~~(b)~~ (i) "Communication device" means a device designed to receive or transmit an  
200 image, text message, email, video, location information, or voice communication, or  
201 another device that can be used to communicate electronically.

202 (ii) "Controlled substance" means ~~[any]~~ a substance defined as a controlled substance  
203 under Title 58, Chapter 37, Utah Controlled Substances Act.

204 ~~(e)~~ (iii) "Correctional facility" means:

205 ~~(i)~~ (A) ~~[any]~~ a facility operated by or contracting with the Department of  
206 Corrections to house ~~[offenders]~~ an offender in either a secure or nonsecure setting;

207 ~~(ii)~~ (B) ~~[any]~~ a facility operated by a municipality or a county to house or detain [  
208 eriminal offenders] an offender;

209 ~~(iii)~~ (C) ~~[any]~~ a juvenile detention facility; ~~[and]~~ or

210 ~~(iv)~~ (D) ~~[any]~~ a building or grounds appurtenant to ~~[the]~~ a facility or ~~[lands]~~ land  
211 granted to the state, municipality, or county for use as a correctional facility.

212 (iv) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

213 ~~(d)~~ (v) "Electronic cigarette product" means the same as that term is defined in  
214 Section 76-10-101.

215 (vi) "Firearm" means the same as that term is defined in Section 76-10-501.

216 ~~(e)~~ (vii) "Medicine" means ~~[any]~~ a prescription drug as defined in Title 58, Chapter  
217 17b, Pharmacy Practice Act, but does not include ~~[any]~~ a controlled ~~[substances]~~  
218 substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

219 ~~(f)~~ (viii) "Mental health facility" means the same as that term is defined in Section  
220 26B-5-301.

221 ~~(g)~~ (ix) "Nicotine product" means the same as that term is defined in Section  
222 76-10-101.

223 ~~(h)~~ (x) "Offender" means ~~[a person]~~ an individual in custody at a correctional  
224 facility.

225 ~~(i)~~ (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

226 ~~(j)~~ (xii) "Tobacco product" means the same as that term is defined in Section  
227 76-10-101.

228 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

229 (2)(a) Notwithstanding Section 76-10-500, a correctional facility or mental health  
230 facility may~~[provide by rule that no]~~ prohibit a firearm, ammunition, a dangerous  
231 weapon, an implement of escape, an explosive, a controlled substance, spirituous or  
232 fermented liquor, medicine, or poison ~~[in any quantity may be]~~ from being:

233 ~~[(a)]~~ (i) transported to or ~~[upon]~~ within a correctional facility or mental health facility;

234 ~~[(b)]~~ (ii) sold or given away ~~[at any]~~ to an offender at a correctional facility or mental

235 health facility; or

236 ~~[(e)]~~ (iii) ~~[given to or used by any offender]~~ possessed by an offender or another

237 individual at a correctional facility or mental health facility~~;~~ ~~or~~ .

238 ~~[(d) knowingly or intentionally possessed at a correctional or mental health facility.]~~

239 (b) A correctional facility may prohibit a communication device from being:

240 (i) transported within the correctional facility for the purpose of being sold to an

241 offender in the correctional facility;

242 (ii) sold or given away to an offender in the correctional facility; or

243 (iii) possessed by an offender or another individual at the correctional facility.

244 (3) It is a defense to ~~[any]~~ a prosecution ~~[under]~~ related to this section~~[if the accused~~

245 ~~is]~~ that the actor, in committing the act made criminal by this section with respect to:

246 (a) a correctional facility operated by the Department of Corrections, acted in

247 conformity with departmental rule or policy;

248 (b) a correctional facility operated by a municipality, acted in conformity with the

249 policy of the municipality;

250 (c) a correctional facility operated by a county, acted in conformity with the policy of

251 the county; or

252 (d) a mental health facility, acted in conformity with the policy of the mental health

253 facility.

254 ~~[(4)(a) An individual who transports to or upon a correctional facility, or into a secure~~

255 ~~area of a mental health facility, any firearm, ammunition, dangerous weapon, or~~

256 ~~implement of escape with intent to provide or sell it to any offender, is guilty of a second~~

257 ~~degree felony.~~

258 ~~(b) An individual who provides or sells to any offender at a correctional facility, or~~

259 ~~any detainee at a secure area of a mental health facility, any firearm, ammunition,~~

260 ~~dangerous weapon, or implement of escape is guilty of a second degree felony.~~

261 ~~(c) An offender who possesses at a correctional facility, or a detainee who possesses~~

262 ~~at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon,~~

263 ~~or implement of escape is guilty of a second degree felony.~~

264 ~~(d) An individual who, without the permission of the authority operating the~~

265 ~~correctional facility or the secure area of a mental health facility, knowingly possesses at~~

266 ~~a correctional facility or a secure area of a mental health facility any firearm,~~

267 ~~ammunition, dangerous weapon, or implement of escape is guilty of a third degree~~  
268 ~~felony.~~

269 ~~(e) An individual violates Section 76-10-306 who knowingly or intentionally~~  
270 ~~transports, possesses, distributes, or sells any explosive in a correctional facility or~~  
271 ~~mental health facility.~~

272 ~~(5)(a) An individual is guilty of a third degree felony who, without the permission of~~  
273 ~~the authority operating the correctional facility or secure area of a mental health facility,~~  
274 ~~knowingly transports to or upon a correctional facility or into a secure area of a mental~~  
275 ~~health facility any:~~

276 ~~(i) spirituous or fermented liquor;~~

277 ~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~

278 ~~(iii) poison in any quantity.~~

279 ~~(b) An individual is guilty of a third degree felony who knowingly violates~~  
280 ~~correctional or mental health facility policy or rule by providing or selling to any~~  
281 ~~offender at a correctional facility or detainee within a secure area of a mental health~~  
282 ~~facility any:~~

283 ~~(i) spirituous or fermented liquor;~~

284 ~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~

285 ~~(iii) poison in any quantity.~~

286 ~~(c) An inmate is guilty of a third degree felony who, in violation of correctional or~~  
287 ~~mental health facility policy or rule, possesses at a correctional facility or in a secure~~  
288 ~~area of a mental health facility any:~~

289 ~~(i) spirituous or fermented liquor;~~

290 ~~(ii) medicine, other than medicine provided by the facility's health care providers in~~  
291 ~~compliance with facility policy; or~~

292 ~~(iii) poison in any quantity.~~

293 ~~(d) An individual is guilty of a class A misdemeanor who, with the intent to directly~~  
294 ~~or indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine~~  
295 ~~product to an offender, directly or indirectly:~~

296 ~~(i) transports, delivers, or distributes any tobacco product, electronic cigarette~~  
297 ~~product, or nicotine product to an offender or on the grounds of any correctional facility;~~

298 ~~(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another~~  
299 ~~person to transport any tobacco product, electronic cigarette product, or nicotine product~~  
300 ~~to an offender or on any correctional facility, if the person is acting with the mental state~~

301 required for the commission of an offense; or

302 (iii) facilitates, arranges, or causes the transport of any tobacco product, electronic  
303 cigarette product, or nicotine product in violation of this section to an offender or on the  
304 grounds of any correctional facility.

305 (e) An individual is guilty of a class A misdemeanor who, without the permission of  
306 the authority operating the correctional or mental health facility, fails to declare or  
307 knowingly possesses at a correctional facility or in a secure area of a mental health  
308 facility any:

309 (i) spirituous or fermented liquor;

310 (ii) medicine; or

311 (iii) poison in any quantity.

312 (f)(i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B  
313 misdemeanor who, without the permission of the authority operating the correctional  
314 facility, knowingly engages in any activity that would facilitate the possession of any  
315 contraband by an offender in a correctional facility.

316 (ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic  
317 cigarette product, or nicotine product take precedence over this Subsection  
318 (5)(f).(g) Exemptions may be granted for worship for Native American inmates pursuant  
319 to Section 64-13-40.

320 (6) The possession, distribution, or use of a controlled substance at a correctional  
321 facility or in a secure area of a mental health facility shall be prosecuted in accordance  
322 with Title 58, Chapter 37, Utah Controlled Substances Act.

323 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
324 Rulemaking Act, to establish guidelines for providing written notice to visitors that  
325 providing any tobacco product, electronic cigarette product, or nicotine product to  
326 offenders is a class A misdemeanor.]

327 (4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged  
328 under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10,  
329 or 76-8-311.11 for a violation of a policy or rule created under this section.

330 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells  
331 an explosive in a correctional facility or a mental health facility may be punished under  
332 Section 76-10-306.

333 (c) The possession, distribution, or use of a controlled substance at a correctional  
334 facility or in a secure area of a mental health facility shall be charged under Title 58,

335 Chapter 37, Utah Controlled Substances Act."; and  
336 (2) Section 76-8-311.11 be enacted to read:  
337 "76-8-311.11. Prohibited communication device in a correctional facility.  
338 (1)(a) As used in this section:  
339 (i) "Communication device" means the same as that term is defined in Section  
340 76-8-311.3.  
341 (ii) "Correctional facility" means the same as that term is defined in Section  
342 76-8-311.3.  
343 (iii) "Offender" means the same as that term is defined in Section 76-8-311.3.  
344 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
345 (2) An actor commits prohibited communication device in a correctional facility if  
346 the actor, without the permission of the correctional facility:  
347 (a) knowingly transports a communication device into the correctional facility with  
348 the intent to provide or sell the communication device to an offender in the correctional  
349 facility;  
350 (b) provides or sells a communication device to an offender in the correctional  
351 facility;  
352 (c)(i) is an offender; and  
353 (ii) possesses a communication device in the correctional facility; or  
354 (d)(i) subject to Subsection (4), is an individual other than an offender; and  
355 (ii) knowingly possesses a communication device in the correctional facility.  
356 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a third degree felony.  
357 (b) A violation of Subsection (2)(d) is a class A misdemeanor.  
358 (4)(a) A correctional facility that prohibits an individual other than an offender from  
359 possessing a communication device in the correctional facility under Subsection (2)(d)  
360 shall post a sign visible to an individual entering the correctional facility that provides  
361 the individual with notice that possessing a communication device in the correctional  
362 facility is prohibited and the individual may be prosecuted for possessing a  
363 communication device.  
364 (b) A prosecuting attorney may not prosecute an individual under Subsection (2)(d) if  
365 the correctional facility fails to comply with Subsection (4)(a)."