

House Bill 313 (AS PASSED HOUSE AND SENATE)

By: Representative Barnard of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the
2 Board and Department of Corrections, so as to authorize the commissioner to issue warrants
3 for the arrest of inmates; to amend Article 3 of Chapter 5 of Title 42 of the Official Code of
4 Georgia Annotated, relating to conditions of detention generally, so as to prohibit the
5 possession of certain depictions or photographs of victims by certain persons confined in
6 penal institutions; to provide for exceptions; to amend Article 6 of Chapter 5 of Title 42 of
7 the Official Code of Georgia Annotated, relating to voluntary inmate labor programs, so as
8 to clarify that the Georgia Correctional Industries Administration has authority to administer
9 and manage certain inmate work programs and to publicize and invite employers to
10 participate in such inmate work programs; to prohibit employers that participate in inmate
11 work programs from providing any thing of value to the Board of Corrections, the
12 Department of Corrections, the Georgia Correctional Industries Administration, or any
13 officer or employee thereof other than the payments authorized by law; to prohibit the Board
14 of Corrections, the Department of Corrections, the Georgia Correctional Industries
15 Administration, and any officer or employee thereof from accepting any thing of value other
16 than the payments authorized by law from employers that participate in inmate work
17 programs; to provide a definition; to provide a penalty; to amend Code Section 42-10-4 of
18 the Official Code of Georgia Annotated, relating to the powers of the Georgia Correctional
19 Industries Administration, so as to clarify that the administration has authority to administer,
20 manage, and publicize certain inmate work programs; to provide for related matters; to
21 provide an effective date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and
25 Department of Corrections, is amended by revising Code Section 42-2-8, relating to
26 additional duties of the commissioner, as follows:

1 "42-2-8.

2 (a) The commissioner shall direct and supervise all the administrative activities of the
3 board and shall attend all meetings of the board. The commissioner shall also make,
4 publish, and furnish to the General Assembly and to the Governor annual reports regarding
5 the work of the board, along with such special reports as he or she may consider helpful in
6 the administration of the penal system or as may be directed by the board. The
7 commissioner shall perform such other duties and functions as are necessary or desirable
8 to carry out the intent of this chapter and which he or she may be directed to perform by
9 the board.

10 (b) The commissioner or the commissioner's designee shall be authorized to make and
11 execute contracts and all other instruments necessary or convenient for the acquisition of
12 professional and personal employment services and for the leasing of real property.
13 Subject to legislative appropriations, the commissioner shall also be authorized to make
14 and execute any contract for the land acquisition, design, construction, operation,
15 maintenance, use, lease, or management of a state correctional institution or for any
16 services pertaining to the custody, care, and control of inmates or other functions as are
17 related to the discharge of these responsibilities and to designate any person or organization
18 with whom the commissioner contracts as a law enforcement unit under paragraph (7) of
19 Code Section 35-8-2.

20 (c) The commissioner shall be authorized to issue a warrant for the arrest of an offender
21 who has escaped from the custody of the department upon probable cause to believe the
22 offender has violated Code Section 16-10-52, relating to escape from lawful confinement."

23 **SECTION 2.**

24 Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
25 conditions of detention generally, is amended by adding a new Code section as follows:

26 "42-5-65.

27 (a) For purposes of this Code section, the term 'inmate' means any person confined in a
28 penal institution or confined in another facility under the jurisdiction of or subject to the
29 authority of the board or while under the custody of officials, officers, or employees under
30 the authority of the board.

31 (b) An inmate who is serving a sentence for a violation of Chapter 5 of Title 16 relating
32 to crimes against the person shall be prohibited from possessing or carrying about his or
33 her person or maintaining in any prison cell or similar area under his or her control any
34 photograph, picture, or similar depiction of any victim of the offense for which he or she
35 is serving where such photograph, picture, or depiction was a part of the criminal
36 investigation, prosecution, or evidence leading to the inmate's conviction.

1 (c) An inmate who is serving a sentence for a violation of Chapter 6 of Title 16 relating
 2 to sexual offenses shall be prohibited from possessing or carrying about his or her person
 3 or maintaining in any prison cell or similar area under his or her control any photograph,
 4 picture, or similar depiction of any victim of the offense for which he or she is serving.

5 (d) A person acting in violation of this Code section shall be guilty of a misdemeanor.

6 (e) This Code section shall not apply where the photograph or picture is needed for use in
 7 any civil or criminal proceeding provided that the inmate receives permission by a court
 8 having jurisdiction over the proceeding and only for so long as and in such manner as
 9 directed by court order.

10 (f) Nothing in this Code section shall limit further restrictions or limitations on the
 11 possession of contraband or victim photographs by persons confined or under the custody
 12 of the board as deemed appropriate by the board."

13 SECTION 3.

14 Article 6 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
 15 voluntary inmate labor programs, is amended by revising subsection (a) of Code Section
 16 42-5-120, relating to rules and regulations of the Board of Corrections, as follows:

17 "(a) The board is authorized to issue and promulgate rules and regulations for programs
 18 of voluntary labor by inmates for privately owned profit-making employers to produce
 19 goods, services, or goods and services for sale to public and private purchasers. Such rules
 20 and regulations shall be designed to meet the published requirements of the Prison Industry
 21 Enhancement Certification Program authorized by 18 U.S.C. Section 1761 and federal
 22 regulations and to provide other appropriate conditions and limitations. Such rules and
 23 regulations may provide for administration and management of such work programs by the
 24 department and the Georgia Correctional Industries Administration."

25 SECTION 4.

26 Said article is further amended by revising Code Section 42-5-123, relating to compensation
 27 by employers for administrative and other costs to the state, as follows:

28 "42-5-123.

29 (a) The board shall ensure by rules or by contractual provisions that the privately owned
 30 profit-making employers compensate the department and the Georgia Correctional
 31 Industries Administration for any administrative costs or other costs incurred by the
 32 department or the administration for the operation of the program or programs. The board
 33 shall ensure by rules or by contractual provisions that the department and the
 34 administration are compensated for use of any employees of the department or the
 35 administration, use of any space owned by or under the control of the department or the

1 administration, or use of any other resources of the department or the administration in the
2 operation of the program or programs.

3 (b) Employers that participate in inmate work programs under this article shall be
4 prohibited from providing any thing of value to the Board of Corrections, the Department
5 of Corrections, the Georgia Correctional Industries Administration, or any officer or
6 employee thereof other than the payments authorized by this Code section. The Board of
7 Corrections, the Department of Corrections, the Georgia Correctional Industries
8 Administration, and any officer or employee thereof shall be prohibited from accepting any
9 thing of value, other than the payments authorized by this Code section, from employers
10 that participate in inmate work programs under this article. As used in this Code section,
11 the term 'thing of value' shall have the same meaning as that term is defined in Code
12 Section 16-10-2."

13 SECTION 5.

14 Said article is further amended by revising Code Section 42-5-124, relating to publicizing
15 and inviting participation in voluntary inmate labor programs, as follows:

16 "42-5-124.

17 Following the issuance and promulgation of rules and regulations, the department is and
18 the Georgia Correctional Industries Administration are authorized to publicize the program
19 and invite employers to participate. The department shall rely upon the Georgia
20 Department of Labor for determining whether inmates would be displacing other workers,
21 whether labor shortages exist, and the prevailing local wage for work to be done by
22 inmates. The Georgia Department of Labor is authorized to provide such determinations
23 to the department."

24 SECTION 6.

25 Code Section 42-10-4 of the Official Code of Georgia Annotated, relating to the powers of
26 the Georgia Correctional Industries Administration, is amended by replacing "; and" with ";"
27 at the end of paragraph (11), by replacing "." with ";" and" at the end of paragraph (12), and
28 by adding a new paragraph as follows:

29 "(13) As provided for in Article 6 of Chapter 5 of Title 42 and as directed by the rules
30 and regulations promulgated by the board, to administer and manage volunteer inmate
31 work programs and to publicize and invite employers to participate in such programs."

32 SECTION 7.

33 This Act shall become effective upon its approval by the Governor or upon its becoming law
34 without such approval.

