

The Senate State Institutions and Property Committee offered the following substitute to SB 366:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-5-18 of the Official Code of Georgia Annotated, relating to
2 giving weapons, intoxicants, drugs, or other items to inmates without the consent of the
3 warden or superintendent, so as to prohibit inmates from receiving or possessing
4 telecommunications devices; to establish that providing a telecommunications device to an
5 inmate and possession of such device by an inmate shall be a felony; to provide for a
6 misdemeanor penalty under certain circumstances; to provide definitions; to add penalties
7 for violation of the provisions; to amend Code Section 42-5-19 of the Official Code of
8 Georgia Annotated, relating to the penalties for violating Code Sections 42-5-16, 42-5-17,
9 and 42-5-18, so as to remove certain penalties; to provide for related matters; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Code Section 42-5-18 of the Official Code of Georgia Annotated, relating to giving weapons,
13 intoxicants, drugs, or other items to inmates without the consent of the warden or
14 superintendent, is revised in its entirety as follows:

15 "42-5-18.

16 (a) As used in this Code section, the term:

17 (1) 'Inmate' means a prisoner, detainee, criminal suspect, immigration detainee, or other
18 person held, incarcerated, or detained in a place of incarceration.

19 (2) 'Place of incarceration' means any prison, probation detention center, jail, or
20 institution, including any state, federal, local, or privately operated facility, used for the
21 purpose of incarcerating criminals or detainees.

22 (3) 'Telecommunications device' means a device, an apparatus associated with a device,
23 or a component of a device that enables, or may be used to enable, communication with
24 a person outside a place of incarceration, including a telephone, cellular telephone,
25 personal digital assistant, transmitting radio, or computer connected or capable of being
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1 connected to a computer network, by wireless or other technology, or otherwise capable
2 of communicating with a person or device outside of a place of incarceration.

3 (4) 'Warden or superintendent' shall mean the commissioner or any warden,
4 superintendent, sheriff, chief jailor, or other person who is responsible for the overall
5 management and operation of a place of incarceration.

6 (b) It shall be unlawful for any person to obtain, to procure for, or to give to an inmate a
7 gun, pistol, or any other weapon; any intoxicating liquor; amphetamines, biphetamines, or
8 any other hallucinogenic drugs or other drugs, regardless of the amount; any
9 telecommunications device; or any other article or item without the authorization of the
10 warden or superintendent or his or her designee.

11 (c) It shall be unlawful for an inmate to possess a gun, pistol, or any other weapon; any
12 intoxicating liquor; amphetamines, biphetamines, or any other hallucinogenic drugs or
13 other drugs, regardless of the amount; a telecommunications device; or any other item
14 without the authorization of the warden or superintendent or his or her designee.

15 (d) A person who commits or attempts to commit a violation of this Code section shall be
16 guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one
17 nor more than five years; provided, however, if a person violates this Code section while
18 being held pursuant to an arrest or conviction for a misdemeanor offense, the possession
19 of a telecommunications device in violation of this Code section shall be treated as a
20 misdemeanor."

21 SECTION 2.

22 Code Section 42-5-19 of the Official Code of Georgia Annotated, relating to the penalties
23 for violating Code Sections 42-5-16, 42-5-17, and 42-5-18, is amended as follows:

24 "42-5-19.

25 Any person who violates Code Section 42-5-16; or 42-5-17; ~~or 42-5-18~~ shall be guilty of
26 a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more
27 than five years."

28 SECTION 3.

29 All laws and parts of laws in conflict with this Act are repealed.