

The House Committee on State Institutions and Property offers 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 amend Chapter 11 of Title 16 and Code
10 Section 42-5-63 of the Official Code of Georgia Annotated, relating to offenses against
11 public order and unauthorized possession of a weapon by an inmate, respectively, so as to
12 prohibit inmates from possessing knuckles made from materials in addition to metal, such
13 as thermoplastic, wood, and other similar materials, and to change other provisions consistent
14 with such additional restriction; to provide for related matters; to repeal conflicting laws; and
15 for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

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

21 "42-5-18.

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

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

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

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

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

13 (b) It shall be unlawful for any person to obtain for, to procure for, or to give to an inmate
 14 a gun, pistol, or any other weapon; any intoxicating liquor; amphetamines, biphphetamines,
 15 or any other hallucinogenic drugs or other drugs, regardless of the amount; any
 16 telecommunications device; or any other article or item without the authorization of the
 17 warden or superintendent or his or her designee.

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

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

28 SECTION 2.

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

31 "42-5-19.

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

SECTION 3.

Chapter 11 of Title 16 and Code Section 42-5-63 of the Official Code of Georgia Annotated, relating to offenses against public order and unauthorized possession of a weapon by an inmate, respectively, are amended by replacing the terms "metal knuckles" and "metal knucks" with "knuckles whether made from metal, thermoplastic, wood, or other similar material" wherever the former terms shall appear in:

(1) Code Section 16-11-34.1, relating to preventing or disrupting General Assembly sessions or other meetings of members, unlawful activities within the state capitol or certain state buildings;

(2) Code Section 16-11-101, relating to furnishing metal knuckles or a knife to a person under the age of 18 years;

(3) Code Section 16-11-126, relating to carrying a concealed weapon;

(4) Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property; and

(5) Code Section 42-5-63, relating to unauthorized possession of a weapon by an inmate.

SECTION 4.

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