

The House Committee on Public Safety and Homeland Security offers the following substitute to SB 159:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding correctional institutions of state and counties, so as
3 to revise punishment provisions relative to prohibited items in possession by inmates; to
4 provide for enhanced punishment for violations committed by department employees or
5 contractors; to revise punishment provisions relative to unauthorized photography or
6 recording of a place of incarceration using unmanned aircraft; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
11 general provisions regarding correctional institutions of state and counties, is amended by
12 revising Code Section 42-5-18, relating to items prohibited for possession by inmates,
13 warden's authorization, penalty, and use of unmanned aircraft to accomplish violations, as
14 follows:

15 "42-5-18.

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

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(1) 'Inmate' means a prisoner, detainee, criminal suspect, immigration detainee, or other person held, incarcerated, or detained in a place of incarceration, whether or not such person is inside or outside of such place of incarceration.

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

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

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

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

(b.1) It shall be unlawful for any person to obtain for, to procure for, or to give to an inmate tobacco or any product containing tobacco without the authorization of the warden or superintendent or his or her designee.

(c) It shall be unlawful for an inmate to possess a gun, pistol, or any other weapon; any intoxicating liquor; tobacco or any product containing tobacco; amphetamines, biphethamines, or any other hallucinogenic drugs or other drugs, regardless of the amount;

a telecommunications device; or any other item without the authorization of the warden or superintendent or his or her designee.

(d)(1) An inmate who commits or attempts to commit a violation of subsection (c) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years; provided, however, that, if an inmate violates this Code section while being held pursuant to an arrest or conviction for a misdemeanor offense, the possession of a telecommunications device in violation of this Code section shall be treated as a misdemeanor.

(2) Except as otherwise provided in paragraph (4) of this subsection, any A person who commits or attempts to commit a violation of subsection (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be sentenced to a ~~mandatory minimum~~ term of imprisonment of ~~two ten~~ years ~~but not more than ten years, and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court.~~

(3) Except as otherwise provided for in paragraph (4) of this subsection, any A person who commits or attempts to commit a violation of subsection (b.1) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years.

(4) An employee or contractor of the department who commits or attempts to commit a violation of subsection (b) or (b.1) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be sentenced to a term of imprisonment of ten years.

(e)(1) It shall be unlawful for an inmate to possess a stored value card, the account number of a stored value card, or the personal identification number of a stored value card.

(2) It shall be unlawful for any person to obtain for, to procure for, or to give an inmate a stored value card, the account number of a stored value card, or the personal identification number of a stored value card.

(3) A person who commits a violation of this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced to a term of imprisonment of not less than one nor more than ten years, unless the judge imposes a misdemeanor sentence pursuant to Code Section 17-10-5.

(f)(1) It shall be unlawful for any person to intentionally use an unmanned aircraft system to violate the provisions of subsection (b) or (b.1) of this Code section.

(2)(A) It shall be unlawful for any person to intentionally photograph or otherwise record images of a place of incarceration through the use of an unmanned aircraft system for purposes of committing a criminal offense.

(B) Any person may secure prior authorization from the warden or the superintendent, or his or her designated representative, of such place of incarceration for photographing or recording as evidence of a noncriminal intent; provided, however, that failure to secure such prior authorization shall not evidence a criminal intent.

(3) Any person who commits or attempts to commit a violation of this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced as follows:

(A) Any person convicted of a violation of paragraph (1) of this subsection shall be imprisoned for not less than one nor more than ten years; and

(B) Any person convicted of paragraph (2) of this subsection shall be imprisoned for not less than ~~one~~ five nor more than ~~five~~ ten years.

(4) For purposes of this Code section, the term 'unmanned aircraft system' shall have the same meaning as provided for in Code Section 6-1-4."

SECTION 2.

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