

Senate Bill 149

By: Senators Jones of the 10th, Henson of the 41st, Butler of the 55th, Davenport of the 44th,
Parent of the 42nd and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 8 of Title 35 of the Official Code of Georgia Annotated, relating to
2 employment and training of peace officers, so as to provide for training requirements for
3 school resource officers; to provide for a definition; to provide for rules and regulations by
4 the Georgia Peace Officer Standards and Training Council for the administration of such
5 training requirements; to amend Code Sections 35-8-13.1 and 42-8-107 of the Official Code
6 of Georgia Annotated, relating to training and certification of municipal probation officers
7 and uniform professional standards and uniform contract standards, respectively, so as to
8 revise the authority of a municipal probation officer relative to the exercise of the power of
9 arrest and a Georgia Peace Officer Standards and Training Council certification; to amend
10 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to
11 prohibit inmates of county and municipal jails and state and county institutions from
12 possessing tobacco or any product containing tobacco; to render it unlawful for any person
13 to obtain for, to procure for, or to give to such inmates tobacco or any product containing
14 tobacco; to provide for exceptions; to provide for criminal penalties; to make it unlawful for
15 inmates to possess a stored value card and certain characteristics of stored value cards; to
16 make it unlawful to obtain or procure for or to give an inmate such information; to revise
17 circumstances in which a prisoner is limited in filing actions in forma pauperis; to provide
18 for related matters; to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **PART I**
21 **SECTION 1-1.**

22 Chapter 8 of Title 35 of the Official Code of Georgia Annotated, relating to employment and
23 training of peace officers, is amended in Code Section 35-8-2, relating to definitions, by
24 adding a new paragraph to read as follows:

25 "(10.1) 'School resource officer' means a peace officer whose primary employment or
 26 assigned duties with a law enforcement unit is assignment or appointment to a public
 27 elementary school or secondary school."

28 **SECTION 1-2.**

29 Said chapter is further amended by adding a new Code section to read as follows:

30 "35-8-27.

31 (a) It is the best practice for any person assigned or appointed as a school resource officer
 32 to successfully complete a training course for school resource officers approved by the
 33 council.

34 (b) For purposes of subsection (a) of this Code section, the council shall maintain a
 35 training course consisting of 40 hours of training for school resource officers. Such
 36 training course shall, at a minimum, provide training in the role of a peace officer assigned
 37 to an elementary or secondary school, search and seizure in elementary and secondary
 38 schools, criminal offenses, gang awareness, drug awareness, interviews and interrogations,
 39 emergency preparedness, and interpersonal interactions with adolescents, including the
 40 encountering of mental health issues."

41 **PART II**

42 **SECTION 2-1.**

43 Code Section 35-8-13.1 of the Official Code of Georgia Annotated, relating to training and
 44 certification of municipal probation officers, is amended by revising subsection (a) as
 45 follows:

46 "(a) Any person employed or appointed as a municipal probation officer on or after
 47 January 1, 1999 July 1, 2017, shall not be authorized to ~~serve~~ exercise the power of arrest
 48 as a municipal probation officer unless such person has successfully completed a training
 49 course and received certification for municipal probation officers approved by the Georgia
 50 Peace Officer Standards and Training Council; provided, however, that such person shall
 51 only exercise the power of arrest upon individuals whom he or she is supervising under
 52 Article 6 of Chapter 8 of Title 42, unless such person is certified as a peace officer by the
 53 Georgia Peace Officer Standards and Training Council."

54 **SECTION 2-2.**

55 Code Section 42-8-107 of the Official Code of Georgia Annotated, relating to uniform
 56 professional standards and uniform contract standards, is amended by revising subsection (a)
 57 as follows:

58 "(a) The uniform professional standards contained in this subsection shall be met by any
 59 person employed as and using the title of a private probation officer or probation officer.
 60 Any such person shall be at least 21 years of age at the time of appointment to the position
 61 of private probation officer or probation officer and shall have completed a standard
 62 two-year college course or have four years of law enforcement experience; provided,
 63 however, that any person employed as a private probation officer as of July 1, 1996, and
 64 who had at least six months of experience as a private probation officer or any person
 65 employed as a probation officer by a county, municipality, or consolidated government as
 66 of March 1, 2006, shall be exempt from such college requirements. Any person employed
 67 or appointed as a municipal probation officer on or after July 1, 2017, shall not be
 68 authorized to exercise the power of arrest as a municipal probation officer unless such
 69 person meets the requirements provided for under Code Section 35-8-13.1; provided,
 70 however, that such person shall only exercise the power of arrest upon individuals whom
 71 he or she is supervising under this article, unless such person is certified as a peace officer
 72 by the Georgia Peace Officer Standards and Training Council. Every private probation
 73 officer shall receive an initial 40 hours of orientation upon employment and shall receive
 74 20 hours of continuing education per annum as approved by DCS, provided that the 40
 75 hour initial orientation shall not be required of any person who has successfully completed
 76 a basic course of training for supervision of probationers or parolees certified by the
 77 Georgia Peace Officer Standards and Training Council or any private probation officer who
 78 has been employed by a private probation corporation, enterprise, or agency for at least six
 79 months as of July 1, 1996, or any person employed as a probation officer by a county,
 80 municipality, or consolidated government as of March 1, 2006. In no event shall any
 81 person convicted of a felony be employed as a probation officer or private probation
 82 officer."

83 PART III

84 SECTION 3-1.

85 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
 86 by revising Code Section 42-4-13, relating to possession of drugs, weapons, or alcohol by
 87 inmates, as follows:

88 "42-4-13.

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

- 90 (1) 'Alcoholic beverage' means and includes all alcohol, distilled spirits, beer, malt
 91 beverage, wine, or fortified wine.
- 92 (2) 'Controlled substance' means a drug, substance, or immediate precursor as defined
 93 in Code Section 16-13-21.
- 94 (3) 'Dangerous drug' has the same meaning as defined by Code Section 16-13-71.
- 95 (3.1) 'Inmate' means a prisoner, detainee, criminal suspect, immigration detainee, or
 96 other person held, incarcerated, or detained in a jail, whether or not such person is inside
 97 or outside of the jail.
- 98 (4) 'Jail' means any county jail, municipal jail, or any jail or detention facility operated
 99 by a county, municipality, or a regional jail authority as authorized under Article 5 of this
 100 chapter.
- 101 (5) 'Jailer' means the sheriff in the case of any county jail, or the chief of police if the jail
 102 is under the supervision of the chief of police of a municipality, or the warden, captain,
 103 administrator, superintendent, or other officer having supervision of any other jail, or the
 104 designee of such officer.
- 105 (b)(1) It shall be unlawful for an inmate ~~of a jail~~ to possess any controlled substance,
 106 dangerous drug, gun, pistol, or other dangerous weapon or marijuana.
- 107 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony
 108 and, upon conviction thereof, shall be imprisoned for not less than one nor more than five
 109 years.
- 110 (3) Notwithstanding the provisions of this subsection, possession of a controlled
 111 substance, a dangerous drug, or marijuana shall be punished as provided in Chapter 13
 112 of Title 16; provided, however, that the provisions of Code Section 16-13-2 shall not
 113 apply to a violation of paragraph (1) of this subsection.
- 114 (4) The provisions of this subsection shall not prohibit the lawful use or dispensing of
 115 a controlled substance or dangerous drug to an inmate with the knowledge and consent
 116 of the jailer when such use or dispensing is lawful under the provisions of Chapter 13 of
 117 Title 16.
- 118 (c)(1) Unless otherwise authorized by law or the jailer, it shall be unlawful for an inmate
 119 ~~of a jail~~ to possess any alcoholic beverage or tobacco or any product containing tobacco.
- 120 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a
 121 misdemeanor.
- 122 (d)(1)(A) It shall be unlawful for any person to come inside the guard lines established
 123 at any jail with, or to give or have delivered to an inmate ~~of a jail~~, any controlled
 124 substance, dangerous drug, marijuana, or any gun, pistol, or other dangerous weapon
 125 without the knowledge and consent of the jailer or a law enforcement officer.

126 (B) It shall be unlawful for any person to come inside the guard lines established at any
127 jail with, or to give or have delivered to an inmate ~~of a jail~~, any alcoholic beverage
128 without the knowledge and consent of the jailer or a law enforcement officer; provided,
129 however, that the provisions of this subsection shall not apply to nor prohibit the use
130 of an alcoholic beverage by a clergyman or priest in sacramental services only.

131 (2) Except as otherwise provided in paragraph (3) of this subsection, any person who
132 violates subparagraph (A) of paragraph (1) of this subsection shall be guilty of a felony
133 and, upon conviction thereof, shall be imprisoned for not less than one nor more than five
134 years. Any person who violates subparagraph (B) of paragraph (1) of this subsection
135 shall be guilty of a misdemeanor.

136 (3) Notwithstanding the provisions of paragraph (2) of this subsection, the possession,
137 possession with intent to distribute, trafficking, or distribution of a controlled substance
138 or marijuana shall be punished as provided in Chapter 13 of Title 16; provided, however,
139 that the provisions of Code Section 16-13-2 shall not apply to a violation of
140 subparagraph (A) of paragraph (1) of this subsection.

141 (d.1)(1) It shall be unlawful for any person to obtain for, to procure for, or to give to an
142 inmate tobacco or any product containing tobacco without the knowledge and consent of
143 the jailer.

144 (2) Any person who violates this Code section shall be guilty of a misdemeanor.

145 (e) It shall be unlawful for any person to obtain, to procure for, or to give to an inmate, or
146 to bring within the guard lines, any other article or item without the knowledge and consent
147 of the jailer or a law enforcement officer. Any person violating this subsection shall be
148 guilty of a misdemeanor.

149 (f)(1) It shall be unlawful for any person to come inside the guard lines or be within any
150 jail while under the influence of a controlled substance, dangerous drug, or marijuana
151 without the knowledge and consent of the jailer or a law enforcement officer unless such
152 person has a valid prescription for such controlled substance or dangerous drug issued by
153 a person licensed under Chapter 11 or 34 of Title 43 and such prescribed substance is
154 consumed only as authorized by the prescription. Any person convicted of a violation
155 of this subsection shall be punished by imprisonment for not less than one nor more than
156 four years.

157 (2) It shall be unlawful for any person to come inside the guard lines or be within any jail
158 while under the influence of alcohol without the knowledge and consent of the jailer or
159 a law enforcement officer. Any person violating this subsection shall be guilty of a
160 misdemeanor.

161 (g) It shall be unlawful for any person to loiter where inmates are assigned after having
 162 been ordered by the jailer or a law enforcement officer to desist therefrom. Any person
 163 violating this subsection shall be guilty of a misdemeanor.

164 (h) It shall be unlawful for any person to attempt, conspire, or solicit another to commit
 165 any offense defined by this Code section and, upon conviction thereof, shall be punished
 166 by imprisonment not exceeding the maximum punishment prescribed for the offense, the
 167 commission of which was the object of the attempt, conspiracy, or solicitation.

168 (i) Any violation of this Code section shall constitute a separate offense.

169 (j) Perimeter guard lines shall be established at every jail by the jailer thereof. Such guard
 170 lines shall be clearly marked by signs on which shall be plainly stamped or written: 'Guard
 171 line of _____.' Signs shall also be placed at all entrances and exits for vehicles and
 172 pedestrians at the jail and at such intervals along the guard lines as will reasonably place
 173 all persons approaching the guard lines on notice of the location of the jail."

174 **SECTION 3-2.**

175 Said title is further amended by revising Code Section 42-5-15, relating to crossing of guard
 176 lines with weapons, intoxicants, or drugs without consent of warden or superintendent, as
 177 follows:

178 "42-5-15.

179 (a) It shall be unlawful for any person to come inside the guard lines established at any
 180 state or county correctional institution with a gun, pistol, or any other weapon or with or
 181 under the influence of any intoxicating liquor, amphetamines, biphphetamines, or any other
 182 hallucinogenic or other drugs, without the knowledge or consent of the warden,
 183 superintendent, or his or her designated representative.

184 (b) Any person who violates this Code section shall be guilty of a felony and, upon
 185 conviction thereof, shall be punished by imprisonment for not less than one year nor more
 186 than four years."

187 **SECTION 3-3.**

188 Said title is further amended by revising Code Section 42-5-18, relating to items prohibited
 189 for possession by inmates, warden's authorization, and penalty, as follows:

190 "42-5-18.

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

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

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

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

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

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

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

215 (c) It shall be unlawful for an inmate to possess a gun, pistol, or any other weapon; any
216 intoxicating liquor; tobacco or any product containing tobacco; amphetamines,
217 biphetamines, or any other hallucinogenic drugs or other drugs, regardless of the amount;
218 a telecommunications device; or any other item without the authorization of the warden or
219 superintendent or his or her designee.

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

226 (2) A person who commits or attempts to commit a violation of subsection (b) of this
227 Code section shall be guilty of a felony and, upon conviction thereof, shall be sentenced
228 to a mandatory minimum term of imprisonment of two years but not more than ten years,
229 and no portion of the mandatory minimum sentence imposed shall be suspended, stayed,
230 probated, deferred, or withheld by the sentencing court.

231 (3) A person who commits or attempts to commit a violation of subsection (b.1) of this
 232 Code section shall be guilty of a felony and, upon conviction thereof, shall be imprisoned
 233 for not less than one nor more than five years.

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

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

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

244 **SECTION 3-4.**

245 Said title is further amended by revising Code Section 42-12-7.2, relating to number of forma
 246 pauperis actions limited, as follows:

247 "42-12-7.2.

248 In no event shall a prisoner file any action in forma pauperis in any court of this state if the
 249 prisoner has, on three or more prior occasions while he or she was incarcerated or detained
 250 in any facility, filed any action in any court of this state or of the United States that was
 251 ~~subsequently~~ dismissed on the grounds that such action was frivolous or malicious, unless
 252 the prisoner is under imminent danger of serious physical injury."

253 **PART IV**

254 **SECTION 4-1.**

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