

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 42 of the Official Code of Georgia Annotated, relating to crimes and provide for enhanced punishment of offenders who commit certain crimes in places of incarceration; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

This Act shall be known and may be cited as the "Georgia Jail Contraband and Violence Prevention Act."

**SECTION 2.**

The General Assembly should find that places of incarceration in the State of Georgia are in a state of crisis due to contraband-related activities that are a colorable threat to persons in a place of incarceration and the general public.

The General Assembly should find that administrators have a legitimate governmental interest to ensure staff and contractors work diligently to provide a safe and humane place of incarceration for inmates.<sup>1</sup> However, there are formal and informal associations of malign actors who engage, individually or collectively within places of incarceration or communities, in contraband-related activities that are not constitutionally protected.

The General Assembly should declare that it is the right of every person who is detained or works in a place of incarceration to be secure and protected from fear,

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<sup>1</sup> Proconier v. Martinez

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intimidation, and physical harm caused by persons who direct, influence, or benefit from contraband-related activities and violence in places of incarceration. The General Assembly should declare it is the duty and right of administrators of places of incarceration to implement constitutional best practices that reinforce internal order and discipline in facilities to mitigate these activities.

It is recommended the intent of this chapter to provide administrators in places of incarceration, beyond internal administrative policies and practices, an effective means of identifying and deterring the source of contraband and violent activities through prosecution and enhanced sentencing of illegal acts as needed. Any offenses committed violating this Act shall be considered as separate offenses.

### **SECTION 3.**

Title 42 of the Official Code of Georgia Annotated, relating to crimes, should be amended by adding a new chapter to read as follows:

#### **CHAPTER – 42-00-00 as used in this chapter, the terms:**

"Contraband Items" means any unauthorized or illegal item transferred or in the actual possession of an inmate, including pistols, ammunition, knives or sharp objects, homemade shanks, controlled substances or dangerous drugs, tobacco, flammable materials, vaping products, intoxicating liquor, food or drink items, pornographic material, tattoo equipment, telecommunications devices, stored value cards, and disapproved mail.

"Contraband Related Activity" means to unlawfully obtain, procure, and conceal contraband items, regardless of the amount, for distribution to an individual or

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collective group of inmates in a place of incarceration to influence criminal or violent acts.

"Contractor" means any person or business who, individually or collectively through employees, performs services for the governing authority under any scope of services at a place of incarceration.

"Inmate" means any person, including 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.

"Malign Influence" means any hostile effort undertaken by, at the direction of, or on behalf of, or with the substantial support of, domestic or foreign entities with the objective of influencing, through overt or covert means, the political, economic, or other policies or activities of the United States Government or State or local governments, or the public opinion within the United States.

"Place of Incarceration" means any facility, including any prison, probation detention center, county jail, or institution, including any state, county, or municipal facility, used for the purpose of incarcerating criminals or detainees.

"Place of Incarceration Administrator" means any person, including Sheriff, Chief Jailer, commissioner, warden, superintendent, chief of police, or their designee, responsible for the overall management and operation of a place of incarceration.

"Staff" means any person, including sworn or civilian employees of the governing authority, responsible for performing essential custody duties in a place of incarceration.

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"Impaired" means the state of being under the influence of an unauthorized or illegal item, including any controlled substance or dangerous drug, tobacco, vaping product, intoxicating liquor, food, or drink item, regardless of the amount or level of tolerance substantially impairs judgment.

"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.

"Visitor" means any person, including a relative, friend, legal counsel or staff, clergy, or other persons who directly or indirectly communicate through in-person visitation, a telecommunications device, or other technology where an inmate is housed in a place of incarceration.

"Unmanned Aircraft System" means a powered, aerial vehicle that: a). does not carry a human operator and is operated without the possibility of direct human intervention from within or on the aircraft; b). uses aerodynamic forces to provide vehicle lift; c). can fly autonomously or be piloted remotely; and d). can be expendable or recoverable.

"Unauthorized Inmate Communication" means any exchange of information through telecommunication devices, computer technology, or disapproved mail to other inmates or persons in the general public that influences contraband-related activity in a place of incarceration.

**SECTION 4.**

**CHAPTER – 42-00-00 as used in this chapter, offenses mean:**

- a) It shall be unlawful for any person to come inside the guard lines or be within any place of incarceration while impaired without the knowledge and consent of an administrator.
- b) It shall be unlawful for any person to come inside the guard lines established at any place of incarceration and participate in contraband-related activities without the knowledge or consent of the administrator of the place of incarceration.
- c) It shall be unlawful for any person to cross the guard lines established at any place of incarceration to give or have delivered to any person or inmate any contraband-related item, regardless of the amount, without the knowledge and consent of the administrator of the place of incarceration.
- d) It shall be unlawful for any person to communicate, directly or indirectly, with another using a telecommunications device or mail to conspire, participate, or benefit from contraband-related activity in a place of incarceration.
- e) It shall be unlawful for any person to intentionally use an unmanned aircraft system to procure or deliver contraband items into the curtilage of any place of incarceration.
- f) It shall be unlawful for any inmate to receive, possess, conceal, or use any contraband item as defined in this Act while remanded in the custody of a place of incarceration.

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- g) It shall be unlawful for any inmate to destroy, manipulate, or modify the infrastructure, mechanical parts, or other materials in a place of incarceration to make, possess, and use homemade weapons.
- h) It shall be unlawful for any person to use any contraband item or participate in any contraband-related activity to directly or indirectly conspire another to commit the commission of illegal acts against any administrator, staff, contractor, visitor in a place of incarceration, or other persons in the public.
- i) It shall be unlawful for any inmate to use any purchased item from an authorized commissary to directly or indirectly conspire another to commit illegal acts against any administrator, staff, contractor, visitor in a place of incarceration, or other person in the public.
- j) It shall be unlawful for any inmate to conspire, threaten, intimidate, or extort another inmate to contact family members or associates to deposit funds into any account directly or indirectly controlled by the offending inmate.
- k) It shall be unlawful for any administrator or staff of a place of incarceration to have constructive knowledge of the contraband-related activity and not report or document the findings to an administrative, investigative, or prosecuting authority.
- l) It shall be unlawful for any inmate to habitually violate the established rules and regulations of contraband and contraband-related activities defined under this Act as criminal statutes that adversely impact the internal order and discipline of the facility or disrupt the domestic tranquility of communities.

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- m) Any criminal offense committed in violation of the laws of the United States or its territories, dominions, or possessions, any of the several states, or any foreign nation which, if committed in this state, would be considered contraband-related activities under this Code section; and
- n) Any criminal offense in the State of Georgia, any other state, or the United States that involves contraband, possession of contraband, or distribution of contraband, whether designated as a felony or not, regardless of the maximum sentence that could be imposed or was imposed.

### **SECTION 5.**

#### **CHAPTER – 42-00-00 As used in this chapter, punishment means:**

1. Any inmate who is remanded in custody in a place of incarceration violates provisions a), b), c), d), e), and f). of this Act shall be guilty of a misdemeanor on each count. If the offense involves one count, the person shall be sentenced to no more than 12 months. If there is more than one count, the presiding judge shall upgrade the charges to a high and aggravated misdemeanor. Upon conviction thereof, the person shall be punished by imprisonment of no more than 12 months on each count served consecutively with sentences that the person has received or fined \$5,000.00 per count or both.
2. Any inmate who is remanded in custody in a place of incarceration violates provisions g), h), i), j), l), m) and n) of this Act shall be guilty of a felony If the offense involves more than one count, the presiding judge shall sentence the person to no less than 12 months on each count served consecutively to any other sentence imposed, and no portion of the mandatory minimum sentence

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imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court.

3. Any visitor who, while in a place of incarceration, violates subsections a), b), or c) of this Act shall be guilty shall be guilty of a misdemeanor on each count. If the offense involves one count, the person shall be sentenced to no more than 12 months. If there is more than one count, the presiding judge shall upgrade the charges to a high and aggravated misdemeanor. Upon conviction thereof, the person shall be punished by imprisonment of no more than 12 months or fined \$5,000.00 per count or both to run consecutive to any other sentence that the person has received.
4. Any visitor who, while in a place of incarceration, violates subsections d), e), g), h), m), and n) of this Act shall be guilty of a felony. If the offense involves more than one count, the presiding judge shall sentence the person to no less than 12 months on each count served consecutively to any other sentence imposed, and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court.
5. Any contractor performing services in a place of incarceration violates subsections a), b), c), and d) of this Act shall be guilty of a misdemeanor on each count. If the offense involves one count, the person shall be sentenced to no more than 12 months. If there is more than one count, the presiding judge shall upgrade the charges to a high and aggravated misdemeanor. Upon conviction thereof, the person shall be punished by imprisonment of no more than 12 months or fined \$5,000.00 per count or both to run consecutive to any other sentence that the person has received.



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6. Any contractor who, while performing essential services in a place of incarceration, violates subsections e), g), h), i), m), and n) of this Act shall be guilty of a felony. If the offense involves more than one count, the presiding judge shall sentence the person to no less than 12 months on each count served consecutively to any other sentence imposed, and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court.
7. Any administrator or staff who acts under the color of law in a place of incarceration violates subsections a), b), c), d), e), g), h), k), m), and n) of this Act shall upon first conviction be guilty of a felony and, shall be punished by imprisonment, on each count, for not less than 12 months served consecutively to any other sentence imposed. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court on each count or pay a fine of \$10,000.00 per count, or both.
8. Any person who uses any unmanned aircraft system or telecommunications device in violation of a), b), c), e), or h) to plan or carry out contraband-related activities onto the curtilage of a place of incarceration shall be guilty and punished by imprisonment, on each count for a felony for not less than 12 months served consecutively to any other sentence imposed. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court on each count or pay a fine of \$15,000.00 per count, or both. The person shall be reported to the Federal Aviation Administration agency for investigation.

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9. Any person who acts on behalf of a formal or informal association engaged in criminal street gang activities as defined in 16-15-3.3 and participates in interconnected contraband-related activity between place(s) of incarceration and communities shall be guilty of a felony on each count and upon conviction thereof, in addition to any other enhanced sentence imposed, shall be imprisoned for five years but not more than 20 years.
10. Any person who individually or collectively engages in contraband-related activity under subsection g) that results in offenses defined in 16-5-11 shall be guilty of a felony on each count and, upon conviction thereof, in addition to any other enhanced sentence imposed, shall be imprisoned for ten years but not more than 25 years.
11. Any person who individually or collectively engages in contraband-related activity under subsection g) that results in offenses defined in 16-5-2 shall be guilty of a felony and, upon conviction thereof, in addition to any other enhanced sentence imposed, shall be imprisoned for five years but not more than 20 years.

### **SECTION 6.**

#### **CHAPTER – 42-00-00, as used in this chapter, means:**

1. Nothing in this chapter shall exempt administrative policies, procedures, and practices in a place of incarceration that govern inmate discipline, due process, and administrative segregation for incidents involving contraband-related activities. However, consistent with this chapter, this Act shall be construed as

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providing alternative remedies to address the severity of illegal activities that occur within a place of incarceration with preemptive law.

2. Nothing in this chapter shall prohibit Administrators of Places of Incarceration and local law enforcement agencies from collecting and disseminating accurate data about persons or activities of interest that could harm facility or domestic tranquility in communities.
3. "Georgia Jail Contraband and Violence Prevention Act." Reward Fund shall be established as part of the Prosecuting Attorneys' Council of the State of Georgia. The Sheriff, chief jailer, or warden of any governing authority may request the posting of up to a \$2,500.00 reward for information leading to the arrest and conviction of any person involved in contraband-related activities.